

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

**FORM 10-K**

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Fiscal Year Ended December 31, 2021  
or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number	Name of Registrant; State or Other Jurisdiction of Incorporation; Address of Principal Executive Offices; and Telephone Number	IRS Employer Identification Number
001-41137	CONSTELLATION ENERGY CORPORATION (a Pennsylvania corporation) 1310 Point Street Baltimore, Maryland 21231-3380 (610) 765-5959	87-1210716
333-85496	CONSTELLATION ENERGY GENERATION, LLC (a Pennsylvania limited liability company) 200 Exelon Way Kennett Square, Pennsylvania 19348-2473 (610) 765-5959	23-3064219

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>CONSTELLATION ENERGY CORPORATION:</b> Common Stock, without par value	CEG	The Nasdaq Stock Market LLC

**Securities registered pursuant to Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Constellation Energy Corporation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Constellation Energy Generation, LLC	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Constellation Energy Corporation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Constellation Energy Generation, LLC	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Constellation Energy Corporation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Constellation Energy Generation, LLC	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Constellation Energy Corporation	Large Accelerated Filer <input type="checkbox"/>	Accelerated Filer <input type="checkbox"/>	Non-accelerated Filer <input checked="" type="checkbox"/>	Smaller Reporting Company <input type="checkbox"/>	Emerging Growth Company <input type="checkbox"/>
Constellation Energy Generation, LLC	Large Accelerated Filer <input type="checkbox"/>	Accelerated Filer <input type="checkbox"/>	Non-accelerated Filer <input checked="" type="checkbox"/>	Smaller Reporting Company <input type="checkbox"/>	Emerging Growth Company <input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act by the registered public accounting firm that prepared or issued its audit report.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

Prior to the separation of registrants from Exelon Corporation on February 1, 2022, the registrants were wholly owned subsidiaries of Exelon Corporation. Consequently, there was no aggregate market value of common stock held by non-affiliates of the registrants as of June 30, 2021, the last business day of the registrants' most recently completed second fiscal quarter.

The number of shares outstanding of each registrant's common stock as of February 1, 2022 was as follows:

Constellation Energy Corporation Common Stock, without par value	326,663,937
Constellation Energy Generation, LLC	Not applicable

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**GLOSSARY OF TERMS AND ABBREVIATIONS****Constellation Energy Corporation and Related Entities**

<i>CEG Parent</i>	Constellation Energy Corporation
<i>Constellation</i>	Constellation Energy Generation, LLC (formerly Exelon Generation Company, LLC)
<i>Registrants</i>	CEG Parent and Constellation, collectively
<i>Exelon</i>	Exelon Corporation
<i>ComEd</i>	Commonwealth Edison Company
<i>PECO</i>	PECO Energy Company
<i>BGE</i>	Baltimore Gas and Electric Company
<i>Pepco Holdings or PHI</i>	Pepco Holdings LLC (formerly Pepco Holdings, Inc.)
<i>Pepco</i>	Potomac Electric Power Company
<i>DPL</i>	Delmarva Power & Light Company
<i>ACE</i>	Atlantic City Electric Company
<i>Antelope Valley</i>	Antelope Valley Solar Ranch One
<i>BSC</i>	Exelon Business Services Company, LLC
<i>CENG</i>	Constellation Energy Nuclear Group, LLC
<i>CR</i>	Constellation Renewables, LLC (formerly ExGen Renewables IV, LLC)
<i>CRP</i>	Constellation Renewables Partners, LLC (formerly ExGen Renewables Partners, LLC)
<i>FitzPatrick</i>	James A. FitzPatrick nuclear generating station
<i>Ginna</i>	R. E. Ginna nuclear generating station
<i>NER</i>	NewEnergy Receivables LLC
<i>NMP</i>	Nine Mile Point nuclear generating station
<i>Pepco Energy Services or PES</i>	Pepco Energy Services, Inc. and its subsidiaries
<i>RPG</i>	Renewable Power Generation, LLC
<i>SolGen</i>	SolGen, LLC
<i>TMI</i>	Three Mile Island nuclear facility

**GLOSSARY OF TERMS AND ABBREVIATIONS****Other Terms and Abbreviations**

<i>AEC</i>	Alternative Energy Credit that is issued for each megawatt hour of generation from a qualified alternative energy source
<i>AESO</i>	Alberta Electric Systems Operator
<i>ARC</i>	Asset Retirement Cost
<i>ARO</i>	Asset Retirement Obligation
<i>ASA</i>	Asset Sale Agreement
<i>Bcf</i>	Billion cubic feet
<i>Brookfield Renewable</i>	Brookfield Renewable Partners, L.P.
<i>CAIDI</i>	Customer Average Interruption Duration Index
<i>CAISO</i>	California ISO
<i>CERCLA</i>	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended
<i>C&amp;I</i>	Commercial and Industrial
<i>Clean Air Act</i>	Clean Air Act of 1963, as amended
<i>Clean Energy Law</i>	Illinois Public Act 102-0062 signed into law on September 15, 2021
<i>Clean Water Act</i>	Federal Water Pollution Control Amendments of 1972, as amended
<i>CMC</i>	Carbon Mitigation Credit
<i>CODM</i>	Chief Operating Decision Maker
<i>CORe</i>	Constellation Offsite Renewables
<i>DCPSC</i>	District of Columbia Public Service Commission
<i>DEPSC</i>	Delaware Public Service Commission
<i>DOE</i>	United States Department of Energy
<i>DOEE</i>	Department of Energy & Environment
<i>DOJ</i>	United States Department of Justice
<i>DPP</i>	Deferred Purchase Price
<i>EDF</i>	Electricite de France SA and its subsidiaries
<i>EFEC</i>	Emissions-Free Energy Certificate
<i>EIMA</i>	Energy Infrastructure Modernization Act (Illinois Senate Bill 1652 and Illinois House Bill 3036)
<i>EPA</i>	United States Environmental Protection Agency
<i>ERCOT</i>	Electric Reliability Council of Texas
<i>ERISA</i>	Employee Retirement Income Security Act of 1974, as amended
<i>ESG</i>	Environmental, Social, and Governance
<i>EV</i>	Electric Vehicle
<i>FERC</i>	Federal Energy Regulatory Commission
<i>Form 10</i>	Amendment Number 2 to our General Form for Registration of Securities on Form 10, filed with the SEC on December 20, 2021 and declared effective by the SEC on December 29, 2021, as supplemented by Exhibit 99.1 to our Current Report on Form 8-K, filed with the SEC on January 28, 2022.
<i>Former PECO Units</i>	Limerick, Peach Bottom, and Salem nuclear generating units
<i>Former ComEd Units</i>	Braidwood, Byron, Dresden, LaSalle and Quad Cities nuclear generating units
<i>FRCC</i>	Florida Reliability Coordinating Council
<i>FRR</i>	Fixed Resource Requirement
<i>GAAP</i>	Generally Accepted Accounting Principles in the United States
<i>GHG</i>	Greenhouse Gas

<i>GWh</i>	Gigawatt hour
<i>ICC</i>	Illinois Commerce Commission
<i>ICE</i>	Intercontinental Exchange
<i>IPA</i>	Illinois Power Agency
<i>IRC</i>	Internal Revenue Code
<i>IRS</i>	Internal Revenue Service
<i>ISO</i>	Independent System Operator
<i>ISO-NE</i>	ISO New England Inc.
<i>kWh</i>	Kilowatt-hour
<i>LIBOR</i>	London Interbank Offered Rate
<i>LIPA</i>	Long Island Power Authority
<i>LLRW</i>	Low-Level Radioactive Waste
<i>LTIP</i>	Long-Term Incentive Plan
<i>MATS</i>	U.S. EPA Mercury and Air Toxics Standards
<i>MDE</i>	Maryland Department of the Environment
<i>MDPSC</i>	Maryland Public Service Commission
<i>MISO</i>	Midcontinent Independent System Operator, Inc.
<i>MOPR</i>	Minimum Offer Price Rule
<i>MPSC</i>	Missouri Public Service Commission
<i>MW</i>	Megawatt
<i>MWh</i>	Megawatt hour
<i>NAV</i>	Net Asset Value
<i>NDT</i>	Nuclear Decommissioning Trust
<i>NEIL</i>	Nuclear Electric Insurance Limited
<i>NERC</i>	North American Electric Reliability Corporation
<i>NGX</i>	Natural Gas Exchange, Inc.
<i>NJDEP</i>	New Jersey Department of Environmental Protection
<i>Non-Regulatory Agreement Units</i>	Nuclear generating units or portions thereof whose decommissioning-related activities are not subject to contractual elimination under regulatory accounting
<i>NOSA</i>	Nuclear Operating Services Agreement
<i>NPDES</i>	National Pollutant Discharge Elimination System
<i>NPNS</i>	Normal Purchase Normal Sale scope exception
<i>NRC</i>	Nuclear Regulatory Commission
<i>NWPA</i>	Nuclear Waste Policy Act of 1982
<i>NYISO</i>	New York ISO
<i>NYMEX</i>	New York Mercantile Exchange
<i>NYPSC</i>	New York Public Service Commission
<i>OPEB</i>	Other Postretirement Employee Benefits
<i>PA DEP</i>	Pennsylvania Department of Environmental Protection
<i>PAPUC</i>	Pennsylvania Public Utility Commission
<i>PCAOB</i>	Public Company Accounting Oversight Board
<i>PG&amp;E</i>	Pacific Gas and Electric Company
<i>PJM</i>	PJM Interconnection, LLC
<i>PPA</i>	Power Purchase Agreement
<i>PP&amp;E</i>	Property, Plant, and Equipment
<i>Price-Anderson Act</i>	Price-Anderson Nuclear Industries Indemnity Act of 1957
<i>PRP</i>	Potentially Responsible Parties
<i>PSDAR</i>	Post-shutdown Decommissioning Activities Report

<i>PSEG</i>	Public Service Enterprise Group Incorporated
<i>PUCT</i>	Public Utility Commission of Texas
<i>PV</i>	Photovoltaic
<i>RCRA</i>	Resource Conservation and Recovery Act of 1976, as amended
<i>REC</i>	Renewable Energy Credit which is issued for each megawatt hour of generation from a qualified renewable energy source
<i>Regulatory Agreement Units</i>	Nuclear generating units or portions thereof whose decommissioning-related activities are subject to contractual elimination under regulatory accounting
<i>RFP</i>	Request for Proposal
<i>RGGI</i>	Regional Greenhouse Gas Initiative
<i>RIN</i>	Renewable Identification Number
<i>RMC</i>	Risk Management Committee
<i>RNF</i>	Revenue Net of Purchased Power and Fuel Expense
<i>ROE</i>	Return on equity
<i>ROU</i>	Right-of-use
<i>RPS</i>	Renewable Energy Portfolio Standards
<i>RTO</i>	Regional Transmission Organization
<i>S&amp;P</i>	Standard & Poor's Ratings Services
<i>SAIFI</i>	System Average Interruption Frequency Index
<i>SEC</i>	United States Securities and Exchange Commission
<i>SERC</i>	SERC Reliability Corporation (formerly Southeast Electric Reliability Council)
<i>SNF</i>	Spent Nuclear Fuel
<i>SOFR</i>	Secured Overnight Financing Rate
<i>SOS</i>	Standard Offer Service
<i>SPP</i>	Southwest Power Pool
<i>STEM</i>	Science, Technology, Engineering, and Mathematics
<i>TWh</i>	Terawatt-hour
<i>U.S. Court of Appeals for the D.C. Circuit</i>	United States Court of Appeals for the District of Columbia Circuit
<i>VIE</i>	Variable Interest Entity
<i>WECC</i>	Western Electric Coordinating Council
<i>ZEC</i>	Zero Emission Credit
<i>ZES</i>	Zero Emission Standard



#### **FILING FORMAT**

This combined Annual Report on Form 10-K is being filed separately by Constellation Energy Corporation and Constellation Energy Generation, LLC, (Registrants). Information contained herein relating to any individual Registrant is filed by the Registrant on its own behalf.

#### **CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING INFORMATION**

This Report contains certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 that are subject to risks and uncertainties. Words such as "could," "may," "expects," "anticipates," "will," "targets," "goals," "projects," "intends," "plans," "believes," "seeks," "estimates," "predicts," and variations on such words, and similar expressions that reflect our current views with respect to future events and operational, economic and financial performance, are intended to identify such forward-looking statements.

The factors that could cause actual results to differ materially from the forward-looking statements made by us include those factors discussed herein, including those factors discussed in (a) Part I, ITEM 1A. Risk Factors, (b) Part II, ITEM 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, (c) Part II, ITEM 8. Financial Statements and Supplementary Data: Note 19, Commitments and Contingencies, and (d) other factors discussed in filings with the SEC. Readers are cautioned not to place undue reliance on these forward-looking statements, which apply only as of the date of this Report. None of the Registrants undertakes any obligation to publicly release any revision to its forward-looking statements to reflect events or circumstances after the date of this Report.

#### **WHERE TO FIND MORE INFORMATION**

The SEC maintains an Internet site at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information that we file electronically with the SEC. These documents are also available to the public from commercial document retrieval services and our website at [www.ConstellationEnergy.com](http://www.ConstellationEnergy.com). Information contained on our website shall not be deemed incorporated into, or to be a part of, this Report.

## PART I

### ITEM 1.

#### General

On February 21, 2021, the board of directors of Exelon Corporation ("Exelon") authorized management to pursue a plan to separate its competitive generation and customer-facing energy businesses, conducted through Constellation Energy Generation, LLC ("Constellation", formerly Exelon Generation Company, LLC) and its subsidiaries, into an independent, publicly traded company. Constellation Energy Corporation ("CEG Parent" or the "Company"), a Pennsylvania corporation and a direct, wholly owned subsidiary of Exelon, was newly formed for the purpose of separation and had not engaged in any activities except in preparation for the distribution. On February 1, 2022, Exelon completed the separation by distributing all the outstanding shares of the Company's common stock, on a pro rata basis to the holders of Exelon's common stock, with the Company holding all the interests in Constellation previously held by Exelon. As of 2022, Constellation has been an individual registrant since the registration of their public debt securities under the Securities Act. As an individual registrant, Constellation has historically filed consolidated financial statements to reflect their financial position and operating results as a stand-alone, wholly owned subsidiary of Exelon. The consolidated financial information presented in this Annual Report on Form 10-K for 2021 represents twelve months of information for Constellation.

References in this report to "we," "our," "us" and "the Company" are to Constellation and/or its subsidiaries, as apparent in the context. See Glossary for defined terms.

#### Our Business

We are America's leading clean energy company, based on the production of carbon-free electricity. We are the largest supplier of clean energy and sustainable solutions to homes, businesses, governments, community aggregations and a range of wholesale customers (such as municipalities, cooperatives, and other strategics) across the continental U.S., backed by approximately 32,400 megawatts of generating capacity consisting of nuclear, wind, solar, natural gas and hydroelectric assets. We produced nearly 10% of the nation's carbon-free energy (based on generation output of electricity) based on published reports on energy delivery by the U.S. Energy Information Administration, making us an important partner to businesses and state and local governments that are setting ambitious carbon-reduction goals and seeking long-term solutions to the climate crisis. We operate in 48 states, Canada and now employ approximately 12,700 people after separation.

We are differentiated by owning the cleanest generation fleet in the country. We are committed to a clean energy future, and we believe our generation fleet is essential to helping meet clean energy targets, at both the state and national level. We are uniquely positioned through the pairing of our clean energy fleet with our customer-facing business. Our customer-facing business is one of the nation's largest competitive energy suppliers, offering innovative options along the sustainability continuum to meet customer clean energy and climate goals.

#### Our Operations

We operate the largest carbon-free generation fleet in the nation and are one of the largest competitive electric generation companies in the country, as measured by owned and contracted MW. Collectively, the combined fleet is nearly 90% carbon-free (based on generation output of electricity) and is the fourth largest generation portfolio in the U.S. in terms of total generation with meaningful geographic diversity.

At December 31, 2021, our generating resources consisted of the following:

Type of Capacity	MW
Owned generation assets <sup>(a)</sup>	
Nuclear	20,899
Natural gas and oil	8,819
Renewable <sup>(b)</sup>	2,682
Owned generation assets	32,400
Contracted generation <sup>(c)</sup>	4,102
Total generating resources	36,502

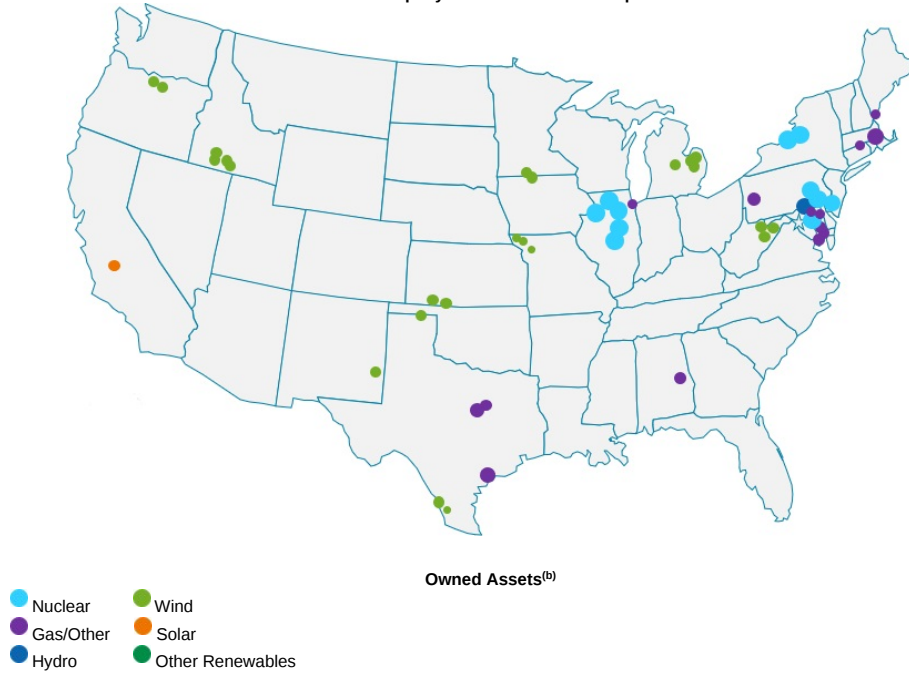
(a) Net generation capacity is stated at proportionate ownership share. See ITEM 2. PROPERTIES for additional information.

(b) Includes wind, hydroelectric, and solar generating assets.

(c) Electric supply procured under unit-specific agreements.

The following map illustrates the locations of our generation facilities as of December 31, 2021:

**The Company's Generation Fleet Map<sup>(a)</sup>**



(a) Note: One symbol is included per location. Some locations may have multiple generating units. Locations in tight geographic proximity may appear as one symbol. Units that are not currently operational are not captured.  
 (b) Does not reflect Grand Prairie Generating Station (Gas/other), located in Alberta, Canada.

We have five reportable segments, as described in the table below, representing the different geographical areas in which our owned generating resources are located, and our customer-facing activities are conducted.

Segment	Net Generation Capacity (MW)	% of Net Generation Capacity	Geographical Area
Mid-Atlantic	10,508	32 %	Eastern half of PJM, which includes New Jersey, Maryland, Virginia, West Virginia, Delaware, the District of Columbia, and parts of Pennsylvania and North Carolina
Midwest	11,898	37 %	Western half of PJM and the United States footprint of MISO, excluding MISO's Southern Region
New York	3,093	10 %	NYISO
ERCOT	3,610	11 %	Electric Reliability Council of Texas
Other Power Regions	3,291	10 %	New England, South, West, and Canada
Total	32,400	100 %	

(a) Net generation capacity is stated at proportionate ownership share as of December 31, 2021. See ITEM 2. PROPERTIES for additional information.

The following table shows sources of electric supply in GWh for 2021 and 2020:

	Source of Electric Supply	
	2021	2020
Nuclear <sup>(a)</sup>	174,987	175,085
Purchases — non-trading portfolio	67,605	79,972
Natural gas and oil	19,960	19,501
Renewable <sup>(b)</sup>	6,577	7,052
Total Supply	269,129	281,610

(a) Includes the proportionate share of output where we have an undivided ownership interest in jointly-owned generating plants and includes the total output of plans that are fully consolidated.

(b) Includes wind, hydroelectric, solar, and biomass generating assets.

### Nuclear Facilities

Our nuclear fleet is the nation's largest with current generating capacity of approximately 21 gigawatts; it produced 175 terawatt hours of zero-emissions electricity during 2021 – enough to power 14.9 million homes and avoid more than 124 million metric tons of carbon emissions according to the US EPA GHG Equivalencies Calculator. We have ownership interests in 13 nuclear generating stations currently in service, consisting of 23 units. As of December 31, 2021, we wholly own all our nuclear generating stations, except for undivided ownership interests in four jointly owned nuclear stations: Quad Cities (75% ownership), Peach Bottom (50% ownership), Salem (42.59% ownership), and Nine Mile Point Unit 2 (82% ownership), which are consolidated in our financial statements relative to our proportionate ownership interest in each unit. See ITEM 2. PROPERTIES for additional information on our nuclear facilities.

On August 6, 2021, Constellation and EDF entered into a settlement agreement pursuant to which we, through a wholly owned subsidiary, purchased EDF's equity interest in CENG, a joint venture with EDF, which wholly owns the Calvert Cliffs and Ginna nuclear stations and Nine Mile Point Unit 1, in addition to the 82% undivided ownership interest in Nine Mile Point Unit 2. Prior to August 6, 2021, we had a 50.01% membership interest in CENG, however CENG is consolidated within our results for all periods presented. See Note 2 — Mergers, Acquisitions, and Dispositions and Note 21 — Variable Interest Entities of the Notes to Consolidated Financial Statements for additional information regarding the acquisition of EDF's equity interest in CENG and the CENG consolidation.

We operate all of these nuclear generating stations, except for the two units at Salem, which are operated by PSEG Nuclear, LLC (an indirect, wholly owned subsidiary of PSEG), and we have consistently operated our nuclear plants at best-in-class levels. During 2021, 2020, and 2019, our nuclear generating facilities achieved capacity factors<sup>(a)</sup> of 94.5%, 95.4%, and 95.7%, respectively, at ownership percentage. More broadly, the nuclear capacity factor has been approximately four percentage points better than the industry average annually since 2013.

Capacity factors, which are significantly affected by the number and duration of refueling and non-refueling outages, can have a significant impact on our results of operations. In 2021, we achieved an average refueling outage duration of 22 days for units we operate. During 2020, and 2019, we achieved an average refueling outage duration of 22 days and 21 days against an industry average of 34 and 36 days, respectively.

We manage our scheduled refueling outages to minimize their duration and to maintain high nuclear generating capacity factors, resulting in a stable generation base for our wholesale and retail power marketing activities. In 2021, 2020, and 2019 electric supply (in GWh) generated from our nuclear generating facilities was 65%, 62%, and 64%, respectively, of our total electric supply, which also includes natural gas, oil, and renewable generation and electric supply purchased for resale. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS for additional information on electric supply sources.

During scheduled refueling outages, we perform maintenance and equipment upgrades in order to maintain safe, reliable operations and to minimize the occurrence of unplanned outages. In addition to the maintenance and equipment upgrades performed by us during scheduled refueling outages, we have extensive operating and security procedures in place to ensure the safe operation of our nuclear units. We also have extensive safety systems in place to protect the plant, personnel, and surrounding area in the unlikely event of an accident or other incident.

We have original 40-year operating licenses from the NRC for each of our nuclear units and have received 20-year operating license renewals from the NRC for all our nuclear units except Clinton. PSEG has received 20-year operating license renewals for Salem Units 1 and 2. Peach Bottom has received a second 20-year license renewal from the NRC, for a total 80-year term, for Units 2 and 3.

(a) Capacity factor is defined as the ratio of the actual output of a plant over a period of time to its output if the plant had operated at full average annual mean capacity for that time period. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS for additional information.

The following table summarizes the current license expiration dates for our nuclear facilities currently in service:

Station	Unit	In-Service Date <sup>(a)</sup>	Current License Expiration
Braidwood	1	1988	2046
	2	1988	2047
Byron	1	1985	2044
	2	1987	2046
Calvert Cliffs	1	1975	2034
	2	1977	2036
Clinton <sup>(b)</sup>	1	1987	2027
Dresden	2	1970	2029
	3	1971	2031
FitzPatrick	1	1975	2034
LaSalle	1	1984	2042
	2	1984	2043
Limerick	1	1986	2044
	2	1990	2049
Nine Mile Point	1	1969	2029
	2	1988	2046
Peach Bottom	2	1974	2053
	3	1974	2054
Quad Cities	1	1973	2032
	2	1973	2032
GINNA	1	1970	2029
Salem	1	1977	2036
	2	1981	2040

(a) Denotes year in which nuclear unit began commercial operations.

(b) Although timing has been delayed, we currently plan to seek license renewal for Clinton and have received a Timely Renewal Exemption from the NRC that allows for the license renewal application to be filed in the first quarter of 2024.

The operating license renewal process takes approximately four to five years from the commencement of the process, which includes approximately two years for us to develop the application and approximately two additional years for the NRC to review the application. Depreciation provisions are based on the estimated useful lives of the stations, which correspond with the term of the NRC operating licenses denoted in the table above as of December 31, 2021. From August 27, 2020 through September 15, 2021, Byron and Dresden depreciation provisions were accelerated to reflect the previously announced shutdown dates of September 2021 and November 2021, respectively. On September 15, 2021, we updated the estimated useful lives for both facilities to reflect the end of the current NRC operating license for each unit consistent with the table above. See Note 3 — Regulatory Matters and Note 7 — Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information on Byron and Dresden and the Illinois CMC program.

The TMI nuclear station located in Middletown, Pennsylvania, permanently ceased generation operations on September 20, 2019. The Oyster Creek nuclear station located in Forked River, New Jersey, which permanently ceased generation operations on September 17, 2018, was sold to Holtec International (Holtec) on July 1, 2019. See Note 2 — Mergers, Acquisitions, and Dispositions and Note 7 — Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information on the disposition of Oyster Creek and the retirement of TMI.

**Natural Gas, Oil and Renewable Facilities (including Hydroelectric)**

We operate approximately 12 gigawatts of natural gas, oil, hydroelectric, wind, and solar generation assets, which provide a mix of baseload, intermediate, and peak power generation. We wholly own all our natural gas, oil and renewable generating stations, except for: (1) Wyman; (2) certain wind project entities; and (3) CRP, which is owned 49% by another owner. We operate all of these facilities, except for Wyman, which is operated by the principal owner, NextEra Energy Resources LLC, a subsidiary of NextEra Energy, Inc. See ITEM 2. PROPERTIES for additional information regarding these generating facilities and Note 21 — Variable Interest Entities of the Notes to Consolidated Financial Statements for additional information regarding CRP, which is a VIE.

In 2021, 2020, and 2019, electric supply (in GWh) generated from our owned natural gas, oil, and renewable generating facilities was 10%, 9%, and 11%, respectively, of our total electric supply. Much of this output was dispatched to support our wholesale and retail power marketing activities. Our natural gas, oil and renewable fleet has similarly demonstrated a track record of strong performance with a power dispatch match<sup>(a)</sup> of 72.4%, 98.4%, and 97.9% and renewables energy capture<sup>(b)</sup> of 95.7%, 93.4%, and 96.3% in 2021, 2020, and 2019, respectively. Our power dispatch match performance in 2021 was significantly impacted by the February 2021 extreme weather event in Texas, refer to Note 3 — Regulatory Matters for additional information.

Natural gas, oil, wind and solar generation plants are generally not licensed, and, therefore, the decision on when to retire plants is, fundamentally, a commercial one. FERC has the exclusive authority to license most non-Federal hydropower projects located on navigable waterways or Federal lands, or connected to the interstate electric grid, which include our Conowingo Hydroelectric Project (Conowingo) and Muddy Run Pumped Storage Facility Project (Muddy Run). Muddy Run's license expires on December 1, 2055 and Conowingo's on February 28, 2071. The stations are currently being depreciated over their estimated useful lives, which correspond with the available license terms. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information on Conowingo.

On March 31, 2021 and June 30, 2021, we completed the sale of a significant portion of our solar business and our interest in the Albany Green Energy biomass facility, respectively. Note 2 — Mergers, Acquisitions, and Dispositions for additional information on these dispositions.

- (a) Dispatch Match is used to measure the responsiveness of a unit to the market, expressed as the actual energy relative to the total desired energy. Desired energy is measured by revenues less purchased power and fuel costs when unit is dispatched by us or the RTO.
- (b) Energy capture is an indicator of how efficiently the installed assets capture the natural energy available from the wind and the sun. Energy capture represents an energy-based fraction, the numerator of which is the energy produced by the sum of the wind turbines/solar panels in the year, and the denominator of which is the total expected energy to be produced during the year. Energy capture for the combined wind and solar fleet is weighted by the relative site projected pre-tax variable revenue, with deductions made for certain events that are non-controllable, such as force majeure events and transmission curtailments.

**Contracted Generation**

In addition to energy produced by owned generation assets, we source electricity from plants we do not own under long-term contracts. The following tables summarize our long-term contracts to purchase unit-specific physical power with an original term in excess of one year in duration, by region, in effect as of December 31, 2021:

Region	Number of Agreements	Expiration Dates	Capacity (MW)
Mid-Atlantic	7	2022 - 2032	176
Midwest	3	2026 - 2032	351
New York	4	2022	26
ERCOT	5	2022 - 2035	864
Other Power Regions	12	2022 - 2033	2,685
Total	31		4,102

	2022	2023	2024	2025	2026	Thereafter	Total
Capacity Expiring (MW)	1,084	114	101	490	398	1,915	4,102

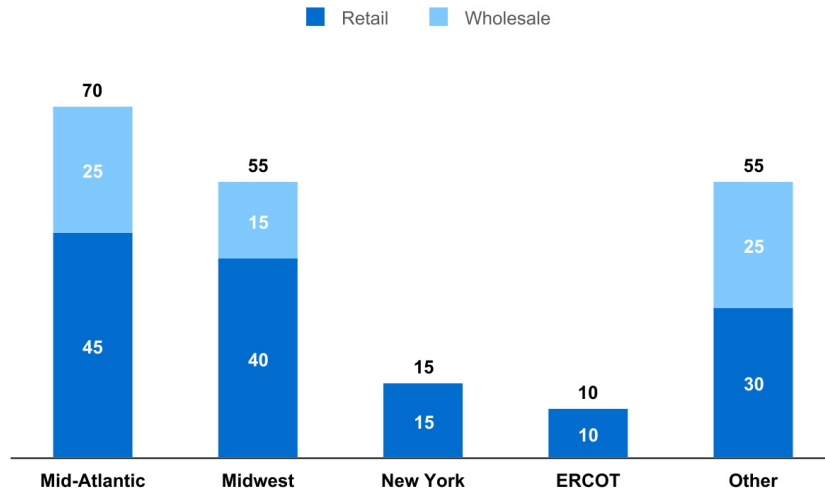
**Customer-Facing Business**

We are one of the nation's largest energy suppliers, through our integrated business operations we sell electricity, natural gas, and other energy related products and solutions to various types of customers, including distribution utilities, municipalities, cooperatives, and commercial, industrial, governmental, and residential customers in competitive markets across multiple geographic regions. We serve approximately 2 million total customers, including approximately 217,000 commercial, industrial, and public sector customers, including three-fourths of Fortune 100 companies, and about 1.6 million unique residential customers. We also have a non-commodity element of our customer facing business, providing sustainability, efficiency and technology solutions to offer a comprehensive suite of energy solutions to meet customers' growing and evolving needs.

We are a leader in electric power supply, serving 205 TWhs in 2021 through sales to retail customers and wholesale load auctions to a diverse geographic customer base. The following table illustrates these volumes across our five reportable segments:



2021 Electric Power Supply (TWhs) Served Across Regions<sup>(a)</sup>



(a) Includes retail load and wholesale load auction volumes only. Electric generation in excess of our total retail and wholesale load would be marketed to the respective ISO in which our facility is located. Other includes New England, South & West.

We are active in all domestic wholesale power and gas markets that span the entire lower 48 states and have complementary retail activity across many of those states. We largely obtain physical power supply from our owned and contracted generation in multiple geographic regions. The commodity risks associated with the output from owned and contracted generation are managed using various commodity transactions including sales to customers and our ratable hedging program. See further discussion of the ratable hedging program in the Price and Supply Risk Management section below. The main objective is to obtain low-cost energy supply to meet physical delivery obligations to both our wholesale and retail customers.

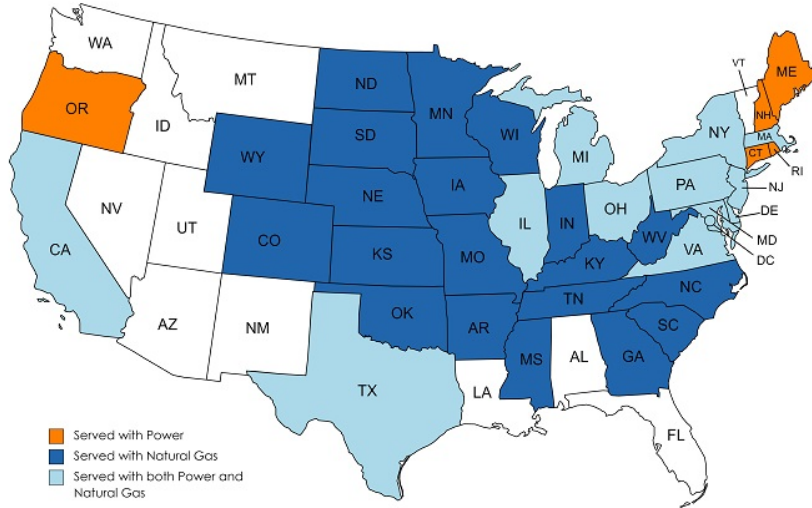
**Wholesale Market**

Our wholesale channel-to-market involves the sale of electricity among electric utilities and electricity marketers before it is eventually sold to end-use consumers. In 2021, we served approximately 65 TWhs of power load across competitive utility load procurements and bilateral sales to municipalities, co-ops, banks, and other wholesale entities. Complementary to our national portfolio, we have several decades of relationships with wholesale counterparties across all domestic power markets as a means of both monetizing our own generation, as well as sourcing contracted generation to meet customer and portfolio needs. With the increased trend toward customer demand for sustainability, this ability to source contracted generation has provided a capital-light way for us to provide customers with the renewable products they are demanding to support a cleaner energy ecosystem. This creates durable customer relationships and repeatable business through the ability to respond to customer and marketplace trends. Similarly, this contracting acumen provides the ability to supplement our native generation with other non-renewable assets to meet changing portfolio needs in a financially efficient manner. In our wholesale gas business we participate across all parts of the gas value chain, including trading, transport and storage and physical supply.

**Retail Market**

Retail competition in states across the U.S. range from full competition of generation suppliers for all retail customers (commercial, industrial and residential) to partial retail competition available up to a capped amount for industrial customers only. We are a leader in retail markets, serving approximately 140 TWhs of electric power load and 800 Bcf of gas in 2021, primarily to commercial and industrial ("C&I") customers across multiple geographic regions in the U.S.

**Constellation Retail has a Diverse Geographic Footprint**



Strong customer relationships are a key part of our customer-facing business strategy, as demonstrated by our high retention rates. Retail customer retention rates have been strong over the last five years across C&I power customer groups, with average contract terms of approximately 25 months and customer duration of more than six years, with many customers well beyond these metrics. Specifically, we enjoyed a 80% C&I power customer renewal rate and a 89% C&I gas customer retention rate in 2021, consistent with the previous four years, owing to both our competitive pricing as well as our strong customer relationships. Our consistently high renewal rates are driven by our ability to provide customized solutions and deliver focused attention to our customers' needs, resulting in industry-leading customer satisfaction. We are also successful at acquiring new customers by offering diverse innovative services and products that meet their needs. In addition to our high customer renewal rates, we have experienced consistent high new win rates for C&I power as well, acquiring nearly one out of every three new customers who have chosen to shop with us over the past three years.

High customer satisfaction levels, market expertise, stability and scale drive growth and result in historically proven business consistency and margins. While providing customers with the best possible price is a key focus, we leverage our broad suite of electric and gas product structures, oftentimes customized, to provide customers with the commodity solution and information that best fits their needs. It is this attention to the customer that creates the durable, repeatable value highlighted in these statistics.

Consumer purchasing strategies have trended from direct supply relationships to third-party relationships with a growing number of customers looking to third-party consultants and brokers to find suppliers like us to reduce costs and evaluate the increasing number of options available for expanding energy solutions beyond the commodity. In response, we have expanded our third-party capabilities, created scale through a comprehensive support structure, and enhanced digital applications providing tools, tracking and measurement as well as the ability to extend the reach of our sustainability services and products to drive additional market share. While this trend of customers using third-parties to find suppliers has slowed in recent years, we have remained the market leader in direct sales with over 45% of the commercial and industrial market share of direct customer business driven by our highly experienced and long tenor direct sales team.

### **Energy Solutions**

As one of the largest customer-facing platforms in the U.S., we benefit from significant economies of scale, which allow us to provide our customers with competitively priced energy and to structure highly tailored solutions targeted to a customer's unique power needs and clean energy goals. We partner with our customers to provide options along the sustainability continuum, including, renewable, efficiency and technology applications to meet their carbon-free energy goals. Our energy efficiency products provide the ability to optimize performance and maximize efficiency across customer facilities and operations through contract structures that include implementation of energy efficiency upgrades with no upfront capital requirements. Additionally, these services provide scalable solutions to meet sustainability goals through investment across the life of the facility or operations and allow for budget certainty. The ongoing ability to optimize energy consumption for customers allows us to support customer demands with the right combination of technology and efficiency program options.

For example, our CORE product serves C&I customers' sustainability needs by matching contracted, third-party renewable generation with customer desire to add additional carbon free generation to the grid (additionality) and geographic preference. In addition to larger-scale CORE offerings, we offer a range of sustainability attribute solutions to customers (RECs, EFECs, RINs, RNG, carbon offsets, etc.) to support their energy needs during the transition to a cleaner energy ecosystem.

Pear.ai is our smart utility expense management platform that helps customers proactively manage utility costs, understand trends, and develop strategies to optimize spend and drive sustainability objectives. Pear.ai provides new avenues for incremental growth by coupling the opportunities for customer usage optimization with accompanying products and solutions that we can provide to customers. Services like Pear.ai allow us to grow our customer base in previously inaccessible regulated markets through the offering of non-commodity energy products.

Our Constellation Technology Ventures' commercialization team invests in and collaborates with portfolio companies to deploy products and technologies across our broad customer base to drive value for both us and portfolio companies. Portfolio company solutions have included EV and charging infrastructure, sustainability monitoring and reporting tools, distributed energy resources and financing solutions, a web-based energy marketplace, and more.

### **Price and Supply Risk Management**

We use a combination of wholesale and retail customer load sales, as well as non-derivative and derivative contracts, using both over-the-counter and exchange-traded instruments, including options, swaps, and forward and futures contracts, all with credit-approved counterparties, to hedge the price risk of the generation portfolio. For merchant revenues not already hedged via comprehensive state programs, such as the CMC in Illinois, we utilize a three-year ratable sales plan to align our hedging strategy with our financial objectives. The prompt three-year merchant revenues are hedged on an approximate rolling 90%/60%/30% basis, providing cash flow stability for our investors while still allowing commercial opportunities to generate value for the enterprise. We may also enter transactions that are outside of this ratable hedging program. We are exposed to commodity price risk in 2022 and beyond for portions of our electricity portfolio that are unhedged. As of December 31, 2021, the

percentage of expected generation hedged for the Mid-Atlantic, Midwest, New York, and ERCOT reportable segments is 92%-95% and 73%-76% for 2022 and 2023, respectively. Similarly, the scale and scope of the portfolio provides risk-mitigating technology, product, and geographical diversification. We will continue to be proactive in using hedging strategies to mitigate commodity price volatility.

The percentage of expected generation hedged is the number of equivalent sales divided by the expected generation. Expected generation is the volume of energy that best represents our commodity position in energy markets from owned or contracted generation based on a simulated dispatch model that makes assumptions regarding future market conditions, which are calibrated to market quotes for power, fuel, load following products, and options. Equivalent sales represent all wholesale and retail load sales, as well as hedging products, which include economic hedges and certain non-derivative contracts. A portion of our hedging strategy may be implemented using fuel products based on assumed correlations between power and fuel prices. Our risk management group monitors the financial risks of the wholesale and retail power marketing activities. We also use financial and commodity contracts for proprietary trading purposes, but this activity accounts for only a small portion of our efforts. The proprietary trading portfolio is subject to a risk management policy that includes stringent risk management limits. See ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK for additional information.

The cycle of production and utilization of nuclear fuel includes the mining and milling of uranium ore into uranium concentrates, the conversion of uranium concentrates to uranium hexafluoride, the enrichment of the uranium hexafluoride, and the fabrication of fuel assemblies. Nuclear fuel assemblies are obtained predominantly through long-term uranium concentrate supply contracts, contracted conversion services, contracted enrichment services, or a combination thereof, and contracted fuel fabrication services. We have inventory in various forms and do not anticipate difficulty in obtaining the necessary uranium concentrates or conversion, enrichment, or fabrication services to meet the nuclear fuel requirements of our nuclear units. We size our inventory holdings and forward contractual requirements to protect against supply disruptions and near-term price volatility, while mitigating concentration of risk with our suppliers and allowing for capital flexibility.

Natural gas is procured through long-term and short-term contracts, as well as spot-market purchases. Fuel oil inventories are managed so that in the winter months sufficient volumes of fuel are available in the event of extreme weather conditions and during the remaining months to take advantage of favorable market pricing.

See ITEM 1A. RISK FACTORS, ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS, Critical Accounting Policies and Estimates and Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information regarding derivative financial instruments.

### **Seasonality**

Our operations are affected by weather, which affects demand for electricity and natural gas, as well as operating conditions. The market price for electricity is also affected by changes in the demand for electricity and the available supply of electricity. With respect to the electric business, very warm weather in summer months and, with respect to the electric and natural gas businesses, very cold weather in winter months is referred to as "favorable weather conditions" because those weather conditions result in increased deliveries of electricity and natural gas. Conversely, mild weather reduces demand. As a result, our operating results in the future may fluctuate substantially on a seasonal basis, especially when more severe weather conditions such as heat waves or extreme winter weather make such fluctuations more pronounced. The pattern of this fluctuation may change depending on the type and location of the facilities owned, the retail load served and the terms of contracts to purchase or sell electricity. See ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK for additional information.

### **Insurance**

We are subject to liability, property damage, and other risks associated with major incidents at our generating stations. We have reduced our financial exposure to these risks through insurance, both property damage and liability, and other industry risk-sharing provisions. We also maintain business interruption insurance for our renewable projects, but not for our other generating stations unless required by contract or financing agreements. We are self-insured to the extent that any losses may exceed the amount of insurance maintained or are within the policy deductible for our insured losses.

For additional information regarding property insurance, see ITEM 2. PROPERTIES, Note 17 — Debt and Credit Agreements for additional information on financing agreements, and Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for insurance specific to our nuclear facilities.

## Regulation

We are a public utility as defined under the Federal Power Act and are subject to FERC's exclusive ratemaking jurisdiction over wholesale sales of electricity and the transmission of electricity in interstate commerce. Under the Federal Power Act, FERC has the authority to grant or deny market-based rates for sales of energy, capacity, and ancillary services to ensure that such sales are just and reasonable. FERC's jurisdiction over ratemaking includes the authority to suspend the market-based rates of utilities and set cost-based rates should FERC find that its previous grant of market-based rates authority is no longer just and reasonable. Other matters subject to FERC jurisdiction include, but are not limited to, third-party financings; review of mergers; dispositions of jurisdictional facilities and acquisitions of securities of another public utility or an existing operational generating facility; affiliate transactions; intercompany financings and cash management arrangements; certain internal corporate reorganizations; and certain holding company acquisitions of public utility and holding company securities.

RTOs and ISOs are FERC regulated entities that exist in several regions to provide transmission service across multiple transmission systems. FERC has approved PJM, MISO, ISO-NE, and SPP as RTOs and CAISO and NYISO as ISOs. These entities are responsible for regional planning, managing transmission congestion, developing wholesale markets for energy and capacity, maintaining reliability, market monitoring, the scheduling of physical power sales brokered through ICE and NYMEX, and the elimination or reduction of redundant transmission charges imposed by multiple transmission providers when wholesale customers take transmission service across several transmission systems. ERCOT is not subject to regulation by FERC but performs a similar function in Texas to that performed by RTOs in markets regulated by FERC.

We are subject to the jurisdiction of the NRC with respect to the operation of our nuclear generating facilities, including the licensing for operation of each unit. The NRC subjects nuclear generating stations to continuing review and regulation covering, among other things, operations, maintenance, emergency planning, security, and environmental and radiological aspects of those stations. As part of its reactor oversight process, the NRC continuously assesses unit performance indicators and inspection results and communicates its assessment on a semi-annual basis. All nuclear generating stations operated by us are categorized by the NRC in the Licensee Response Column, which is the highest of five performance bands. The NRC may modify, suspend, or revoke operating licenses and impose civil penalties for failure to comply with the Atomic Energy Act or the terms of the operating licenses. Changes in regulations by the NRC may require a substantial increase in capital expenditures and/or operating costs for our nuclear generating facilities. NRC regulations also require that licensees of nuclear generating facilities demonstrate reasonable assurance that funds will be available in specified minimum amounts at the end of the life of the facility to decommission the facility. The ultimate decommissioning obligation is expected to be funded by the NDT funds. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS Liquidity and Capital Resources; Critical Accounting Policies and Estimates, Nuclear Decommissioning Asset Retirement Obligations; and Note 3 — Regulatory Matters, Note 10 — Asset Retirement Obligations, and Note 18 — Fair Value of Financial Assets and Liabilities of the Notes to Consolidated Financial statements for additional information regarding our NDT funds and decommissioning obligations.

Our operations are also subject to the jurisdiction of various other Federal, state, regional, and local agencies, and Federal and state environmental protection agencies. Additionally, we are subject to NERC mandatory reliability standards, which protect the nation's bulk power system against potential disruptions from cyber and physical security breaches.

## Constellation's Strategy and Outlook

### Strategy

We believe shareholder value is built on a foundation of operational excellence and the pairing of our majority carbon-free energy fleet with our customer facing platform. We are committed to maintaining investment grade credit ratings. We are focused on optimizing cash returns through a disciplined approach to safe and efficient operations and cost management, underpinned by stable and durable margins from our customer-facing

businesses and coupled with visible payments to our generation plants for the clean energy attributes. We may pursue future growth opportunities that provide additional value building on our core businesses, or expanding our competitive advantages. We are committed to maintaining a strong balance sheet, to returning value to our shareholders, and to investing in clean energy solutions.

As environmental sustainability continues to build momentum for businesses across the country, the demand for carbon-free and sustainability products increases. We are committed to a carbon-free energy future, and we aim to serve as a partner to businesses and the federal, state and local governments that are setting ambitious carbon-reduction goals and seeking long-term solutions to the climate crisis. For two decades, our predecessor company was a strong advocate for policies that would address the climate crisis. We will continue to be a leading advocate at the federal level and in our states for policies that will reduce GHG emissions and preserve and grow clean energy.

Building upon Exelon's long-standing commitment to reducing our GHG emissions, we are committed to the following:

1. Achieving a generation portfolio mix with 100% of our owned generation carbon-free by 2040, including an interim goal of 95% carbon-free by 2030, subject to policy support and technology advancements
2. A 100% reduction of our operations-driven emissions by 2040, including an interim goal to reduce carbon emissions by 65% from 2020 levels by 2030 and reduce methane emissions 30% from 2020 by 2030, and
3. Providing 100% of C&I customers with specific information about their GHG impact.

Our business strategy is to maximize value for all our stakeholders, coupled with ESG principles that are integrated with and core to our strategy, through a particular emphasis on:

**Carbon-Free Energy Advocacy.** We will continue to work with policymakers to find solutions that drive decarbonization and provide value to customers.

**Carbon-Free Energy & Climate Mitigation.** We will continue to prioritize safety in operating our reliable, best in class, carbon-free, generation assets and growing the supply of clean power, fuels, and energy carriers including hydrogen that will be essential to fighting the climate crisis. We will mitigate the impacts of climate change on our business through adaptation and building resiliency in our supply chain through partnerships with our key suppliers to build a sustainable supply chain that delivers energy and quality products and services and responsibly manages waste. We will also partner with our key energy suppliers on their GHG emissions and climate adaptation strategies.

**Clean Customer Transformation.** Customers, including businesses and cities, are transforming to become more sustainable from energy supply to management. From products that supply clean power when they need it 24 hours a day to transformative solutions to integrate clean fuels, we will continue to innovate and develop new products to meet our customers' needs.

**Technology and Commercialization.** We will partner with our customers, suppliers, universities, governments, national labs, and startups to support technology advancement through development, partnerships and commercialization pathways. We commit to help enable future technologies and business models needed to drive the clean energy economy to improve the health and welfare of communities through venture investing and R&D. We will target 25% of these investments to minority and women led businesses and will require investment recipients to disclose how they engage in equitable employment and contracting practices, using performance as a factor when considering investments.

**Equity and Community Empowerment.** We are committed to building a future in which all of our customers, employees, business partners, and communities benefit equitably from social, environmental and economic progress.

**Diversity, Equity and Inclusion.** Our commitment is an advantage in the fight against climate change, including a commitment to attract, retain, and develop a diverse, equitable workforce, promote an inclusive culture and extend diversity and inclusiveness throughout our value chain.

**Governance and Ethics.** We will build upon a strong compliance and risk management foundation from our predecessor company and recognize the critical role this serves in maximizing operational results. We will continue to manage cash flow volatility through prudent risk management strategies across our business.

We are committed to maintaining sufficient financial liquidity and an appropriate capital structure to support safe, secure and reliable operations, even in volatile market conditions. We believe our investment grade credit rating is a competitive advantage and we intend to maintain our credit position and best-in-class balance sheet. In line with that commitment, available cash flow will first be used to comfortably meet investment grade credit targets, with incremental capital allocated towards shareholder return and disciplined growth. We continually evaluate growth opportunities aligned with our businesses, assets and markets leveraging our expertise in those areas and offering sustainable returns. We may pursue growth opportunities that optimize our core business or expand upon our strengths, including, but not limited to the following:

- Opportunistic carbon-free energy acquisitions, particularly nuclear plants with supportive policy
- Create new value from the existing fleet through repowering, co-location and other opportunities
- Grow sustainability products and services for our customers focused on clean energy, efficiency, storage and electrification; help our C&I customers develop and meet sustainability targets
- Produce clean hydrogen using our carbon-free fleet
- Engagement with the technology and innovation ecosystem through continued partnerships with national labs, universities, startups, and research institutions
- Explore advanced nuclear technology for investment and participation via advisory services to maintain our leadership position as stewards of a carbon-free energy future

We will employ a disciplined approach to acquisitions that grow future cash flow and support strategic initiatives. We will also continue to evaluate asset and business divestitures to rationalize the portfolio and optimize cash proceeds.

Various market, financial, regulatory, legislative and operational factors could affect our success in pursuing these strategies. We continue to assess infrastructure, operational, policy, and legal solutions to these issues. See ITEM 1A. RISK FACTORS for additional information.

## Outlook

The U.S. energy sector is experiencing unprecedented changes that we believe will increase the demand for reliable, clean power generation and benefit our business. We believe our generation fleet, including our nuclear assets, is well-positioned to deliver reliable, clean power and benefit from growing demand for carbon-free electricity. Key drivers of increased demand for clean energy include:

- Governmental and corporate policies designed to accelerate the decarbonization of the economy,
- Policy support for nuclear energy sources that also enable energy security, reliability and diversification,
- Rapid electrification of the U.S. economy; and
- Evolving customer preferences favoring clean energy, choice and digitization

**Policy Support for Decarbonization and Emerging Carbon-Free Technologies.** Driven by societal concerns about climate change, governments, corporations, and investors are increasingly advocating for the reduction of GHG emissions across all sectors of the economy, with reduction of GHG emissions by the energy sector being a key focus. Governments at the international, national and state levels have established or are currently contemplating increasingly stringent policies that require the reduction of GHG emissions over time. Corporations have also adopted targets to reduce the carbon emissions in their business operations, spurred in part by demand from investors and customers for sustainable, environment-friendly business practices. Emerging technologies like storage and hydrogen are also helping to advance decarbonization. We are committed to a clean energy future and we believe our business is well-positioned to benefit from growing policy support for

decarbonization as our generation fleet is essential to helping meet clean energy targets at both the state and federal levels.

**Policy Support for Nuclear Energy.** As decarbonization accelerates, we expect our generation fleet will play a critical role in meeting baseload power needs. Nuclear energy is currently the largest source of zero emissions electricity in the U.S., accounting for over 50% of the nation's carbon-free power and our nuclear plants are meaningful contributors to the clean energy mix in the states in which they operate. Given the Biden Administration's aggressive goals for reducing emissions within the electric power sector, policymakers have recognized the urgent need to prevent the retirement of nuclear power plants prior to the end of their licensed lives. Several states where our nuclear facilities operate have established policies to support nuclear generation, driven by factors that include recognition by governments and policy makers that existing nuclear generation facilities are essential to meeting policy objectives on reduction of GHG emissions, the desire to support jobs and regional economies, and the need to ensure reliability and security of the electrical grid through resource diversity. A 2018 study by the Massachusetts Institute of Technology, "The Future of Nuclear Energy in a Carbon-Constrained World," found that the costs of achieving transformational decarbonization targets would increase significantly without the contribution of nuclear power. As such, we plan to file applications to extend the licenses of our nuclear fleet to 80 years for our units that receive continued policy support for their long-term operation.

**Electrification of the U.S. Economy.** The push to significantly reduce or eliminate GHG emissions could lead to acceleration of the electrification of the U.S. economy, including electrification of transportation, industrial operations, heating and cooling, and appliances, which could materially increase demand for electricity. We expect widespread electrification could result in U.S. electricity demand to nearly double from what it is today by 2050. Although EV sales in North America are well behind Europe and China, increased policy support from the Biden administration, together with an increasing number of EV offerings hitting the market over the next five years, will drive market share gains in the U.S. market. With over 90% of states offering incentives for setting up EV charging infrastructure, U.S. EV market sales are projected to rise to 6.9 million units by 2025. Electrification of industrial processes, commercial equipment and residential appliances that currently utilize gas and oil as a fuel source will also play a role in increasing the net demand for electricity. According to the International Energy Agency, heat makes up two-thirds of industrial energy demand, and almost one-fifth of global energy consumption, prompting efforts by energy companies and industrial manufacturers to electrify their thermal processes. For companies like us whose core competency is safely generating and serving electricity and related products to its customers, the increasing demand from electrification provides natural growth opportunities.

**Evolving Customer Preferences.** Consumers are increasingly purpose-driven and knowledgeable of services that drive decarbonization, leading them to value the ability to be connected to and trace the source of their clean energy choices. A third-party study found that 60% of consumers have become more aware of climate change since the start of the COVID-19 pandemic, with more than half of consumers likely to invest and upgrade to energy efficiency programs. Growing awareness of climate change and green energy helps drive customer interest in value-add services and products around their energy usage, such as residential rooftop solar, EV charging, smart, energy-efficient home technologies, and the ability to choose 100 percent clean power 24 hours a day, 365 days a year in competitive retail energy markets. Continuing innovation in the digitization of the broader economy will facilitate greater control and opportunities for customers and businesses to more frequently engage with their energy providers and become more knowledgeable of their energy choices, including the products we provide.

## Employees

### *Engaged Workforce*

Our employees are our greatest assets. We strive to create a workplace that is diverse, inclusive, innovative, and safe for our employees. In order to provide the services and products that our customers expect, we must create the best teams and these teams must reflect the diversity of the communities that we serve. Therefore, we strive to attract highly qualified and diverse talent and routinely review our hiring, development and promotion practices to ensure we maintain equitable and bias free processes.

We will continue to undertake extensive and periodic employee engagement surveys to help identify our successes and opportunities for growth. The survey results will be reviewed with senior management and our Board of Directors.



**Career Development**

We provide our employees with growth opportunities, competitive compensation and benefits, and a variety of education and development programs. We are committed to helping employees advance their skills and careers largely through educational opportunities in technical, safety and business acumen areas, in addition to development through individual discussions and mentorship programs, as well as continuous feedback and evaluations. We understand that continued education leads to a more engaged, skilled and productive workforce and we support our employees in their educational endeavors in order to attract and retain people who are committed to personal and professional development by offering tuition reimbursement for approved higher education, certification or licensing courses.

**Well-Being and Benefits**

Our employees are encouraged to thrive outside the workplace as well. We provide a full suite of wellness benefits targeted at supporting work-life balance, physical, mental and financial health, and industry-leading paid leave policies. Considering the COVID-19 pandemic, our employees also received additional benefits including 100% coverage of all in-network medical expenses associated with COVID-19 testing and treatment through June 2021, paid time off to receive a COVID-19 vaccine, and extended back-up child and elder care benefits through September 2020.

**Community**

We are also committed to helping improve the quality of life for people in the communities where we live, work and serve. We provide opportunities for company-sponsored volunteerism. Even in pandemic conditions, our employees donated nearly \$4 million to non-profit organizations and provided just over 34,000 volunteer hours in 2021.

**Next Generation of Talent**

We are also committed to exposing people within our communities to career opportunities in the energy industry. Through internships, university and veteran recruiting, STEM programs, and partnerships with organizations such as the Society of Women Engineers and the National Society of Black Engineers, we are committed to providing professional development and opportunities for the next generation of our workforce. Major focus areas include:

- Creating STEM and vocational education and awareness
- Reducing or removing educational barriers and obstacles faced by young people and underrepresented and underserved members of the community and
- Deepening current and executing new approaches and partnerships with employers, nonprofits, and community groups to expand training and job opportunities for work-ready adults and youth

**Diversity Metrics**

The following table shows diversity metrics for all employees and management as of December 31, 2021:

Metric	All Employees	Management <sup>(d)</sup>
Female <sup>(a)(b)</sup>	2,389	320
People of Color <sup>(b)</sup>	2,030	229
Aged <30	1,293	49
Aged 30-50	6,399	1,187
Aged >50	4,004	758
Within 10 years of retirement eligibility	5,242	1,034
Total Employees <sup>(c)</sup>	11,696	1,994

- (a) We are devoted to creating an environment that allows women to stay in the workforce, grow with the company, and move up the ranks, all with parity of pay. We employed an independent third-party vendor to run regression analysis on all management positions each year and the analysis has consistently shown that we have no systemic pay equity issues.
- (b) This is based on self-disclosed information.
- (c) Total employees represents the sum of the aged categories.
- (d) Management is defined as executive/senior level officials and managers as well as all employees who have direct reports and supervisory responsibilities.

**Turnover Rates**

As turnover is inherent, management succession planning is performed and tracked for all executives and critical key manager positions. Management frequently reviews succession planning to ensure we are prepared when positions become available.

The table below shows the average turnover rate for all employees for the last three years of 2019 to 2021:

	All
Retirement Age	5.14 %
Voluntary	4.31 %
Non-Voluntary	1.34 %

**Collective Bargaining Agreements**

Approximately 28% of employees participate in CBAs. The following table presents employee information, including information about CBAs, as of December 31, 2021:

Total Employees Covered by CBAs	Number of CBAs	CBAs New and Renewed in 2021 <sup>(a)</sup>	Total Employees Under CBAs New and Renewed in 2021
3,274	22	4	1,592

- (a) Does not include CBAs that were extended in 2021 while negotiations are ongoing for renewal.

**Environmental Matters and Regulation**

We are subject to comprehensive and complex environmental legislation and regulation at the federal, state, and local levels, including requirements relating to climate change, air and water quality, solid and hazardous waste, and impacts on species and habitats.

Our Board of Directors is responsible for overseeing the management of environmental matters. We have a management team to address environmental compliance and strategy, including the CEO and other senior management. Performance of those individuals directly involved in environmental compliance and strategy is reviewed and affects compensation as part of the annual individual performance review process. Our Board of

Directors has delegated to its Nuclear Oversight Committee and the Corporate Governance Committee the authority to oversee our compliance with health, environmental, and safety laws and regulations and its strategies and efforts to protect and improve the quality of the environment, including our internal climate change and sustainability policies and programs, as discussed in further detail below.

## **Climate Change**

Driven by societal concerns about climate change, governments, corporations, and investors are increasingly advocating for the reduction of GHG emissions across all sectors of the economy, with reduction of GHG emissions by the energy sector being a key focus. Governments at the international, national and state levels have established or are currently contemplating increasingly stringent policies that require the reduction of GHG emissions over time. Corporations have also adopted targets to reduce the carbon emissions in their business operations, spurred in part by demand from investors and customers for sustainable, environment-friendly business practices. Emerging technologies like storage and hydrogen are also helping to advance decarbonization.

We believe our business is well-positioned to benefit from growing policy support for decarbonization. However, as detailed below, we also face climate change mitigation and transition risks as well as adaptation risks. Mitigation and transition risks include changes to the energy systems as a result of new technologies, changing customer expectations and/or voluntary GHG reduction goals, as well as local, state or federal regulatory requirements intended to reduce GHG emissions. Adaptation risk refers to risks to our facilities or operations that may result from changes in the physical climate, such as changes to temperatures, weather patterns and sea level rise. See ITEM 1A. RISK FACTORS for additional information.

### **Climate Change Mitigation and Transition**

We support comprehensive federal climate legislation that addresses the climate crisis and would ensure the country meets the targets set by the Paris Climate Accord. In the absence of comprehensive federal legislation, we support EPA moving forward with meaningful regulation of GHG emissions under the Clean Air Act. We currently are subject to, and may become subject to additional, federal and/or state legislation and/or regulations addressing GHG emissions.

We are deliberately positioned as a low-carbon generation company. We have minimized GHG emitting assets in our portfolio and maximized carbon-free electric production such that our generation emissions intensity is already 80% less than 2005 levels in support of achieving economy-wide GHG emissions reduction goals. Our Scope 1 and 2 GHG emissions in 2020 were 8.2 million metric tons carbon dioxide equivalent, of which 7.8 million metric tons were from our natural gas and oil fueled generation fleet, significantly less than our peers with similar volume of power generation.

We produce electricity predominantly from low and carbon-free generating facilities (such as nuclear, hydroelectric, natural gas, wind, and solar PV) and neither own nor operate any coal-fueled generating assets. Our natural gas and oil generating plants produce GHG emissions, most notably CO<sub>2</sub>. In addition, we sell natural gas at retail; and consumers' use of such natural gas produces GHG emissions. However, our owned-asset emission intensity, or rate of carbon dioxide equivalent (CO<sub>2</sub>e) emitted per unit of electricity generated, is among the lowest in the industry. In 2021, we achieved a 94.5% percent capacity factor across our nuclear fleet and our ownership of 21 gigawatts of carbon-free generation capacity at 23 nuclear units produced 175 TWhs of electricity in 2021 — approximately 10% of U.S. carbon-free electric supply.

The electric sector plays a key role in lowering GHG emissions across the rest of the economy. Electrification of other sectors such as transportation and buildings coupled with simultaneous decarbonization of electric generation is a key lever for emissions reductions. To support this transition, we are advocating for public policy supportive of vehicle electrification, investing in enabling infrastructure and technology, and supporting customer education and adoption. We also continue to explore other decarbonization opportunities, supporting pilots of emerging energy technologies and development of clean fuels.

**International Climate Change Agreements.** At the international level, the United States is a party to the United Nations Framework Convention on Climate Change (UNFCCC). The Parties to the UNFCCC adopted the Paris Agreement at the 21st session of the UNFCCC Conference of the Parties (COP 21) on December 12, 2015. Under the Agreement, which became effective on November 4, 2016, the parties committed to try to limit the

global average temperature increase and to develop national GHG reduction commitments. On November 4, 2020, the United States formally withdrew from the Paris Agreement, retracting its commitment to reduce domestic GHG emissions by 26%-28% by 2025 compared with 2005 levels. However, on January 20, 2021, President Biden accepted the Paris Agreement, which resulted in the United States' formal re-entry on February 19, 2021. The United States has now set an economy-wide target of reducing its net GHG emissions by 50-52% below 2005 levels by 2030. The 2021 UNFCCC Conference of the Parties (COP26) and resulting Glasgow Climate Pact indicated important global support for the Paris Agreement and continued progress toward decarbonization.

**Federal Climate Change Legislation and Regulation.** Combating climate change is one of the top legislative agenda items of the Biden administration, with the President proposing a 100% clean energy economy with net zero GHG emissions by 2050 and to reduce U.S. emissions by 50% or more from 2005 levels by 2030. While consideration of the Build Back Better Act has stalled in Congress, Senator Joe Manchin continues to express an openness to a smaller bill that includes climate-related provisions that include a production tax credit for clean power sources. We support federal tax credits that recognize the value of existing carbon-free nuclear plants and support the development of hydrogen solutions. It is uncertain when, or whether, Congress will consider action on a climate bill, but the Biden Administration and members of Congress have recognized the importance of existing nuclear power plants, which provide half of the nation's emissions-free energy, to meeting U.S. climate goals. A federal tax credit would prevent the continued premature closure of nuclear plants for economic reasons.

**Regulation of GHGs from Power Plants under the Clean Air Act.** The EPA's 2015 Clean Power Plan (CPP) established regulations addressing carbon dioxide emissions from existing fossil-fired power plants under Clean Air Act Section 111(d). The CPP's carbon pollution limits could be met through changes to the electric generation system, including shifting generation from higher-emitting units to lower- or zero-emitting units, as well as the development of new or expanded zero-emissions generation. In July 2019, the EPA published its final Affordable Clean Energy rule, which repealed the CPP and replaced it with less stringent emissions guidelines for existing fossil-fired power plants based on heat rate improvement measures that could be achieved within the fence line of individual plants. We, as part of Exelon, together with a coalition of other electric utilities, filed a lawsuit in the U.S. Court of Appeals for the D.C. Circuit on September 6, 2019, challenging the Affordable Clean Energy rule as unlawful. This lawsuit was consolidated with separate challenges to the Affordable Clean Energy rule filed by various states, non-governmental organizations, and business coalitions. On January 19, 2021, the U.S. Court of Appeals for the D.C. Circuit held the Affordable Clean Energy Rule to be unlawful, vacated the rule, and remanded it to the EPA. On October 29, 2021, the Supreme Court granted certiorari to examine the extent of EPA's authority to regulate GHGs from power plants; a decision is expected in 2022. The EPA has indicated it will promulgate new GHG limits for existing power plants.

**State Climate Change Legislation and Regulation.** Many states in which we operate have state and regional programs to reduce GHG emissions and renewable and other portfolio standards, which impact the power sector and other sectors as well. 25 states and the District of Columbia have 100% clean energy targets, deep GHG reductions, or both, encompassing 54% of U.S. residential electricity customers. See discussion below for additional information on renewable and other portfolio standards. As the nation's largest generator of carbon-free electricity, our fleet supports these efforts to produce safe, reliable electricity with minimal GHGs.

Eleven northeast and mid-Atlantic states (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia) currently participate in the RGGI, which is in the process of strengthening its requirements. The program requires most fossil fuel-fired power plants in the region to hold allowances, purchased at auction, for each ton of CO2 emissions. Non-emitting resources do not have to purchase or hold these allowances. In October 2019, the Governor of Pennsylvania issued an Executive Order directing the PA DEP to begin a rulemaking process to allow Pennsylvania to join the RGGI, with the goal of reducing carbon emissions from the electricity sector. The Environmental Quality Board of the PA DEP approved that rule on July 13, 2021, paving the way for Pennsylvania's participation in RGGI beginning sometime in 2022.

In 2019, New York enacted the Climate Leadership and Community Protection Act, which commits the state to achieving net zero emissions by 2050, with interim emission reduction and renewable energy requirements in 2030 and 2040. New Jersey's Energy Master Plan, released in 2020, provides a comprehensive roadmap for achieving the state's goal of a 100% clean energy economy by 2050 and its Global Warming Response Act's stated GHG emissions reductions of 80% below 2006 levels by 2050. On September 15, 2021, Illinois Public Act 102-0662 was signed into law by the Governor of Illinois. The Clean Energy Law is designed to achieve 100%

carbon-free power by 2045 to enable the state's transition to a clean energy economy. The Clean Energy Law establishes decarbonization requirements for Illinois as well as programs to support the retention and development of emissions-free sources of electricity.

Our nuclear plants are meaningful contributors to the clean energy mix in the states in which they operate. States may not be able to meet their zero-carbon goals without our nuclear plants, as our plants provide a significant portion of the current carbon-free power. Several states in which our nuclear facilities operate have established policies to support nuclear generation. The supportive policies are driven by several factors, including recognition by governments and policy makers that existing nuclear generation facilities are essential to meeting policy objectives on reduction of GHG emissions, the desire to support jobs and regional economies, and the need to ensure reliability and security of the electrical grid through resource diversity. These state-specific policies (date of enactment) include the following:

- New York Clean Energy Standard (2016) – established a ZEC program that preserves the environmental attributes of our FitzPatrick, Ginna, and NMP nuclear facilities through 2029
- Illinois Zero Emission Standard (2016) - established a ZEC program that preserves the environmental attributes of our Clinton and Quad Cities nuclear facilities through 2027
- New Jersey Clean Energy Legislation (2018) – established a ZEC program that includes preserving the environmental attributes of the Salem nuclear facility, currently through 2025
- Illinois Clean Energy Law (2021) – established a CMC program that preserves the environmental attributes of our Byron, Braidwood, and Dresden nuclear facilities through 2027

See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information on the New Jersey Clean Energy Legislation and the Illinois Clean Energy Law.

**Renewable and Clean Energy Standards.** Thirty states and the District of Columbia, incorporating most of the states where we operate, have adopted some form of renewable or clean energy procurement requirement. These standards impose varying levels of mandates for procurement of renewable or clean electricity (the definition of which varies by state) and/or energy efficiency. These are generally expressed as a percentage of annual electric load, often increasing by year. Load Serving Entities comply with these various requirements through purchasing qualifying renewables, acquiring sufficient credits (e.g., RECs), paying an alternative compliance payment, and/or a combination of these compliance alternatives.

While we cannot predict the nature of future regulations or how such regulations might impact future financial statements, we have a low emission portfolio, and GHG restrictions would likely benefit our zero- and low-emission generating units relative to other higher-emission fossil fuel-fired generating units.

**Corporate Clean Energy Targets.** Corporations are facing increasing pressure from their customers and investors to align their businesses with international and national environmental and sustainability objectives, including supporting goals to reduce GHG emissions in their business operations. Leading institutional investors and money managers are increasingly considering sustainability as a key factor in investment decisions and are increasingly advocating for more transparency in disclosure on climate-related matters and pledging to align proxy voting to climate-rated proposals with its fiduciary duty. An increasing number of corporations are also proactively making commitments to reducing their GHG emissions footprint, either through procuring increasing amounts of clean energy or RECs to offset their carbon footprint over time. As the nation's largest producer of carbon-free energy, we support taking bold action to address the climate change crisis and reestablish leadership in both emerging technologies and existing clean infrastructure that together will power the future.

**Emerging Carbon-Free Technologies.** Emerging carbon-free technologies like storage and hydrogen are also expected to help accelerate the economy's decarbonization. Lower costs, state-directed mandates, a backlog of storage projects in the interconnection queue, and utilities seeking large-scale storage capacity to support higher renewables penetration have created conditions for rapid growth of this technology in the U.S. Clean hydrogen also has the potential to drive decarbonization, particularly as it relates to more challenging sectors like long-haul transportation, steel, chemicals, heating, agriculture, and long-term power storage. Nuclear power can be used to produce clean hydrogen, and our nuclear fleet positions us well to explore this emerging space. Both energy storage and clean hydrogen continue to gain political and business support and are expected to help support net-zero carbon goals.

### **Climate Change Adaptation**

Our facilities and operations are subject to the global impacts of climate change. Long-term shifts in climactic patterns, such as sustained higher temperatures and sea level rise, may present challenges for our facilities and services. We believe our operations could be significantly affected by the physical risks of climate change. See ITEM 1A. RISK FACTORS, for additional information.

We conduct seasonal readiness reviews at our power plants to ensure availability of fuel supplies and equipment performance before entering the summer and winter seasons and we consider and review national climate assessments to inform our longer-term planning. Our nuclear fleet is resilient to weather extremes and generates emissions free electricity 24 hours a day even during unexpectedly cold winter events and hot summer events.

### **Other Environmental Regulation**

#### **Air Quality**

**Mercury and Air Toxics Standards (MATS).** In 2011, the EPA signed a final rule, known as MATS, to reduce emissions of hazardous air pollutants from power plants. MATS requires coal-fired power plants to achieve high removal rates of mercury, acid gases, and other metals, and to make capital investments in pollution control equipment and incur higher operating expenses. In 2016, in response to a Supreme Court decision requiring the EPA to consider costs in determining whether it was appropriate and necessary to regulate power plant emissions of hazardous air pollutants, the EPA issued a supplemental finding that, after considering costs, it remained appropriate and necessary. On May 22, 2020, the EPA reversed course, publishing a final rule revoking the "appropriate and necessary" finding underpinning MATS. A coal mining company filed a lawsuit in the U.S. Court of Appeals for the D.C. Circuit seeking vacatur of MATS based on the EPA's May 22, 2020 finding; on September 11, 2020, the U.S. Court of Appeals for the D.C. Circuit granted a motion by Exelon and two other entities to intervene in that lawsuit to defend MATS, and on September 28, 2020, the U.S. Court of Appeals for the D.C. Circuit issued an Executive Order holding this portion of the MATS litigation in abeyance. On July 21, 2020, Exelon and two other entities filed a lawsuit in the U.S. Court of Appeals for the D.C. Circuit challenging the EPA's May 22, 2020 rescission of the appropriate and necessary finding underpinning MATS. This portion of the case is also being held in abeyance in response to the DOJ's motion filed February 12, 2021. On January 20, 2021, President Biden issued an Executive Order directing the EPA to reconsider its May 22, 2020 rescission; on January 31, 2022 EPA signed a proposal to reaffirm that it is "appropriate and necessary" to regulate hazardous air pollutant emissions from coal- and oil-fired power plants under section 112 of the Clean Air Act. As a result, this litigation is likely to be rendered moot, and MATS will likely remain in place in the interim.

#### **Water Quality**

Under the federal Clean Water Act, NPDES permits for discharges into waterways are required to be obtained from the EPA or from the state environmental agency to which the permit program has been delegated, and permits must be renewed periodically. Certain of our facilities discharge water into waterways and are therefore, subject to these regulations and operate under NPDES permits.

Clean Water Act Section 316(b) is implemented through the NPDES program and requires that the cooling water intake structures at electric power plants reflect the best technology available to minimize adverse environmental impacts. Our power generation facilities with cooling water intake systems are subject to the EPA's Section 316(b) regulations finalized in 2014; the regulation's requirements have been or will be addressed through renewal of these facilities' NPDES permits. Until the compliance requirements are determined by the applicable state permitting director on a site-specific basis for each plant, we cannot estimate the effect that compliance with the EPA's 2014 rule will have on the operation of our generating facilities and our financial statements. Should a state permitting director determine that a facility must install cooling towers to comply with the rule, that facility's economic viability could be called into question. However, the final rule does not mandate cooling towers and allows state permitting directors to require alternative, less costly technologies and/or operational measures, based on a site-specific assessment of the feasibility, costs, and benefits of available options.

On July 28, 2016, the NJDEP issued a final permit for Salem that did not require the installation of cooling towers and allows Salem to continue to operate utilizing the existing cooling water system with certain required system modifications. However, the permit is being challenged by an environmental organization, and if successful, could

result in additional costs for Clean Water Act compliance. Potential cooling water system modification costs could be material and could adversely impact the economic competitiveness of this facility.

Under Clean Water Act Section 404 and state laws and regulations, we may be required to obtain permits for projects involving dredge or fill activities in Waters of the United States.

Where our facilities are required to secure a federal license or permit for activities that may result in a discharge to covered waters, we may be required to obtain a state water quality certification for those facilities under Clean Water Act section 401.

We are also subject to the jurisdiction of the Delaware River Basin Commission and the Susquehanna River Basin Commission, regional agencies that primarily regulate water usage.

#### **Solid and Hazardous Waste and Environmental Remediation**

CERCLA provides for response and removal actions coordinated by the EPA in the event of threatened releases of hazardous substances and authorizes the EPA either to clean up sites at which hazardous substances have created actual or potential environmental hazards or to order persons responsible for the situation to do so. Under CERCLA, generators and transporters of hazardous substances, as well as past and present owners and operators of hazardous waste sites, are strictly, jointly and severally liable for the cleanup costs of hazardous waste at sites, many of which are listed by the EPA on the National Priorities List (NPL). These PRPs can be ordered to perform a cleanup, can be sued for costs associated with an EPA-directed cleanup, may voluntarily settle with the EPA concerning their liability for cleanup costs, or may voluntarily begin a site investigation and site remediation under state oversight. Most states have also enacted statutes that contain provisions substantially like CERCLA. Such statutes apply in many states where we currently own or operate, or previously owned or operated facilities, including Delaware, Illinois, Maryland, New Jersey, and Pennsylvania and the District of Columbia. In addition, RCRA governs treatment, storage and disposal of solid and hazardous wastes and cleanup of sites where such activities were conducted.

Our operations have in the past, and may in the future, require substantial expenditures in order to comply with these Federal and state environmental laws. Under these laws, we may be liable for the costs of remediating environmental contamination of property now or formerly owned by us and of property contaminated by hazardous substances generated by us. We own or lease several real estate parcels, including parcels on which our operations or the operations of others may have resulted in contamination by substances that are considered hazardous under environmental laws. We are, or could become in the future, parties to proceedings initiated by the EPA, state agencies, and/or other responsible parties under CERCLA and RCRA or similar state laws with respect to several sites or may undertake to investigate and remediate sites for which we may be subject to enforcement actions by an agency or third-party.

As of December 31, 2021, we have established appropriate contingent liabilities for environmental remediation requirements. In addition, we may be required to make significant additional expenditures not presently determinable for other environmental remediation costs. See Note 3 — Regulatory Matters and Note 19 — Commitments and Contingencies of the Notes to the Consolidated Financial Statements for additional information regarding our environmental matters, remediation efforts, and related impacts to our Consolidated Financial Statements.

#### ***Nuclear Waste Storage and Disposal***

There are no facilities for the reprocessing or permanent disposal of SNF currently in operation in the United States, nor has the NRC licensed any such facilities. We currently store all SNF generated by our nuclear generating facilities on-site in storage pools or in dry cask storage facilities. Since our SNF storage pools generally do not have sufficient storage capacity for the life of the respective plant, we have developed dry cask storage facilities to support operations.

As of December 31, 2021, we had approximately 89,400 SNF assemblies (21,900 tons) stored on site in SNF pools or dry cask storage that includes SNF assemblies at Zion Station, for which we retain ownership and responsibility for the decommissioning of the Zion Independent Spent Fuel Storage Installation. All our nuclear sites currently operating have on-site dry cask storage. TMI's on-site dry cask storage is projected to be in operation in 2022. On-site dry cask storage in concert with on-site storage pools will be capable of meeting all current and future SNF storage requirements at our sites through the end of the current license renewal periods

and through decommissioning. For a discussion of matters associated with our contracts with the DOE for the disposal of SNF, see Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements.

As a by-product of their operations, nuclear generating units produce LLRW. LLRW is accumulated at each generating station and permanently disposed of at licensed disposal facilities. The Federal Low-Level Radioactive Waste Policy Act of 1980 provides that states may enter into agreements to provide regional disposal facilities for LLRW and restrict use of those facilities to waste generated within the region. Illinois and Kentucky have entered into such an agreement, although neither state currently has an operational site, and none is anticipated to be operational for the next ten years. We ship our Class A LLRW, which represents 93% of LLRW generated at our stations, to disposal facilities in Utah and South Carolina, which have enough storage capacity to store all Class A LLRW for the life of all stations in our nuclear fleet. The disposal facility in South Carolina at present is only receiving LLRW from LLRW generators in South Carolina, New Jersey (which includes Salem), and Connecticut.

We utilize on-site storage capacity at all our stations to store and stage for shipping Class B and Class C LLRW. We have a contract through 2032 to ship Class B and Class C LLRW to a disposal facility in Texas. The agreement provides for disposal of all Class B and Class C LLRW currently stored at each station as well as the Class B and Class C LLRW generated during the term of the agreement. However, because the production of LLRW from our nuclear fleet will exceed the capacity at the Texas site (3.9 million curies for 15 years beginning in 2012), we will still be required to utilize on-site storage at our stations for Class B and Class C LLRW. We currently have enough storage capacity to store all Class B and Class C LLRW for the life of all stations in our nuclear fleet and continue to pursue alternative disposal strategies for LLRW, including an LLRW reduction program to minimize on-site storage and cost impacts.

## ITEM 1A. RISK FACTORS

We operate in a complex market and regulatory environment that involves significant risks, many of which are beyond our direct control. Such risks, which could negatively affect our consolidated financial statements, fall primarily under the categories below:

**Risks related to market and financial factors** primarily include:

- the price of fuels, in particular the price of natural gas, which affects power prices,
- the generation resources in the markets in which we operate,
- our ability to operate our generating assets, our ability to access capital markets, and the impacts on our results of operations due to the global outbreak (pandemic) of the 2019 novel coronavirus (COVID-19),
- the impacts of on-going competition, and
- emerging technologies and business models, including those related to climate change mitigation and transition to a low carbon economy.

**Risks related to legislative, regulatory, and legal factors** primarily include changes to, and compliance with, the laws and regulations that govern:

- the design of power markets,
- the renewal of permits and operating licenses,
- environmental and climate policy, including ZEC and CMC programs, and
- tax policy.

**Risks related to operational factors** primarily include:



- changes in the global climate could produce extreme weather events, which could put our facilities at risk, and such changes could also affect the levels and patterns of demand for energy and related services,
- the safe, secure and effective operation of our nuclear facilities and the ability to effectively manage the associated decommissioning obligations,
- the ability of energy transmission and distribution companies to maintain the reliability, resiliency and safety of their energy delivery systems, which could affect our ability to deliver energy to our customers and affect our operating costs, and
- physical and cyber security risks for us as an owner-operator of generation facilities and as a participant in commodities trading.

**Risks related to our separation from Exelon** primarily include:

- challenges to achieving the benefits of separation, including limited business diversification, loss of economies of scale in sourcing goods and services, and the need to replicate certain services provided by Exelon (such as treasury, finance, human resources, investor relations, legal, information technology, security, and supply), which will require additional resources and expense,
- performance by Exelon and us under the transaction agreements, including indemnification responsibilities tied to the allocation of businesses and liabilities, and
- limitations on future capital-raising or strategic transactions during the two-year period following the distribution arising from the need to protect the tax-free treatment of the distribution.

**Risks related to our common stock** primarily include:

- following the separation, a trading market for our common stock will have only been initiated recently and our stock price may fluctuate significantly and
- certain anti-takeover provisions in our charter and bylaws that could have the effect of delaying or discouraging an acquisition of our company or a change in our management.

## **Risks Related to Market and Financial Factors**

**We are exposed to price volatility associated with both the wholesale and retail power markets and the procurement of nuclear and fossil fuels.**

We are exposed to commodity price risk for natural gas and the unhedged portion of our electricity generation supply portfolio. Our earnings and cash flows are therefore exposed to variability of spot and forward market prices in the markets in which we operate.

**Price of Fuels.** The spot market price of electricity for each hour is generally determined by the marginal cost of supplying the next unit of electricity to the market during that hour. Thus, the market price of power is affected by the market price of the marginal fuel used to generate the electricity unit.

**Cost of Fuel.** We depend on nuclear fuel and fossil fuels to operate most of our generating facilities. The supply markets for nuclear fuel, natural gas and oil are subject to price fluctuations, availability restrictions, counterparty default, and geopolitical risk including the current Russia Ukraine conflict and United States sanctions against Russia.

**Demand and Supply.** The market price for electricity is also affected by changes in the demand for electricity and the available supply of electricity. Unfavorable economic conditions, milder than normal weather, and the growth of energy efficiency and demand response programs can depress demand. In addition, in some markets, the supply of electricity can exceed demand during some hours of the day, resulting in loss of revenue for base-load generating plants such as our nuclear plants. Conversely, new demand sources such as electrification of transportation could increase demand and change demand patterns.

**Retail Competition.** Our retail operations compete for customers in a competitive environment, which affects the margins we can earn and the volumes we are able to serve. In periods of sustained low natural gas and power prices and low market volatility, retail competitors can aggressively pursue market share because the barriers to entry can be low and wholesale generators (including us) use their retail operations to hedge generation output.

The impact of sustained low market prices or depressed demand and over-supply could be emphasized given our concentration of base-load electric generating capacity within primarily two geographic market regions, namely the Midwest and the Mid-Atlantic. These impacts could adversely affect our ability to reduce debt and provide attractive shareholder returns. In addition, such conditions may no longer support the continued operation of certain generating facilities, which could adversely affect our financial statements primarily through accelerated depreciation and amortization expenses and one-time charges. See Note 7 — Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information.

**Market Designs.** The wholesale markets vary from region to region with distinct rules, practices and procedures. Changes in these market rules, problems with rule implementation, or failure of any of these markets could adversely affect our business. In addition, a significant decrease in market participation could affect market liquidity and have a detrimental effect on market stability.

**We are potentially affected by emerging technologies that could over time affect or transform the energy industry.**

Advancements in power generation technology, including commercial and residential solar generation installations and commercial micro turbine installations, are improving the cost-effectiveness of customer self-supply of electricity. Improvements in energy storage technology, including batteries and fuel cells, could also better position customers to meet their around-the-clock electricity requirements. Improvements in energy efficiency of lighting, appliances, equipment and building materials will also affect energy consumption by customers. Changes in power generation, storage, and use technologies could have significant effects on customer behaviors and their energy consumption.

These developments could affect the price of energy, levels of customer-owned generation, customer expectations and current business models and make portions of our generation facilities uneconomic prior to the end of their useful lives. These technologies could also result in further declines in commodity prices or demand for delivered energy. Each of these factors could affect our consolidated financial statements through, among other things, reduced operating revenues, increased operating and maintenance expenses, increased capital expenditures, and potential asset impairment charges or accelerated depreciation and decommissioning expenses over shortened remaining asset useful lives.

**Market performance and other factors could decrease the value of our NDT funds and employee benefit plan assets, which then could require significant additional funding.**

Disruptions in the capital markets and their actual or perceived effects on particular businesses and the greater economy could adversely affect the value of the investments held within our NDTs and employee benefit plan trusts. We have significant obligations in these areas and hold substantial assets in these trusts to meet those obligations. The asset values are subject to market fluctuations and will yield uncertain returns, which could fall below our projected return rates. A decline in the market value of the NDT fund investments could increase our funding requirements to decommission our nuclear plants. A decline in the market value of the pension and OPEB plan assets would increase the funding requirements associated with our pension and OPEB plan obligations. Additionally, our pension and OPEB plan liabilities are sensitive to changes in interest rates. As interest rates decrease, the liabilities increase, potentially increasing benefit costs and funding requirements. Changes in demographics, including increased numbers of retirements or changes in life expectancy assumptions or changes to Social Security or Medicare eligibility requirements could also increase the costs and funding requirements of the obligations related to the pension and OPEB plans. See Note 10 — Asset Retirement Obligations and Note 15 — Retirement Benefits of the Notes to Consolidated Financial Statements for additional information.

**We could be negatively affected by unstable capital and credit markets and increased volatility in commodity markets.**

We rely on the capital markets, particularly for publicly offered debt, as well as the banking and commercial paper markets, to meet our financial commitments and short-term liquidity needs. Disruptions in the capital and credit markets in the United States or abroad could negatively affect our ability to access the capital markets or draw on our bank revolving credit facilities. The banks may not be able to meet their funding commitments to us if they experience shortages of capital and liquidity or if they experience excessive volumes of borrowing requests within a short period of time. The inability to access capital markets or credit facilities, and longer-term disruptions in the capital and credit markets as a result of uncertainty, changing or increased regulation, reduced alternatives or failures of significant financial institutions could result in the deferral of discretionary capital expenditures, affect our ability to hedge effectively our generation portfolio, require changes to our hedging strategy in order to reduce collateral posting requirements, or require a reduction in discretionary uses of cash. In addition, we have exposure to worldwide financial markets, including Europe, Canada and Asia. Disruptions in these markets could reduce or restrict our ability to secure sufficient liquidity or secure liquidity at reasonable terms. As of December 31, 2021, approximately 26%, 19%, and 17% of our available credit facilities were with European, Canadian and Asian banks, respectively.

The strength and depth of competition in energy markets depend heavily on active participation by multiple trading parties, which could be negatively affected by disruptions in the capital and credit markets and legislative and regulatory initiatives that could affect participants in commodities transactions. Reduced capital and liquidity and failures of significant institutions that participate in the energy markets could diminish the liquidity and competitiveness of energy markets that are important to our business. Perceived weaknesses in the competitive strength of the energy markets could lead to pressures for greater regulation of those markets or attempts to replace market structures with other mechanisms for the sale of power, including the requirement of long-term contracts.

**If we were to experience a downgrade in our credit ratings to below investment grade or otherwise fail to satisfy the credit standards in our agreements with our counterparties or regulatory financial requirements, we would be required to provide significant amounts of collateral that could affect our liquidity and we could experience higher borrowing costs.**

Our business is subject to credit quality standards that could require market participants to post collateral for their obligations upon a decline in ratings. We are also subject to certain financial requirements under NRC regulations as a result of our operation of nuclear power plants that could require us to provide cash collateral or surety bonds if those requirements are not met. One or both events could adversely affect available liquidity and, in the case of a rating downgrade, borrowing and credit support costs.

See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS – Liquidity and Capital Resources – Credit Matters – Market Conditions and Security Ratings for additional information regarding the potential impacts of credit downgrades on our cash flows.

**If we fail to meet project-specific financing agreement requirements, we could experience an impairment or loss of the financed project.**

We have project-specific financing arrangements and must meet the requirements of various agreements relating to those financings. Failure to meet those arrangements could give rise to a project-specific financing default which, if not cured or waived, could result in the specific project being required to repay the associated debt or other borrowings earlier than otherwise anticipated, and if such repayment were not made, the lenders or security holders would generally have broad remedies, including rights to foreclose against the project assets and related collateral or to force our subsidiaries in the project-specific financings to enter into bankruptcy proceedings. The impact of bankruptcy could result in the impairment of certain project assets.

**Our risk management policies cannot fully eliminate the risk associated with our commodity trading activities.**

Our asset-based power position as well as our power marketing, fuel procurement and other commodity trading activities expose us to risks of commodity price movements. We buy and sell energy and other products and enter financial contracts to manage risk and hedge various positions in our power generation portfolio. We are exposed to volatility in financial results for unhedged positions as well as the risk of ineffective hedges. We attempt to manage this exposure through enforcement of established risk limits and risk management

procedures. These risk limits and risk management procedures may not work as planned and cannot eliminate all risks associated with these activities. Even when our policies and procedures are followed, and decisions are made based on projections and estimates of future performance, results of operations could be diminished if the judgments and assumptions underlying those decisions prove to be incorrect. Factors, such as future prices and demand for power, natural gas and other energy-related commodities, become more difficult to predict and the calculations become less reliable the further into the future estimates are made. As a result, we cannot predict the impact that our commodity trading activities and risk management decisions could have on our consolidated financial statements.

**Financial performance and load requirements could be negatively affected if we are unable to effectively manage our power portfolio.**

A significant portion of our power portfolio is used to provide power under procurement contracts with load serving entities and other customers. To the extent portions of the power portfolio are not needed for that purpose, our output is sold in the wholesale power markets. To the extent our power portfolio is not sufficient to meet the requirements of our customers under the related agreements, we must purchase power in the wholesale power markets. Our financial results could be negatively affected if we are unable to meet cost-effectively the load requirements of our customers, manage our power portfolio or effectively address the changes in the wholesale power markets.

**The impacts of significant economic downturns could lead to decreased volumes delivered and increased expense for uncollectible customer balances.**

The impacts of significant economic downturns on our retail customers, such as less demand for products and services provided by commercial and industrial customers, could result in an increase in the number of uncollectible customer balances and related expense.

See ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK for additional information on our credit risk.

**Our results were negatively affected by the impacts of COVID-19.**

COVID-19 has disrupted economic activity in our markets and negatively affected our results of operations. The estimated impact of COVID-19 to our Net income was approximately \$170 million for the year ended December 31, 2020 and was not material for the year ended December 31, 2021. We cannot predict the full extent of the impacts of COVID-19, which will depend on, among other things, the rate, and public perceptions of the effectiveness, of vaccinations and rate of resumption of business activity. In addition, any future widespread pandemic or other local or global health issue could adversely affect customer demand and our ability to operate our generation assets. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS – Executive Overview for additional information.

**We could be negatively affected by the impacts of weather.**

Our operations are affected by weather, which impacts demand for electricity and natural gas, the price of energy commodities, as well as operating conditions. To the extent that weather is warmer in the summer or colder in the winter than assumed, we could require greater resources to meet our contractual commitments. Extreme weather conditions or storms have affected the availability of generation and its transmission, limiting our ability to source or send power to where it is sold, and have also impaired the transportation of natural gas to our generating assets and our ability to supply natural gas to our customers. In addition, drought-like conditions limiting water usage could impact our ability to run certain generating assets at full capacity. These conditions, which cannot be accurately predicted, could cause us to seek additional capacity at a time when markets are weak.

Climate change projections suggest increases to summer temperature and humidity trends, as well as more erratic precipitation and storm patterns over the long-term in the areas where we have generation assets. The frequency in which weather conditions emerge outside the current expected climate norms could contribute to the weather-related impacts discussed above.

Beginning on February 15, 2021, our Texas-based generating assets within the ERCOT market, specifically Colorado Bend II, Wolf Hollow II, and Handley, experienced periodic outages as a result of historically severe cold weather conditions. The estimated impact to our Net income arising from these market and weather conditions for the year ended December 31, 2021 was a reduction of approximately \$800 million. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information.

**Long-lived assets and other assets could become impaired.**

Long-lived assets — principally, generation assets — represent the single largest asset class on our statement of financial position.

We evaluate the recoverability of the carrying value of long-lived assets to be held and used whenever events or circumstances indicating a potential impairment may exist. Factors such as, but not limited to, the business climate, including current and future energy and market conditions, environmental regulation, and the condition of assets are considered.

An impairment would require us to reduce the carrying value of the long-lived asset to fair value through a non-cash charge to expense by the amount of the impairment. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS — Critical Accounting Policies and Estimates, Note 8 — Property, Plant, and Equipment and Note 12 — Asset Impairments of the Notes to Consolidated Financial Statements for additional information on long-lived asset impairments.

**We could incur substantial costs in the event of non-performance by third-parties under indemnification agreements, or when we have guaranteed their performance. We are exposed to other credit risks in the power markets that are beyond our control.**

We have entered into various agreements with counterparties that require those counterparties to reimburse us and hold us harmless against specified obligations and claims. To the extent that any of these counterparties are affected by deterioration in their creditworthiness or the agreements are otherwise determined to be unenforceable, we could be held responsible for the obligations.

We have issued indemnities to third parties regarding environmental or other matters in connection with purchases and sales of assets, including several of the Exelon utilities in connection with our absorption of their former generating assets. We could incur substantial costs to fulfill our obligations under these indemnities.

We have issued guarantees for the performance of third parties, which obligate us to perform if the third parties do not perform. In the event of non-performance by those third parties, we could incur substantial costs to fulfill their obligations under these guarantees.

In the bilateral markets, we are exposed to the risk that counterparties that owe us money or are obligated to purchase energy or fuel from us, will not perform under their obligations for operational or financial reasons. In the event the counterparties to these arrangements fail to perform, we could be forced to purchase or sell energy or fuel in the wholesale markets at less favorable prices and incur additional losses, to the extent amounts, if any, were already paid to the counterparties. In the spot markets, we are exposed to risk as a result of default sharing mechanisms that exist within certain markets, primarily RTOs and ISOs. We are also a party to agreements with entities in the energy sector that have experienced rating downgrades or other financial difficulties. In addition, our retail sales subject us to credit risk through competitive electricity and natural gas supply activities to serve commercial and industrial companies, governmental entities and residential customers. Retail credit risk results when customers default on their contractual obligations. This risk represents the loss that could be incurred due to the nonpayment of a customer's account balance, as well as the loss from the resale of energy previously committed to serve the customer. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information on the February 2021 extreme cold weather event and Texas-based generating asset outages.

**Risks Related to Legislative, Regulatory, and Legal Factors**

**Federal or state legislative or regulatory actions could negatively affect the scope and functioning of the wholesale markets.**

Approximately 65% of our generating resources, which include directly owned assets and capacity obtained through long-term contracts, are in the area encompassed by PJM. Our future results of operations are impacted by (1) FERC's and PJM's level of support for policies that favor the preservation of competitive wholesale power markets and recognize the value of carbon-free electricity and resiliency and for states' energy objectives and policies and (2) the absence of material changes to market structures that would limit or otherwise negatively affect us. Market rules in other regions could affect us in a similar fashion. We could also be affected by state laws, regulations or initiatives to subsidize existing or new generation.

FERC's requirements for market-based rate authority could pose a risk that we may no longer satisfy FERC's tests for market-based rates. A loss of market-based rate authority would mean that we would sell power at cost-based rates.

**Our business is highly regulated and could be negatively affected by legislative and/or regulatory actions.**

Substantial aspects of our business are subject to comprehensive Federal or state legislation and/or regulation.

Our consolidated financial statements are significantly affected by our sales and purchases of commodities at market-based rates, as opposed to cost-based or other similarly regulated rates and Federal and state regulatory and legislative developments related to emissions, climate change, capacity market mitigation, energy price information, resilience, fuel diversity and RPS. Legislative and regulatory efforts in Illinois, New York and New Jersey to preserve the environmental attributes and reliability benefits of zero-emission nuclear-powered generating facilities through ZEC and CMC programs are or could be subject to legal and regulatory challenges and, if overturned, could result in the early retirement of certain of our nuclear plants. See Note 3 — Regulatory Matters and Note 7 — Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information.

Fundamental changes in regulations or other adverse legislative actions affecting our business would require changes in our business planning models and operations. We cannot predict when or whether legislative and regulatory proposals could become law or what their effect would be.

**NRC actions could negatively affect the operations and profitability of our nuclear generating fleet.**

**Regulatory risk.** A change in the Atomic Energy Act or the applicable regulations or licenses could require a substantial increase in capital expenditures or could result in increased operating or decommissioning costs. Events at nuclear plants owned by others, as well as those owned by us, could cause the NRC to initiate such actions.

**Spent nuclear fuel storage.** The approval of a national repository for the storage of SNF and the timing of that facility opening, will significantly affect the costs associated with storage of SNF and the ultimate amounts received from the DOE to reimburse us for these costs.

Any regulatory action relating to the timing and availability of a repository for SNF could adversely affect our ability to decommission fully our nuclear units. We cannot predict whether a fee may be established or to what extent, in the future for SNF disposal. See Note 19 — Commitments and Contingencies of the Notes to the Consolidated Financial Statements for additional information.

**We could be subject to higher costs and/or penalties related to mandatory reliability standards.**

We, as a user of the bulk power transmission system, are subject to mandatory reliability standards promulgated by NERC and enforced by FERC. The standards are based on the functions that need to be performed to ensure the bulk power system operates reliably and are guided by reliability and market interface principles. Compliance with or changes in the reliability standards could subject us to higher operating costs and/or increased capital expenditures. If we were found in non-compliance with the Federal and state mandatory reliability standards, we could be subject to remediation costs as well as sanctions, which could include substantial monetary penalties.

**We could incur substantial costs to fulfill our obligations related to environmental and other matters.**

We are subject to extensive environmental regulation and legislation by local, state and Federal authorities. These laws and regulations affect the way we conduct our operations and make capital expenditures, including how we handle air and water emissions, hazardous and solid waste, and activities affecting surface waters, groundwater, and aquatic and other species. Violations of these requirements could subject us to enforcement actions, capital expenditures to bring existing facilities into compliance, additional operating costs for remediation and clean-up costs, civil penalties and exposure to third parties' claims for alleged health or property damages or operating restrictions to achieve compliance. In addition, we are subject to liability under these laws for the remediation costs for environmental contamination of property now or formerly owned by us and of property contaminated by hazardous substances we generated or released. Also, we are currently involved in several proceedings relating to sites where hazardous substances have been deposited and could be subject to additional proceedings in the future. See ITEM 1. BUSINESS – Environmental Matters and Regulation and Note 19 — Commitments and Contingencies of the Notes to the Consolidated Financial Statements for additional information.

**We could be negatively affected by federal and state RPS and/or energy conservation legislation, along with energy conservation by customers.**

Changes to current state legislation or the development of Federal legislation that requires the use of clean, renewable and alternate fuel sources could significantly impact us. The impact could include reduced use of some of our generating facilities with effects on our revenues and costs.

Federal and state legislation mandating the implementation of energy conservation programs and new energy consumption technologies could cause declines in customer energy consumption and lead to a decline in our revenues. See ITEM 1. BUSINESS – Environmental Matters and Regulation – Renewable and Clean Energy Standards and “We are potentially affected by emerging technologies that could over time affect or transform the energy industry” above for additional information.

**Our financial performance could be negatively affected by risks arising from our ownership and operation of hydroelectric facilities.**

FERC has the exclusive authority to license most non-Federal hydropower projects located on navigable waterways, Federal lands or connected to the interstate electric grid. If FERC does not issue new operating licenses for our hydroelectric facilities in the future or a station cannot be operated through the end of its current operating license, our results of operations could be adversely affected by increased depreciation rates and accelerated future decommissioning costs, since depreciation rates and decommissioning cost estimates are currently based on the available license term for each facility. We could also lose revenue and incur increased fuel and purchased power expense to meet our supply commitments. In addition, conditions could be imposed as part of the license renewal process that could adversely affect operations, require a substantial increase in capital expenditures, result in increased operating costs or render the project uneconomic. Similar effects could result from a change in the Federal Power Act or the applicable regulations due to events at hydroelectric facilities owned by others, as well as those owned by us.

**We could be negatively affected by challenges to tax positions taken, tax law changes and the inherent difficulty in quantifying potential tax effects of business decisions.**

We are required to make judgments in order to estimate our obligations to taxing authorities. These tax obligations include income, real estate, sales and use and employment-related taxes and ongoing appeal issues related to these tax matters. These judgments include reserves established for potential adverse outcomes regarding tax positions that have been taken that could be subject to challenge by the tax authorities. See Note 1 — Significant Accounting Policies and Note 14 — Income Taxes of the Notes to Consolidated Financial Statements for additional information.

**Legal proceedings could result in a negative outcome, which we cannot predict.**

We are involved in legal proceedings, claims and litigation arising from our business operations. The material ones are summarized in Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial

Statements. Adverse outcomes in these proceedings could require significant expenditures, result in lost revenue, or restrict existing business activities.

**We could be subject to adverse publicity and reputational risks, which make us vulnerable to negative customer perception and could lead to increased regulatory oversight or other consequences.**

We could be the subject of public criticism. Adverse publicity of this nature could render public service commissions and other regulatory and legislative authorities less likely to view energy companies in a favorable light, and could cause those companies, including us, to be susceptible to less favorable legislative and regulatory outcomes, as well as increased regulatory oversight and more stringent legislative or regulatory requirements.

**Risks Related to Operational Factors**

**We are subject to risks associated with climate change.**

Climate adaptation risk refers to risks to our facilities or operations that may result from changes in the physical climate, such as changes to temperatures, weather patterns and sea level rise.

We periodically perform analyses to better understand how climate change could affect our facilities and operations. We primarily operate in the Midwest and East Coast of the United States, areas that have historically been prone to various types of severe weather events, and as such we have well-developed response and recovery programs based on these historical events. However, our physical facilities could be placed at greater risk of damage should changes in the global climate impact temperature and weather patterns, and result in more intense, frequent and extreme weather events, unprecedented levels of precipitation, sea level rise, increased surface water temperatures, and/or other effects. Over time, we may need to make additional investments to protect our facilities from physical climate-related risks.

In addition, changes to the climate may impact levels and patterns of demand for energy and related services, which could affect our operations. Over time, we may need to make additional investments to adapt to changes in operational requirements as a result of climate change.

Climate mitigation and transition risks include changes to the energy systems as a result of new technologies, changing customer expectations and/or voluntary GHG goals, as well as local, state or federal regulatory requirements intended to reduce GHG emissions.

We also periodically perform analyses of potential pathways to reduce power sector and economy-wide GHG emissions to mitigate climate change. To the extent additional GHG reduction regulation or legislation becomes effective at the Federal and/or state levels, we could incur costs to further limit the GHG emissions from our operations or otherwise comply with applicable requirements. To the extent such additional regulation or legislation does not become effective, the potential competitive advantage offered by our low-carbon emission profile may be reduced.

See ITEM 1. BUSINESS – Environmental Matters and Regulation – Climate Change for additional information.

**Our financial performance could be negatively affected by matters arising from our ownership and operation of nuclear facilities.**

**Nuclear capacity factors.** Capacity factors for nuclear generating units significantly affect our results of operations. Lower capacity factors could decrease our revenues and increase operating costs by requiring us to produce additional energy from our natural gas and oil fueled facilities or purchase additional energy in the spot or forward markets in order to satisfy our supply obligations to committed third-party sales. These sources generally have higher costs than we incur to produce energy from our nuclear stations.

**Nuclear refueling outages.** In general, refueling outages are planned to occur once every 18 to 24 months. The total number of refueling outages, along with their duration, could have a significant impact on our results of operations. When refueling outages last longer than anticipated or we experience unplanned outages, capacity



factors decrease, and we face lower margins due to higher energy replacement costs and/or lower energy sales and higher operating and maintenance costs.

**Nuclear fuel quality.** The quality of nuclear fuel utilized by us could affect the efficiency and costs of our operations. Remediation actions could result in increased costs due to accelerated fuel amortization, increased outage costs and/or increased costs due to decreased generation capabilities.

**Operational risk.** Operations at any of our nuclear generation plants could degrade to the point where we must shut down the plant or operate at less than full capacity. If this were to happen, identifying and correcting the causes could require significant time and expense. We could choose to close a plant rather than incur the expense of restarting it or returning the plant to full capacity. In either event, we could lose revenue and incur increased purchased power and fuel expense to meet supply commitments.

Further, our nuclear operations produce various types of nuclear waste materials, including SNF. The approval of a national repository for the storage of SNF and the timing of that facility opening, will significantly affect the costs associated with storage of SNF and the ultimate amounts received from the DOE to reimburse us for these costs. Any regulatory action relating to the timing and availability of a repository for SNF could adversely affect our ability to decommission fully our nuclear units. We cannot predict whether a fee may be established or to what extent, in the future for SNF disposal.

If we are required to arrange for the safe and permanent disposal of spent fuel beyond current expectations, this could lead to substantial expense or capital expenditures.

For plants operated but not wholly owned by us, we could also incur liability to the co-owners. For nuclear plants not operated and not wholly owned by us, from which we receive a portion of the plants' output, our results of operations are dependent on the operational performance of the operators and could be adversely affected by a significant event at those plants. Additionally, poor operating performance at nuclear plants not owned by us could result in increased regulation and reduced public support for nuclear-fueled energy. Closure of generating plants owned by others, or extended interruptions of generating plants or failure of transmission lines, could adversely affect transmission systems and the sale and delivery of electricity in markets served by us.

**Nuclear major incident risk and insurance.** The consequences of a major incident could be severe and include loss of life and property damage. Any resulting liability from a nuclear plant major incident within the United States, owned or operated by us or owned by others, could exceed our resources, including insurance coverage. We are a member of an industry mutual insurance company, NEIL, which provides property and business interruption insurance for our nuclear operations. Uninsured losses and other expenses, to the extent not recovered from insurers or the nuclear industry, could be borne by us. Additionally, an accident or other significant event at a nuclear plant within the United States or abroad, whether owned by us or others, could result in increased regulation and reduced public support for nuclear-fueled energy.

As required by the Price-Anderson Act, we carry the maximum available amount of nuclear liability insurance, \$450 million for each operating site. Claims exceeding that amount are covered through mandatory participation in a financial protection pool. In addition, the U.S. Congress could impose revenue-raising measures on the nuclear industry to pay claims exceeding the \$13.5 billion limit for a single incident.

See Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for additional information of nuclear insurance.

**Decommissioning obligation and funding.** NRC regulations require that licensees of nuclear generating facilities demonstrate reasonable assurance that funds will be available in certain minimum amounts at the end of the life of the facility to decommission the facility.

We recognize as a liability the present value of the estimated future costs to decommission our nuclear facilities. The estimated liability is based on assumptions in the approach and timing of decommissioning the nuclear facilities, estimation of decommissioning costs and Federal and state regulatory requirements. The costs of such decommissioning may substantially exceed such liability, as facts, circumstances or our estimates may change, including changes in the approach and timing of decommissioning activities, changes in decommissioning costs, changes in Federal or state regulatory requirements on the decommissioning of such facilities, other changes in our estimates or ability to effectively execute on our planned decommissioning activities.

We make contributions to certain trust funds of the former PECO units based on amounts being collected by PECO from its customers and remitted to us. While we, through PECO, have recourse to collect additional amounts from PECO customers (subject to certain limitations and thresholds), we have no recourse to collect additional amounts from utility customers for any of our other nuclear units if there is a shortfall of funds necessary for decommissioning. If circumstances changed such that there was an inability to continue to make contributions to the trust funds of the former PECO units based on amounts collected from PECO customers, or if we no longer had recourse to collect additional amounts from PECO customers if there was a shortfall of funds for decommissioning, the adequacy of the trust funds related to the former PECO units could be negatively affected. Any changes to the PECO regulatory agreements could impact our ability to offset decommissioning-related activities within the Consolidated Statement of Operations and Comprehensive Income, and the impact to our financial statements could be material.

Should the expected value of the NDT fund for any former ComEd unit fall below the amount of the expected decommissioning obligation for that unit, the accounting to offset decommissioning-related activities for that unit would be discontinued, and the decommissioning-related activities would be recognized in the Consolidated Statements of Operations and Comprehensive Income, the impact of which could be material. For the year ended December 31, 2021, a pre-tax charge of \$193 million was recorded in the Consolidated Statements of Operations and Comprehensive Income for decommissioning-related activities that were not offset for the Byron units due to contractual offset being temporarily suspended.

Forecasting trust fund investment earnings and costs to decommission nuclear generating stations requires significant judgment, and actual results could differ significantly from current estimates. If the investments held by our NDT funds are not sufficient to fund the decommissioning of our nuclear units, we could be required to take steps, such as providing financial guarantees through letters of credit or parent company guarantees or making additional contributions to the trusts, which could be significant, to ensure that the trusts are adequately funded and that current and future NRC minimum funding requirements are met.

See Note 10 — Asset Retirement Obligations of the Notes to Consolidated Financial Statements for additional information.

**We are subject to physical security and cybersecurity risks.**

We face physical security and cybersecurity risks. Threat sources continue to seek to exploit potential vulnerabilities in the electric generation and natural gas industry associated with protection of sensitive and confidential information, grid infrastructure and other energy infrastructures. These attacks and disruptions, both physical and cyber, are becoming increasingly sophisticated and dynamic. Continued implementation of advanced digital technologies increases the potentially unfavorable impacts of such attacks.

A security breach of our physical assets or information systems or those of our competitors, vendors, business partners and interconnected entities in RTOs and ISOs, or regulators could impact the operation of the generation fleet and/or reliability of the transmission and distribution system or result in the theft or inappropriate release of certain types of information, including critical infrastructure information, sensitive customer, vendor and employee data, trading or other confidential data. The risk of these system-related events and security breaches occurring continues to intensify, and while we have not directly experienced a material breach or disruption to our network or information systems or our operations to-date, such attacks continue to increase in sophistication and frequency, and we may be unable to prevent all such attacks in the future.

If a significant breach were to occur, our reputation could be negatively affected, customer confidence in us or others in the industry could be diminished, or we could be subject to legal claims, loss of revenues, increased costs or operations shutdown. Moreover, the amount and scope of insurance maintained against losses resulting from any such events or security breaches may not be sufficient to cover losses or otherwise adequately compensate for any disruptions to business that could result.

In addition, new or updated security regulations or unforeseen threat sources could require changes in current measures taken by us or our business operations and could adversely affect our consolidated financial statements.

**Our employees, contractors, customers and the general public could be exposed to a risk of injury due to the nature of the energy industry.**

Employees and contractors throughout the organization work in, and the general public could be exposed to, potentially dangerous environments near our operations. As a result, employees, contractors and the general public are at some risk for serious injury, including loss of life. These risks include, but are not limited to, nuclear accidents, dam failure, gas explosions, and electric contact cases.

**Natural disasters, war, acts and threats of terrorism, pandemic and other significant events could negatively impact our results of operations, ability to raise capital and future growth.**

Our fleet of power plants and the transmission infrastructure to which they are connected could be affected by natural disasters and extreme weather events, which could result in increased costs, including supply chain costs. Natural disasters and other significant events increase our risk that the NRC or other regulatory or legislative bodies could change the laws or regulations governing, among other things, operations, maintenance, licensed lives, decommissioning, SNF storage, insurance, emergency planning, security and environmental and radiological matters. In addition, natural disasters could affect the availability of a secure and economical supply of water in some locations, which is essential for our continued operation, particularly the cooling of generating units.

The impact that potential terrorist attacks could have on the industry and on us is uncertain. We face a risk that our operations would be direct targets or indirect casualties of an act of terror. Any retaliatory military strikes or sustained military campaign could affect our operations in unpredictable ways, such as changes in insurance markets and disruptions of fuel supplies and markets, particularly uranium and oil. Furthermore, these catastrophic events could compromise the physical or cybersecurity of our facilities, which could adversely affect our ability to manage our business effectively. Instability in the financial markets as a result of terrorism, war, natural disasters, pandemic, credit crises, recession or other factors also could result in a decline in energy consumption or interruption of fuel or the supply chain. In addition, the implementation of security guidelines and measures has resulted in and is expected to continue to result in increased costs.

We could be significantly affected by the outbreak of a pandemic. We have plans in place to respond to a pandemic. However, depending on the severity of a pandemic and the resulting impacts to workforce and other resource availability, the ability to operate our generating assets could be adversely affected.

In addition, we maintain a level of insurance coverage consistent with industry practices against property, casualty and cybersecurity losses subject to unforeseen occurrences or catastrophic events that could damage or destroy assets or interrupt operations. However, there can be no assurance that the amount of insurance will be adequate to address such property and casualty losses.

**Our business is capital intensive, and our assets could require significant expenditures to maintain and are subject to operational failure, which could result in potential liability.**

Our business is capital intensive and requires significant investments in electric generating facilities. Equipment, even if maintained in accordance with good utility practices, is subject to operational failure, including events that are beyond our control, and could require significant expenditures to remedy. Our consolidated financial statements could be negatively affected if we were unable to effectively manage our capital projects or raise the necessary capital. See ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS – Liquidity and Capital Resources for additional information regarding our potential future capital expenditures.

**Our performance could be negatively affected if we fail to attract and retain an appropriately qualified workforce.**

Certain events, such as the separation transaction, an employee strike, loss of employees, loss of contract resources due to a major event, and an aging workforce without appropriate replacements, could lead to operating challenges and increased costs for us. The challenges include lack of resources, loss of knowledge and a lengthy time period associated with skill development. In this case, costs, including costs for contractors to replace employees, productivity costs and safety costs, could arise. We are particularly affected due to the specialized knowledge required of the technical and support employees for generation operations.

**We could make acquisitions or investments in new business initiatives and new markets, which may not be successful or achieve the intended financial results.**

We could continue to pursue growth in our existing businesses and markets and further diversification across the competitive energy value chain. This could include opportunistic carbon-free energy acquisitions, creating new value from our existing fleet through repowering, co-location and the production of hydrogen, growing sustainability products and services for our customers, and investment opportunities in other emerging technologies and innovation. Such initiatives could involve significant risks and uncertainties, including distraction of management from current operations, inadequate return on capital, and unidentified issues not discovered during diligence performed prior to launching an initiative or entering a market. Additionally, it is possible that FERC, state public utility commissions or others could impose certain other restrictions on such transactions. All these factors could result in higher costs or lower revenues than expected, resulting in lower than planned returns on investment.

### **Risks Related to Our Separation from Exelon**

#### **Following the separation, our financial profile has changed, and we are a smaller, less diversified company than Exelon prior to the separation.**

The separation resulted in us being a smaller, less diversified company. As a result, we may be more vulnerable to changing market conditions, which could have a material adverse effect on our business, financial condition and results of operations. In addition, the diversification of our revenues, costs, and cash flows will diminish as a standalone company, such that our results of operations, cash flows, working capital and financing requirements may be subject to increased volatility and our ability to fund capital expenditures and investments, pay dividends and service debt may be diminished.

#### **We may not achieve some or all the expected benefits of the separation, and the separation may materially adversely affect our business.**

We may not be able to achieve the full strategic and financial benefits expected to result from the separation, or such benefits may be delayed or not occur at all.

If we fail to achieve some or all the benefits expected to result from the separation, or if such benefits are delayed, it could have a material adverse effect on our competitive position, business, financial condition, results of operations and cash flows.

#### **The terms in our agreements with Exelon could be less beneficial than the terms we may have otherwise received from unaffiliated third parties.**

The agreements entered with Exelon in connection with the separation, including the separation agreement, a tax matters agreement, an employee matters agreement, and a transition services agreement, were prepared in the context of the separation while we were still a wholly owned subsidiary of Exelon. Accordingly, during the period in which the terms of those agreements were prepared, we did not have an independent board of directors or a management team that was independent of Exelon. As a result, the terms of those agreements may not reflect terms that would have resulted from negotiations between unaffiliated third parties.

#### **Exelon may fail to perform under various transaction agreements that were executed as part of the separation, which could cause us to incur expenses or losses we would not otherwise incur.**

In connection with the separation and prior to the distribution, we and Exelon entered into the separation agreement and entered into various other agreements, including a tax matters agreement, an employee matters agreement, and a transition services agreement. The separation agreement, the tax matters agreement and the employee matters agreement determined the allocation of assets and liabilities between the companies following the separation for those respective areas and include any necessary indemnifications related to liabilities and obligations. We will rely on Exelon to satisfy its performance and payment obligations under these agreements. If Exelon is unable or unwilling to satisfy its obligations under these agreements, including its indemnification obligations, we could incur operational difficulties and/or losses.

#### **In connection with the separation into two public companies, we and Exelon indemnified each other for certain liabilities. If we are required to pay under these indemnities to Exelon, our**

**financial results could be negatively impacted. The Exelon indemnities may not be sufficient to hold us harmless from the full amount of liabilities for which Exelon will be allocated responsibility, and Exelon may not be able to satisfy its indemnification obligations in the future.**

Pursuant to the separation agreement and certain other agreements between Exelon and us, each party will agree to indemnify the other for certain liabilities, in each case for uncapped amounts. Indemnities that we may be required to provide Exelon are not subject to any cap, may be significant and could negatively impact our business. Third parties could also seek to hold us responsible for any of the liabilities that Exelon has agreed to retain. Any amounts we are required to pay pursuant to these indemnification obligations and other liabilities could require us to divert cash that would otherwise have been used in furtherance of our operating business. Further, the indemnities from Exelon for our benefit may not be sufficient to protect us against the full amount of such liabilities, and Exelon may not be able to fully satisfy its indemnification obligations.

Moreover, even if we ultimately succeed in recovering from Exelon any amounts for which we are held liable, we may be temporarily required to bear these losses ourselves. Each of these risks could negatively affect our business, results of operations and financial condition.

**We may fail to have necessary systems and services in place when certain of the transaction agreements expire.**

If we do not have in place our own systems and services, or if we do not have agreements with other providers of these services once certain separation transaction agreements expire, we may not be able to operate our business effectively, and our profitability may decline. We are in the process of creating our own, or engaging third parties to provide, systems and services to replace many of the systems and services that Exelon currently provides to us. We may incur temporary interruptions in business operations if we cannot transition effectively from Exelon's existing operating systems, databases and programming languages that support these functions to our own systems. Our failure to implement the new systems and transition our data successfully and cost-effectively could disrupt our business operations and have a material adverse effect on our profitability. In addition, our costs for the operation of these systems may be higher than the amounts reflected in our historical financial statements.

**We may not be able to engage in desirable strategic transactions or capital-raising following the separation.**

Under current U.S. federal income tax law, a spin-off that otherwise qualifies for tax-free treatment can be rendered taxable to the parent corporation and its shareholders as a result of certain post-spin-off transactions, including certain acquisitions of shares or assets of the spun-off corporation. To preserve the tax-free treatment of the distribution, and in addition to potential tax indemnity obligations, we agreed to certain limitations or prohibitions in the tax matters agreement that may prohibit us, for the two-year period following the distribution and except in specific circumstances, from, among other things:

- entering into any transaction pursuant to which all or a portion of the shares of our stock, or substantially all of our assets, would be acquired, whether by merger or otherwise;
- issuing equity securities beyond certain thresholds;
- repurchasing shares of our stock other than in certain open-market transactions.

The tax matters agreement prohibits us from taking or failing to take any other action that would prevent the distribution and certain related transactions from qualifying as a transaction that is generally tax-free for U.S. federal income tax purposes under Sections 355 and 368(a)(1)(D) of the IRC. These restrictions may limit our ability to pursue certain equity issuances, strategic transactions, repurchases or other transactions that we may believe to be in the best interests of our shareholders or that might increase the value of our business.

**Risks Related to Our Common Stock**

**A trading market for our common stock was only recently initiated following the separation and our stock price may fluctuate significantly.**

An active trading market for our common stock was only recently initiated following the separation, which may affect your ability to sell your shares and could lead to our share price being depressed or more volatile. For many reasons, including the risks identified in this "Risk Factors" section, the market price of our common stock following the separation may be more volatile than the market price of Exelon's common stock before the separation. These factors may result in short-term or long-term negative pressure on the value of our common stock.

We cannot predict the prices at which our common stock may trade. The market price of our common stock may fluctuate significantly, depending on many factors including the following:

- our announcements or our competitors' announcements regarding new products or services, enhancements, significant contracts, acquisitions or strategic investments;
- fluctuations in our quarterly or annual financial results or the quarterly or annual financial results of companies perceived to be similar to us;
- changes in earnings estimates or recommendations by securities analysts or our ability to meet those estimates;
- the operating and stock price performance of other comparable companies;
- investors' general perception of us and our industry;
- changes to the regulatory and legal environment under which we operate;
- changes in general economic and market conditions; and
- changes in industry conditions.

In addition, if the market for stocks in our industry, or the stock market in general, experiences a loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business, financial condition or results of operations. If any of the foregoing occurs, it could cause our stock price to fall and may expose us to lawsuits that, even if successfully defended, could be costly to defend and a distraction to management.

**Anti-takeover provisions could enable us to resist a takeover attempt by a third-party.**

Our amended and restated articles of incorporation and amended and restated bylaws contain, and Pennsylvania law contains, provisions that are intended to deter coercive takeover practices and inadequate takeover bids by making such practices or bids unacceptably expensive to the bidder and to encourage prospective acquirers to negotiate with our board of directors rather than to attempt a hostile takeover.

We believe these provisions will protect our shareholders from coercive or otherwise unfair takeover tactics by requiring potential acquirers to negotiate with our board of directors and by providing our board of directors with more time to assess any acquisition proposal. These provisions are not intended to make us immune from takeovers; however, these provisions will apply even if the offer may be considered beneficial by some shareholders and could delay or prevent an acquisition that our board of directors determines is not in the best interests of us and our shareholders. These provisions may also prevent or discourage attempts to remove and replace incumbent directors. See "Description of Common Stock — Certain Anti-Takeover Provisions" in the Form 10.

In addition, an acquisition or further issuance of our stock could trigger the application of Section 355(e) of the IRC, causing the distribution to be taxable to Exelon. For a discussion of Section 355(e) of the IRC, see "The Separation — Material U.S. Federal Income Tax Consequences of the Separation" in the Form 10. Under the tax matters agreement, we would be required to indemnify Exelon for the resulting tax, and this indemnity obligation might discourage, delay or prevent a change of control that our shareholders may consider favorable.

**Our amended and restated articles of incorporation designate the state courts of the Commonwealth of Pennsylvania (or if such state courts do not have jurisdiction, the federal district courts located within the Commonwealth of Pennsylvania) as the sole and exclusive**

**forum for certain types of actions and proceedings that may be initiated by our shareholders, and the United States federal district courts as the exclusive forum for claims under the Securities Act, which could limit our shareholders' ability to obtain what such shareholders believe to be a favorable judicial forum for disputes with us or our directors, officers or employees.**

Our amended and restated articles of incorporation provide that, unless our board of directors consents in writing to an alternative forum, a state court within the Commonwealth of Pennsylvania (or if no such state court has jurisdiction, a federal district court within the Commonwealth of Pennsylvania) will be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Company (including any derivative suit brought to enforce any liability or duty created by the Exchange Act), (2) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or employee of the Company to the Company or its shareholders, (3) any action asserting a claim against the Company or any of its directors, officers or employees arising pursuant to any provision of the Pennsylvania Business Corporation Law (the "PBCL") or as to which the PBCL confers jurisdiction on the Pennsylvania Courts of Common Pleas or the amended and restated articles of incorporation or amended and restated bylaws or (4) any action asserting a claim against the Company or any of its directors, officers or employees governed by the internal affairs doctrine. The amended and restated articles of incorporation also provide that unless our board of directors consents in writing to an alternative forum, the federal district courts of the United States of America will be the sole and exclusive forum for the resolution of any action asserting a cause of action arising under the Securities Act.

Although the amended and restated articles of incorporation include these exclusive forum provisions, it is possible that a court could rule that these provisions are inapplicable or unenforceable. Our exclusive forum provision will apply to derivative suits brought to enforce any liability or duty created by the Exchange Act, and investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. These exclusive provisions may limit a shareholder's ability to bring a claim in a judicial forum that the shareholder believes to be favorable for disputes with us or our directors, officers or other employees, which may discourage such lawsuits. It is possible that a court could find these exclusive forum provisions inapplicable or unenforceable with respect to one or more of the specified types of actions or proceedings, and we may incur additional costs associated with resolving such matters in other jurisdictions, which could materially adversely affect our business, financial condition and results of operations and result in a diversion of the time and resources of our management and board of directors.

**ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

**ITEM 2. PROPERTIES**

The following table presents our interests in net electric generating capacity by station at December 31, 2021:

Station <sup>(a)</sup>	Location	No. of Units	Percent Owned <sup>(b)</sup>	Primary Fuel Type	Primary Dispatch Type <sup>(c)</sup>	Net Generation Capacity (MW) <sup>(d)</sup>
<b>Midwest</b>						
Braidwood	Braidwood, IL	2		Uranium	Base-load	2,386
Byron	Byron, IL	2		Uranium	Base-load	2,347 <sup>(e)</sup>
LaSalle	Seneca, IL	2		Uranium	Base-load	2,320
Dresden	Morris, IL	2		Uranium	Base-load	1,845 <sup>(e)</sup>
Quad Cities	Cordova, IL	2	75	Uranium	Base-load	1,403 <sup>(f)</sup>
Clinton	Clinton, IL	1		Uranium	Base-load	1,080
Michigan Wind 2	Sanilac Co., MI	50	51 <sup>(g)</sup>	Wind	Intermittent	46 <sup>(f)</sup>
Beebe	Gratiot Co., MI	34	51 <sup>(g)</sup>	Wind	Intermittent	42 <sup>(f)</sup>
Michigan Wind 1	Huron Co., MI	46	51 <sup>(g)</sup>	Wind	Intermittent	35 <sup>(f)</sup>
Harvest 2	Huron Co., MI	33	51 <sup>(g)</sup>	Wind	Intermittent	30 <sup>(f)</sup>

Station <sup>(a)</sup>	Location	No. of Units	Percent Owned <sup>(b)</sup>	Primary Fuel Type	Primary Dispatch Type <sup>(c)</sup>	Net Generation Capacity (MW) <sup>(d)</sup>
Harvest	Huron Co., MI	32	51 <sup>(g)</sup>	Wind	Intermittent	27 <sup>(f)</sup>
Beebe 1B	Gratiot Co., MI	21	51 <sup>(g)</sup>	Wind	Intermittent	26 <sup>(f)</sup>
Blue Breezes	Faribault Co., MN	2		Wind	Intermittent	3
CP Windfarm	Faribault Co., MN	2	51 <sup>(g)</sup>	Wind	Intermittent	2 <sup>(f)</sup>
Southeast Chicago	Chicago, IL	8		Gas	Peaking	296 <sup>(h)</sup>
Clinton Battery Storage	Blanchester, OH	1		Energy Storage	Peaking	10
<b>Total Midwest</b>						11,898
<b>Mid-Atlantic</b>						
Limerick	Sanatoga, PA	2		Uranium	Base-load	2,317
Calvert Cliffs	Lusby, MD	2		Uranium	Base-load	1,789
Peach Bottom	Delta, PA	2	50	Uranium	Base-load	1,324 <sup>(f)</sup>
Salem	Lower Alloways Creek Township, NJ	2	42.59	Uranium	Base-load	995 <sup>(f)</sup>
Conowingo	Darlington, MD	11		Hydroelectric	Base-load	572
Criterion	Oakland, MD	28	51 <sup>(g)</sup>	Wind	Intermittent	36 <sup>(f)</sup>
Fair Wind	Garrett County, MD	12		Wind	Intermittent	30
Fourmile Ridge	Garrett County, MD	16	51 <sup>(g)</sup>	Wind	Intermittent	20 <sup>(f)</sup>
Solar Horizons	Emmitsburg, MD	1	51 <sup>(g)</sup>	Solar	Intermittent	16 <sup>(f)</sup>
Solar New Jersey 3	Middle Township, NJ	4	51 <sup>(g)</sup>	Solar	Intermittent	2 <sup>(f)</sup>
Muddy Run	Drumore, PA	8		Hydroelectric	Intermediate	1,070
Eddystone 3, 4	Eddystone, PA	2		Oil/Gas	Peaking	760
Perryman	Aberdeen, MD	5		Oil/Gas	Peaking	404
Croydon	West Bristol, PA	8		Oil	Peaking	391
Handsome Lake	Kennerdell, PA	5		Gas	Peaking	268
Richmond	Philadelphia, PA	2		Oil	Peaking	98
Philadelphia Road	Baltimore, MD	4		Oil	Peaking	61
Eddystone	Eddystone, PA	4		Oil	Peaking	60
Delaware	Philadelphia, PA	4		Oil	Peaking	56
Southwark	Philadelphia, PA	4		Oil	Peaking	52
Falls	Morrisville, PA	3		Oil	Peaking	51
Moser	Lower Pottsgrove Twp., PA	3		Oil	Peaking	51
Chester	Chester, PA	3		Oil	Peaking	39
Schuylkill	Philadelphia, PA	2		Oil	Peaking	30
Salem	Lower Alloways Creek Township, NJ	1	42.59	Oil	Peaking	16 <sup>(f)</sup>
<b>Total Mid-Atlantic</b>						10,508
<b>ERCOT</b>						
Whitetail	Webb County, TX	57	51 <sup>(g)</sup>	Wind	Intermittent	47 <sup>(f)</sup>



Station <sup>(a)</sup>	Location	No. of Units	Percent Owned <sup>(b)</sup>	Primary Fuel Type	Primary Dispatch Type <sup>(c)</sup>	Net Generation Capacity (MW) <sup>(d)</sup>
Sendero	Jim Hogg and Zapata County, TX	39	51 <sup>(a)</sup>	Wind	Intermittent	40 <sup>(f)</sup>
Colorado Bend II	Wharton, TX	3		Gas	Intermediate	1,143
Wolf Hollow II	Granbury, TX	3		Gas	Intermediate	1,115
Handley 3	Fort Worth, TX	1		Gas	Intermediate	395
Handley 4, 5	Fort Worth, TX	2		Gas	Peaking	870
<b>Total ERCOT</b>						<b>3,610</b>
<b>New York</b>						
Nine Mile Point	Scriba, NY	2	<sup>(g)</sup>	Uranium	Base-load	1,675 <sup>(f)</sup>
FitzPatrick	Scriba, NY	1		Uranium	Base-load	842
Ginna	Ontario, NY	1		Uranium	Base-load	576
<b>Total New York</b>						<b>3,093</b>
<b>Other</b>						
Antelope Valley	Lancaster, CA	1		Solar	Intermittent	242
Bluestem	Beaver County, OK	60	51 <sup>(g)(i)</sup>	Wind	Intermittent	101 <sup>(f)</sup>
Shooting Star	Kiowa County, KS	65	51 <sup>(g)</sup>	Wind	Intermittent	53 <sup>(f)</sup>
Sacramento PV Energy	Sacramento, CA	4	51 <sup>(g)</sup>	Solar	Intermittent	30 <sup>(f)</sup>
Bluegrass Ridge	King City, MO	27	51 <sup>(g)</sup>	Wind	Intermittent	29 <sup>(f)</sup>
Conception	Barnard, MO	24	51 <sup>(g)</sup>	Wind	Intermittent	26 <sup>(f)</sup>
Cow Branch	Rock Port, MO	24	51 <sup>(g)</sup>	Wind	Intermittent	26 <sup>(f)</sup>
Mountain Home	Glenns Ferry, ID	20	51 <sup>(g)</sup>	Wind	Intermittent	21 <sup>(f)</sup>
High Mesa	Elmore Co., ID	19	51 <sup>(g)</sup>	Wind	Intermittent	20 <sup>(f)</sup>
Echo 1	Echo, OR	21	50.49 <sup>(g)</sup>	Wind	Intermittent	17 <sup>(f)</sup>
Cassia	Buhl, ID	14	51 <sup>(g)</sup>	Wind	Intermittent	15 <sup>(f)</sup>
Wildcat	Lovington, NM	13	51 <sup>(g)</sup>	Wind	Intermittent	14 <sup>(f)</sup>
Echo 2	Echo, OR	10	51 <sup>(g)</sup>	Wind	Intermittent	10 <sup>(f)</sup>
Tuana Springs	Hagerman, ID	8	51 <sup>(g)</sup>	Wind	Intermittent	9 <sup>(f)</sup>
Greensburg	Greensburg, KS	10	51 <sup>(g)</sup>	Wind	Intermittent	6 <sup>(f)</sup>
Echo 3	Echo, OR	6	50.49 <sup>(g)</sup>	Wind	Intermittent	5 <sup>(f)</sup>
Three Mile Canyon	Boardman, OR	6	51 <sup>(g)</sup>	Wind	Intermittent	5 <sup>(f)</sup>
Loess Hills	Rock Port, MO	4		Wind	Intermittent	5
Denver Airport Solar	Denver, CO	1	51 <sup>(g)</sup>	Solar	Intermittent	4 <sup>(f)</sup>
Mystic 8, 9	Charlestown, MA	6		Gas	Intermediate	1,417 <sup>(e)</sup>
Hillabee	Alexander City, AL	3		Gas	Intermediate	753
Wyman 4	Yarmouth, ME	1	5.9	Oil	Intermediate	34 <sup>(f)</sup>
West Medway II	West Medway, MA	2		Oil/Gas	Peaking	189
West Medway	West Medway, MA	3		Oil	Peaking	124
Grand Prairie	Alberta, Canada	1		Gas	Peaking	105
Framingham	Framingham, MA	3		Oil	Peaking	31

Station <sup>(a)</sup>	Location	No. of Units	Percent Owned <sup>(b)</sup>	Primary Fuel Type	Primary Dispatch Type <sup>(c)</sup>	Net Generation Capacity (MW) <sup>(d)</sup>
<b>Total Other</b>						3,291
<b>Total</b>						<b>32,400</b>

(a) All nuclear stations are boiling water reactors except Braidwood, Byron, Calvert Cliffs, Ginna, and Salem, which are pressurized water reactors.

(b) 100%, unless otherwise indicated.

(c) Base-load units are plants that normally operate to take all or part of the minimum continuous load of a system and, consequently, produce electricity at an essentially constant rate. Intermittent units are plants with output controlled by the natural variability of the energy resource rather than dispatched based on system requirements. Intermediate units are plants that normally operate to take load of a system during the daytime higher load hours and, consequently, produce electricity by cycling on and off daily. Peaking units consist of lower-efficiency, quick response steam units, gas turbines and diesels normally used during the maximum load periods.

(d) For nuclear stations, capacity reflects the annual mean rating. Fossil stations and wind and solar facilities reflect a summer rating.

(e) On August 9, 2020, we announced we would permanently cease generation operations at Byron and Dresden nuclear facilities in 2021 and Mystic Unit 8 and 9 in 2024. On September 15, 2021, we reversed the previous decision to retire Byron and Dresden. See Note 7 — Early Plant Retirements of the Notes to the Consolidated Financial Statements for additional information.

(f) Net generation capacity is stated at proportionate ownership share.

(g) Reflects the prior sale of 49% of CRP to a third-party. See Note 21 — Variable Interest Entities of the Notes to Consolidated Financial Statements for additional information.

(h) We have deactivated the site and are evaluating for potential return of service or retirement beyond 2023.

(i) We wholly own Nine Mile Point Unit 1 and have an 82% undivided ownership interest in Nine Mile Point Unit 2.

(j) CRP owns 100% of the Class A membership interests and a tax equity investor owns 100% of the Class B membership interests of the entity that owns the Bluestem generating assets.

The net generation capability available for operation at any time may be less due to regulatory restrictions, transmission congestion, fuel restrictions, efficiency of cooling facilities, level of water supplies, or generating units being temporarily out of service for inspection, maintenance, refueling, repairs, or modifications required by regulatory authorities.

We maintain property insurance against loss or damage to our principal plants and properties by fire or other perils, subject to certain exceptions. For additional information regarding nuclear insurance of generating facilities, see ITEM 1. — BUSINESS — General. For our insured losses, we are self-insured to the extent that any losses are within the policy deductible or exceed the amount of insurance maintained. Any such losses could have a material adverse effect on our consolidated financial condition or results of operations.

### ITEM 3. LEGAL PROCEEDINGS

We are parties to various lawsuits and regulatory proceedings in the ordinary course of business. For information regarding material lawsuits and proceedings, see Note 3 — Regulatory Matters and Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements. Such descriptions are incorporated herein by these references.

### ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable

**PART II**

(Dollars in millions except per share data, unless otherwise noted)

**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

**CEG Parent**

Our common stock is listed on the Nasdaq (trading symbol: CEG). It was listed on February 2, 2022 and as of that date there were 326,663,937 shares of common stock outstanding and approximately 82,688 record holders of common stock.

**Constellation**

Effective January 31, 2022, in connection with the separation, CEG Parent directly holds the entire membership interest in Constellation.

**Dividends**

Under applicable federal law, Constellation can pay dividends only from retained, undistributed or current earnings. A significant loss recorded at Constellation may limit the dividends that it can distribute to CEG Parent. As a Pennsylvania corporation, Constellation is subject to certain restrictions on dividends under Pennsylvania corporate law. Generally, a corporation may only pay dividends under the Pennsylvania Business Corporation Law if the total assets of the corporation would be more than the sum of its total liabilities plus the amount that would be needed, if the corporation were to be dissolved at the time as of which the distribution is measured, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

Constellation's revolving credit facility contains a covenant requiring it to maintain a consolidated leverage ratio calculated as the ratio of its consolidated indebtedness to its consolidated earnings before interest, taxes, depreciation and amortization. Maintaining that ratio may affect Constellation's ability to make distributions to the CEG Parent.

We have not paid any dividends to shareholders to date, but our Board of Directors approved a dividend of \$180 million in 2022.

***First Quarter 2022 Dividend***

On February 8, 2022, our Board of Directors declared a regular quarterly dividend of \$0.1410 per share on our common stock for the first quarter of 2022. The dividend is payable on Thursday, March 10, 2022, to shareholders of record as of 5 p.m. Eastern time on Friday, February 25, 2022.

**ITEM 6. SELECTED FINANCIAL DATA**

Not Applicable

Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

(Dollars in millions, unless otherwise noted)

**Executive Overview**

We are a supplier of clean energy. Our generating capacity consists of nuclear, wind, solar, natural gas and hydroelectric assets. Through our integrated business operations, we sell electricity, natural gas, and other energy related products and sustainable solutions to various types of customers, including distribution utilities, municipalities, cooperatives, and commercial, industrial, governmental, and residential customers in competitive markets across multiple geographic regions. We have five reportable segments: Mid-Atlantic, Midwest, New York, ERCOT and Other Power Regions.

**COVID-19.** We have taken steps to mitigate the potential risks posed by the global outbreak (pandemic) of COVID-19. We provide a critical service to our customers which means that it is paramount that we keep our employees who operate our businesses safe and minimize unnecessary risk of exposure to the virus by taking extra precautions for employees who work in the field and in our facilities. We have implemented work from home policies where appropriate, and imposed travel limitations on employees.

We continue to implement strong physical and cyber-security measures to ensure that our systems remain functional in order to both serve our operational needs with a remote workforce and keep them running to ensure uninterrupted service to our customers.

There were no changes in internal control over financial reporting as a result of COVID-19 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. See ITEM 9A. CONTROLS AND PROCEDURES for additional information.

Unfavorable economic conditions due to COVID-19 resulted in an estimated reduction to our Net income of approximately \$170 million for the year ended December 31, 2020. The impact was not material for the year ended December 31, 2021.

We assessed long-lived assets, goodwill, and investments for recoverability and there were no material impairment charges recorded in 2020 or 2021 as a result of COVID-19. See Note 12 — Asset Impairments of the Notes to Consolidated Financial Statements for additional information related to other impairment assessments.

We will continue to monitor developments affecting our workforce, customers, and suppliers and will take additional precautions that we determine to be necessary in order to mitigate the impacts. We cannot predict the full extent of the impacts of COVID-19, which will depend on, among other things, the rate, and public perceptions of the effectiveness, of vaccinations and rate of resumption of business activity.

**Significant 2021 Transactions and Developments**

***Separation from Exelon***

On February 21, 2021, Exelon's Board of Directors approved a plan to separate its competitive generation and customer-facing businesses into a stand-alone publicly traded company ("the separation"). Exelon completed the separation on February 1, 2022. In order to govern the ongoing relationships between us and Exelon after the separation, and to facilitate an orderly transition, we and Exelon have entered into several agreements, including a Separation Agreement, Tax Matters Agreement, a Transition Services Agreement, and an Employee Matters Agreement and other ancillary agreements. See Note 24 — Separation from Exelon of the Notes to Consolidated Financial Statements for additional information.

In connection with the separation, we incurred transaction costs of \$49 million for the year ended December 31, 2021, which are recorded in Operating and maintenance expense. We expect to incur incremental transaction costs of approximately \$150 million and \$60 million in 2022 and 2023, respectively. The transaction costs are primarily comprised of system-related costs, third-party costs paid to advisors, consultants, lawyers, and other experts assisting in the separation.

### ***CENG Put Option***

EDF had the option to sell its 49.99% equity interest in CENG to us exercisable beginning on January 1, 2016 and thereafter until June 30, 2022. On November 20, 2019, we received notice of EDF's intention to exercise the put option and sell its 49.99% equity interest in CENG to us and the put automatically exercised on January 19, 2020 at the end of the sixty-day advance notice period. On August 6, 2021, we entered into a settlement agreement with EDF pursuant to which we, through a wholly owned subsidiary, purchased EDF's equity interest in CENG for a net purchase price of \$885 million, which includes, among other things, a credit for EDF's share of the balance of the preferred distribution payable by CENG to us. The difference between the net purchase price and EDF's noncontrolling interest as of the closing date was recorded to Membership Interest in the Consolidated Balance Sheet.

In connection with the settlement agreement, on August 6, 2021, we issued approximately \$880 million under a term loan credit agreement to fund the transaction, which will expire on August 5, 2022.

See Note 2 – Mergers, Acquisitions, and Dispositions and Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information.

### ***Clean Energy Law***

On September 15, 2021, the Illinois Public Act 102-0662 was signed into law by the Governor of Illinois ("Clean Energy Law"). The Clean Energy Law is designed to achieve 100% carbon-free power by 2045 to enable the state's transition to a clean energy economy. The Clean Energy Law establishes decarbonization requirements for Illinois as well as programs to support the retention and development of emissions-free sources of electricity. Among other things, the Clean Energy Law authorized the IPA to procure up to 54.5 million CMCs from qualifying nuclear plants for a five-year period beginning on June 1, 2022 through May 31, 2027. CMCs are credits for the carbon-free attributes of eligible nuclear power plants in PJM. The Byron, Dresden, and Braidwood nuclear plants located in Illinois participated in the CMC procurement process and were awarded contracts that commit each plant to operate through May 31, 2027. Pursuant to these contracts, ComEd will procure CMCs based upon the number of MWhs produced annually by each plant, subject to minimum performance requirements. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information.

Following enactment of the Clean Energy Law, we announced on September 15, 2021 that we reversed our previous decision to retire Byron and Dresden given the opportunity for additional revenue. In addition, we no longer consider the Braidwood or LaSalle nuclear plants to be at risk for premature retirement. See Note 7 - Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information and Early Retirement of Generation Facilities below.

### ***Early Retirement of Generation Facilities***

In August 2020, we announced the intention to retire the Byron Generating Station in September 2021, Dresden Generating Station in November 2021, and Mystic Units 8 and 9 at the expiration of the cost of service commitment in May 2024. As a result, we recognized a \$500 million pre-tax impairment for the New England asset group along with certain one-time charges in the third and fourth quarters of 2020, in addition to ongoing annual financial impacts stemming from shortening the expected economic useful lives of these facilities primarily related to accelerated depreciation of plant assets (including any ARC) and accelerated amortization of nuclear fuel.

In the second quarter of 2021, an incremental decline in value resulted in an additional pre-tax impairment charge of \$350 million for the New England asset group.

We recorded pre-tax charges of \$53 million and \$140 million in the second and third quarters of 2021, respectively, for decommissioning-related activities that were not offset for the Byron units due to the inability to recognize a regulatory asset at ComEd.

On September 15, 2021, we reversed our previous decision to early retire Byron and Dresden and the expected economic useful life for both facilities was updated to 2044 and 2046 for Byron Units 1 and 2, respectively, and to 2029 and 2031 for Dresden Units 2 and 3, respectively. Depreciation was therefore adjusted beginning September 15, 2021, to reflect these extended useful life estimates. In addition, in the third quarter of 2021, we reversed approximately \$81 million of severance benefit costs and \$13 million of other one-time charges initially recorded in the third and fourth quarters of 2020 associated with the early retirements.

We recognized pre-tax expenses for Byron, Dresden, and Mystic Units 8 and 9 of \$1,458 million for the year ended December 31, 2021, primarily due to accelerated depreciation and amortization of plant assets, partially offset by the reversal of one-time charges for Byron and Dresden.

See Note 7 — Early Plant Retirements, Note 10 — Asset Retirement Obligations, and Note 12 — Asset Impairments of the Notes to Consolidated Financial Statement for additional information.

***Impacts of February 2021 Extreme Cold Weather Event and Texas-based Generating Assets Outages***

Beginning on February 15, 2021, our Texas-based generating assets within the ERCOT market, specifically Colorado Bend II, Wolf Hollow II, and Handley, experienced outages as a result of extreme cold weather conditions. In addition, those weather conditions drove increased demand for service, dramatically increased wholesale power prices, and also increased gas prices in certain regions.

The estimated impact to our Net income for the year ended December 31, 2021 arising from these market and weather conditions was a reduction of approximately \$800 million. The ultimate impact to our consolidated financial statements may be affected by a number of factors, including the impacts of customer and counterparty defaults and recoveries, any additional solutions to address the financial challenges caused by the event, and related litigation and contract disputes. See Note 3 — Regulatory Matters and Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for additional information.

To offset a portion of the unfavorable impacts, we identified between \$370 million and \$450 million of enhanced revenue opportunities, deferral of selected non-essential maintenance, and primarily one-time cost savings, which was achieved in 2021.

***Agreement for the Sale of a Biomass Facility***

On April 28, 2021, we entered into a purchase agreement with ReGenerate Energy Holdings, LLC ("ReGenerate"), under which ReGenerate agreed to purchase our interest in the Albany Green Energy biomass facility. As a result, in the second quarter of 2021, we recorded a pre-tax impairment charge of \$140 million. The sale was completed on June 30, 2021 for a net purchase price of \$36 million. See Note 2 — Mergers, Acquisitions, and Dispositions of the Notes to Consolidated Financial Statements for additional information.

***Agreement for Sale of Our Solar Business***

On December 8, 2020, we entered into an agreement for the sale of a significant portion of our solar business, including 360 megawatts of generation in operation or under construction at more than 600 sites across the United States. Completion of the sale occurred on March 31, 2021 for a purchase price of \$810 million. See Note 2 — Mergers, Acquisitions, and Dispositions of the Notes to Consolidated Financial Statements for additional information.

## Other Key Business Drivers

### Power Markets

#### *Section 232 Uranium Petition*

On January 16, 2018, two Canadian-owned uranium mining companies with operations in the U.S. jointly submitted a petition to the U.S. Department of Commerce ("DOC") seeking relief under Section 232 of the Trade Expansion Act of 1962 from imports of uranium products, alleging that these imports threaten national security.

The United States Nuclear Fuel Working Group ("Working Group") report was made public on April 23, 2020. The Working Group report states that nuclear power is intrinsically tied to national security, and promises that the U.S. government will take bold actions to strengthen all parts of the nuclear fuel industry in the U.S. It recommends the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (the "Russian Suspension Agreement" or "RSA") be extended and to consider reducing the amount of Russian imports of nuclear fuel. The Russian Suspension Agreement is the historical resolution of a 1991 DOC investigation that found that the Russians had been selling or "dumping" cheap uranium products into the U.S. The RSA has been amended several times in the intervening years to allow Russia to supply limited amounts of uranium products into the U.S. It was set to expire at the end of 2020, but was amended on October 5, 2020 to extend for another 20 years.

The Working Group report should be viewed as policy recommendations that may be implemented by executive agencies, congress, and or regulatory bodies. We cannot predict the outcome of all of the policy changes recommended by the Working Group.

#### *Complaint at FERC Seeking to Alter Capacity Market Default Offer Caps*

On February 21, 2019, PJM's Independent Market Monitor (IMM) filed a complaint alleging that the number of performance assessment intervals used to calculate the default offer cap for bids to supply capacity in PJM is too high, resulting in an overstated default offer cap that obviates the need for most sellers to seek unit-specific approval of their offers. The IMM argued that this allows for the exercise of market power. The IMM asked FERC to require PJM to reduce the number of performance assessment intervals used to calculate the opportunity costs of a capacity supplier assuming a capacity obligation. This would, in turn, lower the default offer cap and allow the IMM to review more offers on a unit-specific basis. Several consumer advocates filed a complaint seeking similar relief several months after the IMM's complaint. On March 18, 2021, FERC granted the complaints, finding the current estimate of performance assessment intervals to be excessive compared to the reasonably expected number of performance assessment intervals which results in an unjust and unreasonable default offer cap. FERC did not establish the number of performance assessment intervals that should be used to calculate the default offer cap and instead requested briefs on the matter, including alternative approaches to mitigation in the capacity market. We submitted initial and reply briefs on May 3, 2021 and June 9, 2021, respectively, and an answer to briefs filed by other parties on June 24, 2021. On September 2, 2021, FERC issued an order adopting the IMM's unit-specific avoidable cost offer review methodology and directed PJM to submit a compliance filing establishing new deadlines for offer review and related other activities leading up to the base residual auction for the 2023-2024 planning year and an additional compliance filing revising the PJM Tariff to comply with FERC's order. We filed at FERC for rehearing on this matter on October 4, 2021 which was deemed denied on November 4, 2021. A number of parties, including us, have filed petitions for review of FERC's orders in this proceeding, which remain pending before the Court of Appeals for the District of Columbia Circuit. We cannot predict the outcome of these proceedings or the financial statement impact.

### Hedging Strategy

We are exposed to commodity price risk associated with the unhedged portion of our electricity portfolio. We enter into non-derivative and derivative contracts, including options, swaps, and forward and futures contracts, all with credit-approved counterparties, to hedge this anticipated exposure. For merchant revenues not already hedged via comprehensive state programs, such as the CMC in Illinois, we utilize a three-year ratable sales plan to align our hedging strategy with our financial objectives. The prompt three-year merchant revenues are hedged on an approximate rolling 90%/60%/30% basis. We may also enter into transactions that are outside of this ratable hedging program. As of December 31, 2021, the percentage of expected generation hedged for the Mid-Atlantic, Midwest, New York, and ERCOT reportable segments is 92%-95% and 73%-76% for 2022 and 2023,

respectively. We have been and will continue to be proactive in using hedging strategies to mitigate commodity price risk.

We procure natural gas through long-term and short-term contracts and spot-market purchases. Nuclear fuel assemblies are obtained predominantly through long-term uranium concentrate supply contracts, contracted conversion services, contracted enrichment services, or a combination thereof, and contracted fuel fabrication services. The supply markets for uranium concentrates and certain nuclear fuel services are subject to price fluctuations and availability restrictions. Approximately 50% of our uranium concentrate requirements from 2022 through 2026 are supplied by three suppliers. In the event of non-performance by these or other suppliers, we believe that replacement uranium concentrate can be obtained, although at prices that may be unfavorable when compared to the prices under the current supply agreements. Geopolitical developments have the potential to impact delivery from multiple suppliers in the international uranium industry. Non-performance by these counterparties could have a material adverse impact on our consolidated financial statements.

See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements and ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK for additional information.

## Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with GAAP requires that management apply accounting policies and make estimates and assumptions that affect results of operations and the amounts of assets and liabilities reported in the financial statements. Management believes that the accounting policies described below require significant judgment in their application or incorporate estimates and assumptions that are inherently uncertain and that may change in subsequent periods. Additional information on the application of these accounting policies can be found in the Notes to Consolidated Financial Statements.

### Nuclear Decommissioning Asset Retirement Obligations

The AROs associated with decommissioning our nuclear units were \$12.7 billion at December 31, 2021. The authoritative guidance requires that we estimate our obligation for the future decommissioning of our nuclear generating plants. To estimate that liability, we use an internally-developed, probability-weighted, discounted cash flow model which, on a unit-by-unit basis, considers multiple decommissioning outcome scenarios.

As a result of nuclear plant retirements in the industry, in recent years, nuclear operators and third-party service providers are obtaining more information about costs associated with decommissioning activities. At the same time, regulators are gaining more information about decommissioning activities which could result in changes to existing decommissioning requirements. In addition, as more nuclear plants are retired, it is possible that technological advances will be identified that could create efficiencies and lead to a reduction in decommissioning costs. The amount of NDT funds could also impact the timing of the decommissioning activities. Additionally, certain factors such as changes in regulatory requirements during plant operations or the profitability of a nuclear plant could impact the timing of plant retirements. These factors could result in material changes to our current estimates as more information becomes available and could change the timing of plant retirements and the probability assigned to the decommissioning outcome scenarios.

The nuclear decommissioning obligation is adjusted on a regular basis due to the passage of time and revisions to the key assumptions for the expected timing and/or estimated amounts of the future undiscounted cash flows required to decommission the nuclear plants, based upon the following methodologies and significant estimates and assumptions:

**Decommissioning Cost Studies.** We use unit-by-unit decommissioning cost studies to provide a marketplace assessment of the expected costs (in current year dollars) and timing of decommissioning activities, which are validated by comparison to current decommissioning projects within the industry and other estimates. Decommissioning cost studies are updated, on a rotational basis, for each of our nuclear units at least every five years, unless circumstances warrant more frequent updates. As part of the annual cost study update process, we evaluate newly assumed costs or substantive changes in previously assumed costs to determine if the cost estimate impacts are sufficiently material to warrant application of the updated estimates to the AROs across the nuclear fleet outside of the normal five-year rotating cost study update cycle.



**Cost Escalation Factors.** We use cost escalation factors to escalate the decommissioning costs from the decommissioning cost studies discussed above through the assumed decommissioning period for each of the units. Cost escalation studies, updated on an annual basis, are used to determine escalation factors, and are based on inflation indices for labor, equipment and materials, energy, LLRW disposal, and other costs. All the nuclear AROs are adjusted each year for updated cost escalation factors.

**Probabilistic Cash Flow Models.** Our probabilistic cash flow models include the assignment of probabilities to various scenarios for decommissioning cost levels, decommissioning approaches, and timing of plant shutdown on a unit-by-unit basis. Probabilities assigned to cost levels include an assessment of the likelihood of costs 20% higher (high-cost scenario) or 15% lower (low-cost scenario) than the base cost scenario. The assumed decommissioning scenarios generally include the following three alternatives: (1) DECON, which assumes major decommissioning activities begin shortly after the cessation of operation, (2) Shortened SAFSTOR, which generally assumes a 30-year delay prior to onset of major decommissioning activities, and (3) SAFSTOR, which assumes the nuclear facility is placed and maintained in such condition during decommissioning so that the nuclear facility can be safely stored and subsequently decontaminated within 60 years after cessation of operations. In each decommissioning scenario, spent fuel is transferred to dry cask storage as soon as possible until DOE acceptance for disposal.

The actual decommissioning approach selected once a nuclear facility is shutdown will be determined at the time of shutdown and may be influenced by multiple factors including the funding status of the NDT funds at the time of shutdown and regulatory or other commitments.

The assumed plant shutdown timing scenarios include the following four alternatives: (1) the probability of operating through the original 40-year nuclear license term, (2) the probability of operating through an initial 20-year license renewal term, (3) the probability of a second, 20-year license renewal term, and (4) the probability of early plant retirement for certain sites due to changing market conditions and regulatory environments. As power market and regulatory environment developments occur, we evaluate and incorporate, as necessary, the impacts of such developments into our nuclear ARO assumptions and estimates.

Our probabilistic cash flow models also include an assessment of the timing of DOE acceptance of SNF for disposal. We currently assume DOE will begin accepting SNF from the industry in 2035. The SNF acceptance date assumption is based on management's estimates of the amount of time required for DOE to select a site location and develop the necessary infrastructure for long-term SNF storage. For additional information regarding SNF, see Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements.

**Discount Rates.** The probability-weighted estimated future cash flows for the various assumed scenarios are discounted using credit-adjusted, risk-free rates (CARFR) applicable to the various businesses in which each of the nuclear units originally operated. We initially recognize an ARO at fair value and subsequently adjust it for changes to estimated costs, timing of future cash flows and modifications to decommissioning assumptions. The ARO is not required or permitted to be re-measured for changes in the CARFR that occur in isolation. Increases in the ARO due to upward revisions in estimated undiscounted cash flows are considered new obligations and are measured using a current CARFR as the increase creates a new cost layer within the ARO. Any decrease in the estimated undiscounted future cash flows relating to the ARO are treated as a modification of an existing ARO cost layer and, therefore, are measured using the average historical CARFR rates used in creating the initial ARO cost layers. If all our future nominal cash flows associated with the ARO were to be discounted at the current prevailing CARFR, the obligation would increase from approximately \$12.7 billion to approximately \$16.0 billion.

The following table illustrates the significant impact that changes in the CARFR, when combined with changes in projected amounts and expected timing of cash flows, can have on the valuation of the ARO:

	(Decrease) Increase to ARO as of December 31, 2021
<b>Change in the CARFR applied to the annual ARO update</b>	
2020 CARFR rather than the 2021 CARFR	\$ (490)
2021 CARFR increased by 50 basis points	(600)
2021 CARFR decreased by 50 basis points	750

**ARO Sensitivities.** Changes in the assumptions underlying the ARO could materially affect the decommissioning obligation. The impact of a change in any one of these assumptions to the ARO is highly dependent on how the other assumptions may correspondingly change.

The following table illustrates the effects of changing certain ARO assumptions while holding all other assumptions constant:

<u>Change in ARO Assumption</u>	<u>Increase to ARO as of December 31, 2021</u>	
<b>Cost escalation studies</b>		
Uniform increase in escalation rates of 50 basis points	\$	2,900
<b>Probabilistic cash flow models</b>		
Increase the estimated costs to decommission the nuclear plants by 10 percent		1,110
Increase the likelihood of the DECON scenario by 10 percent and decrease the likelihood of the SAFSTOR scenario by 10 percent <sup>(a)</sup>		480
Shorten each unit's probability weighted operating life assumption by 10 percent <sup>(b)</sup>		1,570
Extend the estimated date for DOE acceptance of SNF to 2040		290

(a) Excludes any sites in which management has committed to a specific decommissioning approach.

(b) Excludes any retired sites.

See Note 1 — Significant Accounting Policies and Note 10 — Asset Retirement Obligations of the Notes to Consolidated Financial Statements for additional information regarding accounting for nuclear AROs.

### Unamortized Energy Contract Assets and Liabilities

Unamortized energy contract assets and liabilities represent the remaining unamortized balances of non-derivative energy contracts that we have acquired. The initial amount recorded represents the difference between the fair value of the contracts at the time of acquisition and the contract value based on the terms of each contract. The unamortized energy contract assets and liabilities are amortized over the life of the contract in relation to the expected realization of the underlying cash flows. Amortization of the unamortized energy contract assets and liabilities are recorded through operating revenues or purchased power and fuel expense, depending on the nature of the underlying contract. See Note 13 — Intangible Assets of the Notes to Consolidated Financial Statements for additional information.

### Impairment of Long-Lived Assets

We regularly monitor and evaluate the carrying value of long-lived assets or asset groups for recoverability whenever events or changes in circumstances indicate that the carrying value of those assets may not be recoverable. Indicators of potential impairment may include a deteriorating business climate, including, but not limited to, declines in energy prices, condition of the asset, or plans to dispose of a long-lived asset significantly before the end of its useful life.

The review of long-lived assets or asset groups for impairment utilizes significant assumptions about operating strategies and estimates of future cash flows, which require assessments of current and projected market conditions. Forecasting future cash flows requires assumptions regarding forecasted commodity prices for the sale of power and purchases of fuel and the expected operations of assets. A variation in the assumptions used could lead to a different conclusion regarding the recoverability of an asset or asset group and, thus, could potentially result in material future impairments. An impairment evaluation is based on an undiscounted cash flow analysis at the lowest level at which cash flows of the long-lived assets or asset groups are largely independent of the cash flows of other assets and liabilities. The lowest level of independent cash flows is determined by the evaluation of several factors, including the geographic dispatch of the generation units and the hedging strategies related to those units. The cash flows from our generating units are generally evaluated at a regional portfolio level given the interdependency of cash flows generated from the customer supply and risk management activities within each region. In certain cases, our generating assets may be evaluated on an individual basis where those assets are contracted on a long-term basis with a third-party and operations are independent of other generating assets (typically contracted renewables).

On a quarterly basis, we assess our long-lived assets or asset groups for indicators of potential impairment. If indicators are present for a long-lived asset or asset group, a comparison of the undiscounted expected future cash flows to the carrying value is performed. When the undiscounted cash flow analysis indicates the carrying value of a long-lived asset or asset group may not be recoverable, the amount of the impairment loss is determined by measuring the excess of the carrying amount of the long-lived asset or asset group over its fair value. The fair value of the long-lived asset or asset group is dependent upon a market participant's view of the exit price of the asset or asset groups. This includes significant assumptions of the estimated future cash flows generated by the asset or asset groups and market discount rates. Events and circumstances often do not occur as expected, resulting in differences between prospective financial information and actual results, which may be material. The determination of fair value is driven by both internal assumptions that include significant unobservable inputs (Level 3), such as revenue and generation forecasts, projected capital, maintenance expenditures, and discount rates, as well as information from various public, financial and industry sources.

See Note 12 — Asset Impairments of the Notes to Consolidated Financial Statements for a discussion of asset impairment assessments.

### **Depreciable Lives of Property, Plant and Equipment**

We have significant investments in electric generation assets. These assets are generally depreciated on a straight-line basis, using the group, composite or unitary methods of depreciation. The group approach is typically for groups of similar assets that have approximately the same useful lives and the composite approach is used for heterogeneous assets that have different lives. Under both methods, a reporting entity depreciates the assets over the average life of the assets in the group. The estimation of asset useful lives requires management judgment, supported by formal depreciation studies of historical asset retirement experience. Depreciation studies are generally conducted periodically if an event, regulatory action, or change in retirement patterns indicate an update is necessary.

Along with depreciation study results, management considers expected future energy market conditions and generation plant operating costs and capital investment requirements in determining the estimated service lives of our generating facilities and reassesses the reasonableness of estimated useful lives whenever events or changes in circumstances warrant. When a determination has been made that an asset will be retired before the end of its current estimated useful life, depreciation provisions will be accelerated to reflect the shortened estimated useful life, which could have a material unfavorable impact on future results of operations. See Note 7 — Early Plant Retirements of the Notes to the Consolidated Financial Statements for additional information.

Changes in estimated useful lives of electric generation assets could have a significant impact on future results of operations. See Note 1 — Significant Accounting Policies of the Notes to Consolidated Financial Statements for information regarding depreciation and estimated service lives of the property, plant and equipment.

### **Accounting for Derivative Instruments**

We use derivative instruments to manage commodity price risk, foreign currency exchange risk and interest rate risk related to ongoing business operations. Our derivative activities are in accordance with our Risk Management Policy (RMP). See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information.

We account for derivative financial instruments under the applicable authoritative guidance. Determining whether a contract qualifies as a derivative requires that management exercise significant judgment, including assessing market liquidity as well as determining whether a contract has one or more underlying and one or more notional quantities. Changes in management's assessment of contracts and the liquidity of their markets, and changes in authoritative guidance, could result in previously excluded contracts becoming in scope of new authoritative guidance.

All derivatives are recognized on the balance sheet at their fair value, except for certain derivatives that qualify for, and are elected under, NPNS. Derivatives entered for economic hedging and for proprietary trading purposes are recorded at fair value through earnings.

**NPNS.** As part of our energy marketing business, we enter contracts to buy and sell energy to meet the requirements of our customers. These contracts include short-term and long-term commitments to purchase and

sell energy and energy-related products in the retail and wholesale markets with the intent and ability to deliver or take delivery. While some of these contracts are considered derivative financial instruments under the authoritative guidance, certain of these qualifying transactions have been designated as NPNS transactions, and are not required to be recorded at fair value, but rather on an accrual basis of accounting. Determining whether a contract qualifies for the NPNS requires judgment on whether the contract will physically deliver and requires that management ensure compliance with all associated qualification and documentation requirements. Revenues and expenses on contracts that qualify as NPNS are recognized when the underlying physical transaction is completed. Contracts that qualify for NPNS are those for which physical delivery is probable, quantities are expected to be used or sold in the normal course of business over a reasonable period, and the contract is not financially settled on a net basis.

**Commodity Contracts.** Identification of a commodity contract as an economic hedge requires us to determine that the contract is in accordance with the RMP. We reassess our economic hedges on a regular basis to determine if they continue to be within the guidelines of the RMP.

As a part of the authoritative guidance, we make estimates and assumptions concerning future commodity prices, load requirements, interest rates, the timing of future transactions and their probable cash flows, the fair value of contracts and the expected changes in the fair value in deciding whether to enter derivative transactions, and in determining the initial accounting treatment for derivative transactions. Under the authoritative guidance for fair value measurements, we categorize these derivatives under a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value.

Derivative contracts are traded in both exchange-based and non-exchange-based markets. Exchange-based derivatives that are valued using unadjusted quoted prices in active markets are generally categorized in Level 1 in the fair value hierarchy.

Certain derivative pricing is verified using indicative price quotations available through brokers or over-the-counter, online exchanges. The price quotations reflect the average of the mid-point of the bid-ask spread from observable markets that we believe provide the most liquid market for the commodity. The price quotations are reviewed and corroborated to ensure the prices are observable and representative of an orderly transaction between market participants. Our derivatives are traded predominantly at liquid trading points. The remaining derivative contracts are valued using models that consider inputs such as contract terms, including maturity, and market parameters, and assumptions of the future prices of energy, interest rates, volatility, credit worthiness and credit spread. For derivatives that trade in liquid markets, such as generic forwards, swaps, and options, the model inputs are generally observable. Such instruments are categorized in Level 2.

For derivatives that trade in less liquid markets with limited pricing information, the model inputs generally would include both observable and unobservable inputs and are categorized in Level 3.

We consider nonperformance risk, including credit risk in the valuation of derivative contracts, and both historical and current market data in our assessment of nonperformance risk. The impacts of nonperformance and credit risk to date have generally not been material to the financial statements.

See ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK and Note 18 — Fair Value of Financial Assets and Liabilities and Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information regarding derivative instruments.

### **Taxation**

Significant management judgment is required in determining our provision for income taxes, primarily due to the uncertainty related to tax positions taken, as well as deferred tax assets and liabilities and valuation allowances. We account for uncertain income tax positions using a benefit recognition model with a two-step approach including a more-likely-than-not recognition threshold and a measurement approach based on the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement. Management evaluates each position based solely on the technical merits and facts and circumstances of the position, assuming the position will be examined by a taxing authority having full knowledge of all relevant information. Significant judgment is required to determine whether the recognition threshold has been met and, if so, the appropriate amount of tax benefits to be recorded in the consolidated financial statements.

We evaluate quarterly the probability of realizing deferred tax assets by reviewing a forecast of future taxable income and our intent and ability to implement tax planning strategies, if necessary, to realize deferred tax assets. We also assess negative evidence, such as the expiration of historical operating loss or tax credit carryforwards, that could indicate our inability to realize our deferred tax assets. Based on the combined assessment, we record valuation allowances for deferred tax assets when it is more-likely-than-not such benefit will not be realized in future periods.

Actual income taxes could vary from estimated amounts due to the future impacts of various items, including future changes in income tax laws, our forecasted financial condition and results of operations, failure to successfully implement tax planning strategies, as well as results of audits and examinations of filed tax returns by taxing authorities. See Note 14 — Income Taxes of the Notes to Consolidated Financial Statements for additional information.

### **Accounting for Loss Contingencies**

In the preparation of our financial statements, we make judgments regarding the future outcome of contingent events and record liabilities for loss contingencies that are probable and can be reasonably estimated based upon available information. The amount recorded may differ from the actual expense incurred when the uncertainty is resolved. Such difference could have a significant impact in the consolidated financial statements.

**Environmental Costs.** Environmental investigation and remediation liabilities are based upon estimates with respect to the number of sites for which we will be responsible, the scope and cost of work to be performed at each site, the portion of costs that will be shared with other parties, the timing of the remediation work, regulations, and the requirements of local governmental authorities. In addition, periodic reviews are performed to assess the adequacy of other environmental reserves. These matters, if resolved in a manner different from the estimate, could have a significant impact in the consolidated financial statements. See Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for additional information.

**Other, Including Personal Injury Claims.** Prior to our separation from Exelon, we were self-insured for general liability, automotive liability, and workers' compensation claims. Upon separation, we now maintain insurance coverage for general liability, automotive liability, and workers' compensation and are self-insured to the extent that losses are within policy deductibles or exceed the amount of insurance maintained. For personal injury claims, we are self-insured to the extent that losses are within policy deductibles or exceed the amount of insurance maintained. We have reserves for both open claims asserted, and an estimate of claims incurred but not reported (IBNR). The IBNR reserve is estimated based on actuarial assumptions and analysis and is updated annually. Future events, such as the number of new claims to be filed each year, the average cost of disposing of claims, as well as the numerous uncertainties surrounding litigation and possible state and national legislative measures could cause the actual costs to be higher or lower than estimated. Accordingly, these claims, if resolved in a manner different from the estimate, could have a material impact to the consolidated financial statements.

### **Revenue Recognition**

**Sources of Revenue and Determination of Accounting Treatment.** We earn revenue from various business activities including: the sale of power and energy-related products, such as natural gas, capacity, and other commodities in non-regulated markets (wholesale and retail) and the provision of other energy-related non-regulated products and services.

The accounting treatment for revenue recognition is based on the nature of the underlying transaction and applicable authoritative guidance. We primarily apply the Revenue from Contracts with Customers and Derivatives Revenues guidance to recognize revenue, as discussed in more detail below.

**Revenue from Contracts with Customers.** We recognize revenues in the period in which the performance obligations within contracts with customers are satisfied, which generally occurs when power, natural gas and other energy-related commodities and services are provided to the customer. Transactions within the scope of Revenue from Contracts with Customers generally include non-derivative agreements, contracts that are designated as NPNS and spot-market energy commodity sales, including settlements with ISOs.

The determination of our retail power and natural gas sales to individual customers is based on systematic readings of customer meters, generally monthly. Energy delivered to customers that has not yet been billed as of the reporting period is estimated and corresponding unbilled revenue is recorded. The measurement of unbilled revenue is based upon individual customer meter readings, forecasted volumes, and applicable rates. See Note 1 — Significant Accounting Policies of the Notes to Consolidated Financial Statements for additional information.

**Derivative Revenues.** We record revenues and expenses using the mark-to-market method of accounting for transactions that are accounted for as derivatives. These derivative transactions primarily relate to commodity price risk management activities. Mark-to-market revenues and expenses include: inception gains or losses on new transactions where the fair value is observable, unrealized gains and losses from changes in the fair value of open contracts, and realized gains and losses.

## Results of Operations

For discussion of the year ended December 31, 2020 compared to the year ended December 31, 2019, refer to MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS in the Form 10.

	2021	2020	Favorable (Unfavorable) Variance
<b>Operating revenues</b>	\$ 19,649	\$ 17,603	\$ 2,046
<b>Operating expenses</b>			
Purchased power and fuel	12,163	9,585	(2,578)
Operating and maintenance	4,555	5,168	613
Depreciation and amortization	3,003	2,123	(880)
Taxes other than income taxes	475	482	7
Total operating expenses	20,196	17,358	(2,838)
<b>Gain on sales of assets and businesses</b>	201	11	190
<b>Operating (loss) income</b>	(346)	256	(602)
<b>Other income and (deductions)</b>			
Interest expense, net	(297)	(357)	60
Other, net	795	937	(142)
Total other income and (deductions)	498	580	(82)
<b>Income before income taxes</b>	152	836	(684)
<b>Income taxes</b>	225	249	24
<b>Equity in losses of unconsolidated affiliates</b>	(10)	(8)	(2)
<b>Net (loss) income</b>	(83)	579	(662)
<b>Net income (loss) attributable to noncontrolling interests</b>	122	(10)	132
<b>Net (loss) income attributable to membership interest</b>	\$ (205)	\$ 589	\$ (794)

**Year Ended December 31, 2021 Compared to Year Ended December 31, 2020. Net income attributable to membership interest** decreased by \$794 million primarily due to:

- Impacts of the February 2021 extreme cold weather event;
- Accelerated depreciation and amortization associated with our previous decision in the third quarter of 2020 to early retire Byron and Dresden nuclear facilities in 2021, a decision which was reversed

on September 15, 2021, and our decision in the third quarter of 2020 to early retire Mystic Units 8 and 9 in 2024;

- Decommissioning-related activities that were not offset for the Byron units beginning in the second quarter of 2021 through September 15, 2021. With our September 15, 2021 reversal of the previous decision to retire Byron, we resumed contractual offset for Byron as of that date;
- Impairments of the New England asset group, the Albany Green Energy biomass facility, and a wind project, partially offset by the absence of an impairment of the New England asset group in the third quarter of 2020;
- Higher net unrealized and realized losses on equity investments; and
- The absence of prior year one-time tax settlements.

The decreases were partially offset by:

- Higher mark-to-market gains;
- Higher net unrealized and realized gains on NDT funds;
- Absence of one time charges recorded in 2020 associated with our decision to early retire the Byron and Dresden nuclear facilities and Mystic Units 8 and 9, and the reversal of one-time charges resulting from the reversal of the previous decision to early retire Byron and Dresden on September 15, 2021;
- Favorable sales and hedges of excess emission credits;
- Favorable commodity prices on fuel hedges;
- Lower nuclear fuel costs due to accelerated amortization of nuclear fuel and lower prices; and
- Higher New York ZEC revenues due to higher generation and an increase in ZEC prices.

**Operating revenues.** The basis for our reportable segments is the integrated management of our electricity business that is located in different geographic regions, and largely representative of the footprints of ISO/RTO and/or NERC regions, which utilize multiple supply sources to provide electricity through various distribution channels (wholesale and retail). Our hedging strategies and risk metrics are also aligned with these same geographic regions. Our five reportable segments are Mid-Atlantic, Midwest, New York, ERCOT, and Other Power Regions. See Note 5 — Segment Information of the Notes to Consolidated Financial Statements for additional information on these reportable segments.

The following business activities are not allocated to a region and are reported under Other: natural gas, as well as other miscellaneous business activities that are not significant to overall operating revenues or results of operations.

For the year ended December 31, 2021 compared to 2020, Operating revenues by region were as follows:

	2021	2020	2021 vs. 2020	
			Variance	% Change <sup>(a)</sup>
Mid-Atlantic	\$ 4,584	\$ 4,645	\$ (61)	(1.3)%
Midwest	4,060	4,024	36	0.9 %
New York	1,575	1,431	144	10.1 %
ERCOT	1,181	958	223	23.3 %
Other Power Regions	4,890	4,002	888	22.2 %
Total electric revenues	16,290	15,060	1,230	8.2 %
Other	3,992	2,433	1,559	64.1 %
Mark-to-market (losses) gains	(633)	110	(743)	
Total Operating revenues	\$ 19,649	\$ 17,603	\$ 2,046	11.6 %

(a) % Change in mark-to-market is not a meaningful measure.

**Sales and Supply Sources.** Our sales and supply sources by region are summarized below:

Supply Source (GWhs)	2021	2020	2021 vs. 2020	
			Variance	% Change
<b>Nuclear Generation<sup>(a)</sup></b>				
Mid-Atlantic	53,589	52,202	1,387	2.7 %
Midwest	93,107	96,322	(3,215)	(3.3)%
New York	28,291	26,561	1,730	6.5 %
Total Nuclear Generation	174,987	175,085	(98)	(0.1)%
<b>Natural Gas, Oil and Renewables</b>				
Mid-Atlantic	2,271	2,206	65	2.9 %
Midwest	1,083	1,240	(157)	(12.7)%
New York	1	4	(3)	(75.0)%
ERCOT	13,187	11,982	1,205	10.1 %
Other Power Regions	9,995	11,121	(1,126)	(10.1)%
Total Natural Gas, Oil and Renewables	26,537	26,553	(16)	(0.1)%
<b>Purchased Power</b>				
Mid-Atlantic	13,576	22,487	(8,911)	(39.6)%
Midwest	561	770	(209)	(27.1)%
ERCOT	3,256	5,636	(2,380)	(42.2)%
Other Power Regions	50,212	51,079	(867)	(1.7)%
Total Purchased Power	67,605	79,972	(12,367)	(15.5)%
<b>Total Supply/Sales by Region</b>				
Mid-Atlantic	69,436	76,895	(7,459)	(9.7)%
Midwest	94,751	98,332	(3,581)	(3.6)%
New York	28,292	26,565	1,727	6.5 %
ERCOT	16,443	17,618	(1,175)	(6.7)%
Other Power Regions	60,207	62,200	(1,993)	(3.2)%
Total Supply/Sales by Region	269,129	281,610	(12,481)	(4.4)%

(a) Includes the proportionate share of output where we have an undivided ownership interest in jointly-owned generating plants. Includes the total output for fully owned plants and the total output for CENG prior to the acquisition of EDF's



interest on August 6, 2021 as CENG was fully consolidated. See Note 2 — Mergers, Acquisitions, and Dispositions of the Notes to Consolidated Financial Statements for additional information on our acquisition of EDF's interest in CENG.

**Nuclear Fleet Capacity Factor.** The following table presents nuclear fleet operating data for our plants, which reflects ownership percentage of stations operated by us, excluding Salem, which is operated by PSEG. The nuclear fleet capacity factor presented in the table is defined as the ratio of the actual output of a plant over a period of time to its output if the plant had operated at full average annual mean capacity for that time period. We consider capacity factor to be a useful measure to analyze the nuclear fleet performance between periods. We have included the analysis below as a complement to the financial information provided in accordance with GAAP. However, these measures are not a presentation defined under GAAP and may not be comparable to other companies' presentations or be more useful than the GAAP information provided elsewhere in this report.

	2021	2020
Nuclear fleet capacity factor	94.5 %	95.4 %
Refueling outage days	262	260
Non-refueling outage days	34	19

**ZEC Prices.** We are compensated through state programs for the carbon-free attributes of our nuclear generation. ZEC prices have a significant impact on operating revenues. The following table presents the average ZEC prices (\$/MWh) for each of our major regions in which state programs have been enacted. Prices reflect the weighted average price for the various delivery periods within each calendar year.

State (Region) <sup>(a)</sup>	2021	2020	2021 vs. 2020	
			Variance	% Change
New Jersey (Mid-Atlantic)	\$ 10.00	\$ 10.00	\$ —	— %
Illinois (Midwest)	16.50	16.50	—	— %
New York (New York)	20.93	19.59	1.34	6.8 %

(a) See Note 7 — Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information on the plants receiving payments through state programs.

**Capacity Prices.** We participate in capacity auctions in each of our major regions, except ERCOT which does not have a capacity market. We also incur capacity costs associated with load served, except in ERCOT. Capacity prices have a significant impact on our operating revenues and purchased power and fuel. The following table presents the average capacity prices (\$/MW Day) for each of our major regions. Prices reflect the weighted average price for the various auction periods within each calendar year.

Location (Region)	2021	2020	2021 vs. 2020	
			Variance	% Change
Eastern Mid-Atlantic Area Council (Mid-Atlantic and Midwest)	\$ 174.96	\$ 159.50	\$ 15.46	9.7 %
ComEd (Midwest)	192.45	194.22	(1.77)	(0.9)%
Rest of State (New York)	98.35	47.81	50.54	105.7 %
Southeast New England (Other)	163.66	200.69	(37.03)	(18.5)%

**Electricity Prices.** The price of electricity has a significant impact on our operating revenues and purchased power cost. The following table presents the average day-ahead around-the-clock price (\$/MWh) for each of our major regions.

Location (Region)	2021	2020	2021 vs. 2020	
			Variance	% Change
PJM West (Mid-Atlantic)	\$ 38.91	\$ 20.95	\$ 17.96	85.7 %
ComEd (Midwest)	34.76	18.96	15.80	83.3 %
Central (New York)	29.90	16.36	13.54	82.8 %
North (ERCOT)	146.63	22.03	124.60	565.6 %
Southeast Massachusetts (Other) <sup>(a)</sup>	46.38	23.57	22.81	96.8 %

(a) Reflects New England, which comprises the majority of the activity in the Other region.

For the year ended December 31, 2021 compared to 2020, changes in **Operating revenues** by region were approximately as follows:

	2021 vs. 2020		Description
	Variance	% Change <sup>(a)</sup>	
Mid-Atlantic	\$ (61)	(1.3)%	<ul style="list-style-type: none"> <li>unfavorable wholesale load revenue of \$(520) primarily due to lower volumes; partially offset by</li> <li>favorable settled economic hedges of \$365 due to settled prices relative to hedged prices</li> <li>favorable retail load revenue of \$95 primarily due to higher prices</li> </ul>
Midwest	36	0.9 %	<ul style="list-style-type: none"> <li>favorable net wholesale load and generation revenue of \$540 primarily due to higher prices, partially offset by decreased generation due to higher nuclear outage days; partially offset by</li> <li>unfavorable settled economic hedges of \$(525) due to settled prices relative to hedged prices</li> </ul>
New York	144	10.1 %	<ul style="list-style-type: none"> <li>favorable nuclear generation revenue of \$75 primarily due to higher prices and lower nuclear outage days</li> <li>favorable ZEC revenue of \$70 due to higher prices and higher nuclear generation</li> </ul>
ERCOT	223	23.3 %	<ul style="list-style-type: none"> <li>favorable retail load revenue of \$140 primarily due to higher prices in part due to the February 2021 extreme cold weather event</li> <li>favorable settled economic hedges of \$65 due to settled prices relative to hedged prices</li> </ul>
Other Power Regions	888	22.2 %	<ul style="list-style-type: none"> <li>favorable settled economic hedges of \$655 due to settled prices relative to hedged prices</li> <li>favorable retail load revenue of \$535 due to higher prices and higher volumes; partially offset by</li> <li>unfavorable wholesale load revenue of \$(380) primarily due to lower volumes</li> </ul>
Other	1,559	64.1 %	<ul style="list-style-type: none"> <li>favorable gas revenue of \$1,375 primarily due to higher prices in part due to the February 2021 extreme cold weather event</li> </ul>
Mark-to-market <sup>(b)</sup>	(743)		<ul style="list-style-type: none"> <li>losses on economic hedging activities of \$(633) in 2021 compared to gains of \$110 in 2020</li> </ul>
Total	\$ 2,046	11.6 %	

(a) % Change in mark-to-market is not a meaningful measure.

(b) See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on mark-to-market gains and losses.

**Purchased power and fuel.** See Operating revenues above for discussion of our reportable segments and hedging strategies and for supplemental statistical data, including supply sources by region, nuclear fleet capacity factor, capacity prices, and electricity prices.

The following business activities are not allocated to a region and are reported under Other: natural gas, as well as other miscellaneous business activities that are not significant to overall purchased power and fuel expense or results of operations, and accelerated nuclear fuel amortization associated with nuclear decommissioning.

For the year ended December 31, 2021 compared to 2020, Purchased power and fuel by region were as follows:

			2021 vs. 2020	
	2021	2020	Variance	% Change <sup>(a)</sup>
Mid-Atlantic	\$ 2,320	\$ 2,442	\$ 122	5.0 %
Midwest	1,343	1,121	(222)	(19.8)%
New York	414	434	20	4.6 %
ERCOT	2,006	532	(1,474)	(277.1)%
Other Power Regions	3,999	3,336	(663)	(19.9)%
Total electric purchased power and fuel	10,082	7,865	(2,217)	(28.2)%
Other	3,279	1,904	(1,375)	(72.2)%
Mark-to-market gains	(1,198)	(184)	1,014	
Total purchased power and fuel	\$ 12,163	\$ 9,585	\$ (2,578)	(26.9)%

(a) % Change in mark-to-market is not a meaningful measure.

For the year ended December 31, 2021 compared to 2020, changes in **Purchased power and fuel** by region were approximately as follows:

	2021 vs. 2020		Description
	Variance	% Change <sup>(a)</sup>	
Mid-Atlantic	\$ 122	5.0 %	<ul style="list-style-type: none"> <li>• favorable purchased power and net capacity impact of \$80 primarily due to higher nuclear generation, lower load and higher capacity prices earned partially offset by lower cleared capacity volumes</li> <li>• favorable settlement of economic hedges of \$70 due to settled prices relative to hedged prices</li> </ul>
Midwest	(222)	(19.8)%	<ul style="list-style-type: none"> <li>• unfavorable purchased power and net capacity impact of \$(330) primarily due to higher energy prices, lower nuclear generation, lower cleared capacity volumes, and lower capacity prices; partially offset by</li> <li>• favorable nuclear fuel cost of \$75 primarily due to accelerated amortization of nuclear fuel and lower nuclear fuel prices</li> </ul>
New York	20	4.6 %	<ul style="list-style-type: none"> <li>• favorable settlement of economic hedges of \$45 due to settled prices relative to hedged prices; partially offset by</li> <li>• unfavorable purchased power and net capacity impact of \$(40) primarily due to higher energy prices partially offset by higher nuclear generation and higher capacity prices earned</li> </ul>
ERCOT	(1,474)	(277.1)%	<ul style="list-style-type: none"> <li>• unfavorable purchased power of \$(755) primarily due to higher energy prices primarily during the February 2021 extreme cold weather event</li> <li>• unfavorable settlement of economic hedges of \$(535) due to settled prices relative to hedged prices</li> <li>• unfavorable fuel cost of \$(170) primarily due to higher gas prices</li> </ul>
Other Power Regions	(663)	(19.9)%	<ul style="list-style-type: none"> <li>• unfavorable purchased power and net capacity impact of \$(855) primarily due to higher energy prices, lower generation, lower cleared capacity volumes, and lower capacity prices</li> <li>• unfavorable fuel cost of \$(80) primarily due to higher gas prices; partially offset by</li> <li>• net favorable environmental products activity of \$270 primarily driven by favorable emissions activity partially offset by unfavorable RPS activity</li> </ul>
Other	(1,375)	(72.2)%	<ul style="list-style-type: none"> <li>• unfavorable net gas purchase costs and settlement of economic hedges of \$(1,150)</li> <li>• unfavorable accelerated nuclear fuel amortization associated with announced early plant retirements of \$(90)</li> </ul>
Mark-to-market <sup>(b)</sup>	1,014		• gains on economic hedging activities of \$1,198 in 2021 compared to gains of \$184 in 2020
Total	\$ (2,578)	(26.9)%	

(a) % Change in mark-to-market is not a meaningful measure.

(b) See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on mark-to-market gains and losses.

The changes in **Operating and maintenance expense** consisted of the following:

	2021 vs. 2020	
	(Decrease) Increase	
Plant retirements and divestitures <sup>(a)</sup>	\$	(484)
ARO update		(109)
Labor, other benefits, contracting, and materials		(64)
Insurance		(45)
Cost management program		(34)
Nuclear refueling outage costs, including the co-owned Salem plants		(16)
Corporate allocations		(14)
Acquisition related costs		15
Credit loss expense		21
Asset impairments		27
Separation costs		49
Other		41
<b>Total decrease</b>	<b>\$</b>	<b>(613)</b>

(a) Primarily reflects contractual offset of accelerated depreciation and amortization associated with our previous decision to early retire the Byron and Dresden nuclear facilities. See Note 10 — Asset Retirement Obligations of the Notes to Consolidated Financial Statements for additional information.

**Depreciation and amortization expense** increased for the year ended December 31, 2021 compared to the same period in 2020, primarily due to the accelerated depreciation and amortization associated with our previous decision to early retire the Byron and Dresden nuclear facilities. This decision was reversed on September 15, 2021 and depreciation for Byron and Dresden was adjusted beginning September 15, 2021 to reflect the extended useful life estimates. A portion of this accelerated depreciation and amortization is offset in Operating and maintenance expense.

**Gain on sales of assets and businesses** increased for the year ended December 31, 2021 compared to the same period in 2020, primarily due to gains on sales of equity investments that became publicly traded entities in the fourth quarter of 2020 and the first half of 2021 and a gain on sale of our solar business.

**Interest expense, net** decreased for the year ended December 31, 2021 compared to the same period in 2020, primarily due to decreased expense related to the CR nonrecourse senior secured term loan credit facility and interest rate swaps, and decreases in interest rates. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on the CR credit facility and interest rate swaps.

**Other, net** decreased for the year ended December 31, 2021 compared to the same period in 2020, due to activity described in the table below:

	2021		2020	
Net unrealized gains on NDT funds <sup>(a)</sup>	\$	204	\$	391
Net realized gains on sale of NDT funds <sup>(a)</sup>		381		70
Interest and dividend income on NDT funds <sup>(a)</sup>		98		90
Contractual elimination of income tax expense <sup>(b)</sup>		226		180
Net unrealized (losses) gains from equity investments <sup>(c)</sup>		(160)		186
Other		46		20
<b>Total other, net</b>	<b>\$</b>	<b>795</b>	<b>\$</b>	<b>937</b>

- (a) Unrealized gains, realized gains, and interest and dividend income on the NDT funds are associated with the Non-Regulatory Agreement Units. In addition, also includes unrealized gains, realized gains, and interest and dividend income on the NDT funds associated with the Byron units as decommissioning-related impacts were not offset starting in the second quarter of 2021 due to the inability to recognize a regulatory asset at ComEd. With the September 15, 2021 reversal of the previous decision to retire Byron, we resumed contractual offset for Byron as of that date. See Note 10 — Asset Retirement Obligations of the Notes to Consolidated Financial Statements for additional information.
- (b) Contractual elimination of income tax expense is associated with the income taxes on the NDT funds of the Regulatory Agreement Units.
- (c) Net unrealized gains and losses from equity investments that became publicly traded entities in the fourth quarter of 2020 and the first half of 2021.

**Effective income tax rates** were 148.0% and 29.8% for the years ended December 31, 2021 and 2020, respectively. The higher effective tax rate in 2021 is primarily due to the impacts of the February 2021 extreme cold weather event on Income before income taxes. See Note 14 — Income Taxes of the Notes to Consolidated Financial Statements for additional information.

**Net income attributable to noncontrolling interests** increased for the year ended December 31, 2021 compared to the same period in 2020, primarily due to CENG's results of operations prior to our acquisition of EDF's interest in CENG on August 6, 2021.

## Liquidity and Capital Resources

For discussion of the year ended December 31, 2020 compared to the year ended December 31, 2019, refer to Liquidity and Capital Resources of MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS in the Form 10.

All results included throughout the liquidity and capital resources section are presented on a GAAP basis.

Our operating and capital expenditures requirements are provided by internally generated cash flows from operations, the sale of certain receivables, as well as funds from external sources in the capital markets and through bank borrowings. Our business is capital intensive and requires considerable capital resources. We annually evaluate our financing plan and credit line sizing, focusing on maintaining our investment grade ratings while meeting our cash needs to fund capital requirements, including construction expenditures, retire debt, pay dividends, fund pension and OPEB obligations, and invest in new and existing ventures. A broad spectrum of financing alternatives beyond the core financing options can be used to meet our needs and fund growth including monetizing assets in the portfolio via project financing, asset sales, and the use of other financing structures (e.g., joint ventures, minority partners, etc.). Our access to external financing on reasonable terms depends on our credit ratings and current overall capital market business conditions. If these conditions deteriorate to the extent that we no longer have access to the capital markets at reasonable terms, we have access to credit facilities with aggregate bank commitments of \$5.7 billion. We utilize our credit facilities to support our commercial paper programs, provide for other short-term borrowings and to issue letters of credit. See the "Credit Matters" section below for additional information. We expect cash flows to be sufficient to meet operating expenses, financing costs, and capital expenditure requirements. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on our debt and credit agreements.

Pursuant to the Separation Agreement between us and Exelon, we received a cash payment of \$1.75 billion from Exelon on January 31, 2022. See Note 24 — Separation from Exelon of the Notes to Consolidated Financial Statements for additional information on the separation.

## NRC Minimum Funding Requirements

NRC regulations require that licensees of nuclear generating facilities demonstrate reasonable assurance that sufficient funds will be available in certain minimum amounts to decommission the facility. These NRC minimum funding levels are typically based upon the assumption that decommissioning activities will commence after the end of the current licensed life of each unit. If a unit fails the NRC minimum funding test, then the plant's owners or parent companies would be required to take steps, such as providing financial guarantees through surety bonds, letters of credit, or parent company guarantees or making additional cash contributions to the NDT fund to

ensure sufficient funds are available. See Note 10 - Asset Retirement Obligations of the Notes to Consolidated Financial Statements for additional information.

If a nuclear plant were to early retire there is a risk that it will no longer meet the NRC minimum funding requirements due to the earlier commencement of decommissioning activities and a shorter time period over which the NDT funds could appreciate in value. A shortfall could require that we address the shortfall by providing additional financial assurances, such as surety bonds, letters of credit, or parent company guarantees for our share of the funding assurance. However, the amount of any assurance will ultimately depend on the decommissioning approach, the associated level of costs, and the NDT fund investment performance going forward. No later than two years after shutting down a plant, we must submit a PSDAR to the NRC that includes the planned option for decommissioning the site.

Upon issuance of any required financial assurances, subject to satisfying various regulatory preconditions, each site would be able to utilize the respective NDT funds for radiological decommissioning costs, which represent the majority of the total expected decommissioning costs. However, under the regulations, the NRC must approve an exemption in order for us to utilize the NDT funds to pay for non-radiological decommissioning costs (i.e. spent fuel management and site restoration costs, if applicable). Any amounts not covered by an exemption would be borne by us without reimbursement.

As of December 31, 2021, we are not required to provide any additional financial assurance for TMI Unit 1 under the SAFSTOR scenario that is the planned decommissioning option, as described in the TMI Unit 1 PSDAR filed with the NRC on April 5, 2019. On October 16, 2019, the NRC granted our exemption request to use the TMI Unit 1 NDT funds for spent fuel management costs. An additional exemption request to allow the TMI Unit 1 NDT funds to be used for site restoration costs was submitted to the NRC on May 20, 2021 and is pending NRC review.

### Cash Flows from Operating Activities

Our cash flows from operating activities primarily result from the sale of electric energy and energy-related products and services to customers. Our future cash flows from operating activities may be affected by future demand for, and market prices of, energy and our ability to continue to produce and supply power at competitive costs, as well as to obtain collections from customers and the sale of certain receivables.

See Note 3 — Regulatory Matters and Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for additional information on regulatory and legal proceedings and proposed legislation.

The following table provides a summary of the change in cash flows from operating activities for the years ended December 31, 2021 and 2020:

<b>(Decrease) increase in cash flows from operating activities</b>		
Net income	\$	(662)
Adjustments to reconcile net income to cash:		
Non-cash operating activities		
Option premiums paid, net		(287)
Collateral posted, net		(199)
Income taxes		(609)
Pension and non-pension postretirement benefit contributions		70
Changes in working capital and other noncurrent assets and liabilities		(4)
Changes in working capital and other noncurrent assets and liabilities		(231)
Decrease in cash flows from operating activities	\$	<u>(1,922)</u>

Changes in our cash flows from operations were generally consistent with changes in results of operations, as adjusted by changes in working capital in the normal course of business, except as discussed below. In addition, significant operating cash flow impacts for 2021 and 2020 were as follows:

- See Note 22 — Supplemental Financial Information of the Notes to Consolidated Financial Statements and the Consolidated Statement of Cash Flows for additional information on **non-cash operating activities**.

- **Option premiums paid** relate to options contracts that we purchase and sell as part of our established policies and procedures to manage risks associated with market fluctuations in commodity prices. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on derivative contracts.
- Depending upon whether we are in a net mark-to-market liability or asset position, **collateral** may be required to be posted with or collected from our counterparties. In addition, the collateral posting and collection requirements differ depending on whether the transactions are on an exchange or in the over-the-counter markets. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on collateral.
- See Note 14 — Income Taxes of the Notes to Consolidated Financial Statements and the Consolidated Statements of Cash Flows for additional information on **income taxes**.
- **Changes in working capital and other noncurrent assets and liabilities** include a decrease in Accounts receivable resulting from the impact of cash received in 2020 related to the revolving accounts receivable financing arrangement entered into on April 8, 2020 and an increase in Accounts payable and accrued expenses resulting from the impact of certain penalties for natural gas delivery associated with the February 2021 extreme cold weather event and increases in natural gas prices. See Note 6 — Accounts Receivable and Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information on the sales of customer accounts receivable and on the February 2021 extreme cold weather event, respectively.

### Cash Flows from Investing Activities

The following table provides a summary of the change in cash flows from investing activities for the years ended December 31, 2021 and 2020:

Increase (decrease) in cash flows from investing activities	
Capital expenditures	\$ 418
Investment in NDT fund sales, net	(18)
Collection of DPP	131
Proceeds from sales of assets and businesses	832
Other investing activities	(39)
Increase in cash flows from investing activities	<u>\$ 1,324</u>

Significant investing cash flow impacts for 2021 and 2020 were as follows:

- Variances in **capital expenditures** are primarily due to the timing of cash expenditures for capital projects. See the "Credit Matters and Cash Requirements" section below for additional information on projected capital expenditure spending.
- See Note 6 — Accounts Receivable of the Notes to Consolidated Financial Statements for additional information on the **Collection of DPP**.
- **Proceeds from sales of assets and businesses** increased primarily due to the sale of a significant portion of our solar business and a biomass facility and proceeds received on sales of equity investments. See Note 2 — Mergers, Acquisitions, and Dispositions of the Notes to Consolidated Financial Statements for additional information on the sale of our solar business and biomass facility.



## Cash Flows from Financing Activities

The following table provides a summary of the change in cash flows from financing activities for the years ended December 31, 2021 and 2020:

Increase (decrease) in cash flows from financing activities	
Changes in short-term borrowings, net	\$ 722
Long-term debt, net	1,776
Changes in money pool with Exelon	(570)
Acquisition of noncontrolling interest	(885)
Distributions to member	(98)
Other financing activities	24
<b>Increase in cash flows from financing activities</b>	<b>\$ 969</b>

Significant financing cash flow impacts for 2021 and 2020 were as follows:

- **Changes in short-term borrowings, net**, is driven by repayments on and issuances of notes due in less than 365 days. Refer to Note 17 - Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on short-term borrowings.
- **Long-term debt, net**, varies due to debt issuances and redemptions each year. Refer to debt issuances and redemptions tables below for additional information.
- **Changes in money pool with Exelon** are driven by short-term borrowing needs. Exelon operated a money pool for its subsidiaries that provided an additional short-term borrowing option that was generally more favorable to the borrowing participants than the cost of external financing.
- See Note 2 — Mergers, Acquisitions, and Dispositions of the Notes to Consolidated Financial Statements for additional information related to the **acquisition** of CENG noncontrolling interest.
- **Other financing activities** primarily consists of debt issuance costs. See debt issuances table below for additional information on debt issuances.

### Debt Issuances and Redemptions

See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on our long-term debt. Debt activity for 2021 and 2020 was as follows:

During 2021, the following long-term debt was issued:

Type	Interest Rate	Maturity	Amount	Use of Proceeds
West Medway II Nonrecourse Debt <sup>(a)</sup>	LIBOR + 3% <sup>(b)</sup>	March 31, 2026	\$ 150	Funding for general corporate purposes.
Energy Efficiency Project Financing <sup>(c)</sup>	2.53% - 4.24%	January 31, 2022 - February 28, 2022	2	Funding to install energy conservation measures.

(a) See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on nonrecourse debt.

(b) The nonrecourse debt has an average blended interest rate.

(c) For Energy Efficiency Project Financing, the maturity dates represent the expected date of project completion, upon which the respective customer assumes the outstanding debt.

During 2020, the following long-term debt was issued:

Type	Interest Rate	Maturity	Amount	Use of Proceeds
Senior Notes	3.25 %	June 1, 2025	\$ 900	Repay existing indebtedness and for general corporate purposes.
Constellation Renewables Nonrecourse Debt <sup>(a)</sup>	LIBOR + 2.75%	December 15, 2027	750	Repay existing indebtedness and for general corporate purposes.
Energy Efficiency Project Financing <sup>(b)</sup>	2.53% - 3.95%	February 28, 2021 - March 31, 2021	6	Funding to install energy conservation measures.

(a) See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information of nonrecourse debt.

(b) For Energy Efficiency Project Financing, the maturity dates represent the expected date of project completion, upon which the respective customer assumes the outstanding debt.

During 2021, the following long-term debt was retired and/or redeemed:

Type <sup>(a)</sup>	Interest Rate	Maturity	Amount
Continental Wind Nonrecourse Debt <sup>(b)</sup>	6.00%	February 28, 2033	\$ 35
CR Nonrecourse Debt <sup>(b)</sup>	3-month LIBOR + 2.50% <sup>(c)</sup>	December 15, 2027	17
SolGen Nonrecourse Debt <sup>(b)</sup>	3.93%	September 30, 2036	7
Antelope Valley DOE Nonrecourse Debt <sup>(b)(d)</sup>	2.29% - 3.56%	January 5, 2037	24
West Medway II Nonrecourse Debt <sup>(b)</sup>	LIBOR + 3% <sup>(e)</sup>	March 31, 2026	13
RPG Nonrecourse Debt <sup>(b)</sup>	4.11%	March 31, 2035	9

(a) As part of the 2012 merger, Exelon entered intercompany loan agreements that mirrored the terms and amounts of third-party debt obligations. In connection with the separation, on January 31, 2022, we paid cash to Exelon Corporate of \$258 million to settle the intercompany loan. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on the mirror debt.

(b) See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on nonrecourse debt.

(c) The interest rate was amended to 3-month LIBOR + 2.50% on June 16, 2021.

(d) On January 5, 2022, we redeemed \$6 million of 2.29% - 3.56% Antelope Valley DOE nonrecourse debt.

(e) The nonrecourse debt has an average blended interest rate.

During 2020, the following long-term debt was retired and/or redeemed:

Type	Interest Rate	Maturity	Amount
Senior Notes	2.95%	January 15, 2020	\$ 1,000
Senior Notes	4.00%	October 1, 2020	550
Senior Notes <sup>(a)</sup>	5.15%	December 1, 2020	550
Tax-Exempt Bonds	2.50% - 2.70%	December 1, 2025 - June 1, 2036	412
CR Nonrecourse Debt <sup>(b)</sup>	3-month LIBOR + 3.00%	November 30, 2024	796
Continental Wind Nonrecourse Debt <sup>(b)</sup>	6.00%	February 28, 2033	33
Antelope Valley DOE Nonrecourse Debt <sup>(b)</sup>	2.29% - 3.56%	January 5, 2037	23
RPG Nonrecourse Debt <sup>(b)</sup>	4.11%	March 31, 2035	9
Energy Efficiency Project Financing	3.71%	December 31, 2020	4
NUKEM	3.15%	September 30, 2020	3
SolGen Nonrecourse Debt	3.93%	September 30, 2036	3
Energy Efficiency Project Financing	4.12%	November 30, 2020	1

(a) The senior notes are legacy mirror debt that were previously held at Exelon and Constellation. As part of the 2012 merger, Exelon and Constellation assumed intercompany loan agreements that mirrored the terms and amounts of external

obligations held by Exelon, resulting in notes payable to related parties in the Consolidated Balance Sheets. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on the mirror debt.

(b) See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information of nonrecourse debt.

From time to time and as market conditions warrant, we may engage in long-term debt retirements via tender offers, open market repurchases or other viable options to reduce debt.

### **Credit Matters and Cash Requirements**

We fund liquidity needs for capital expenditures, working capital, energy hedging and other financial commitments through cash flows from continuing operations, public debt offerings, commercial paper markets and large, diversified credit facilities. As of December 31, 2021, our credit facilities included \$6.6 billion in aggregate total commitments of which \$3.4 billion was available to support additional commercial paper and of which no financial institution has more than 8% of the aggregate commitments. In connection with our separation from Exelon, we entered into two new credit agreements that replaced our syndicated revolving credit facility. Under the new agreements, we have access to credit facilities with aggregate bank commitments of \$5.7 billion. We had access to the commercial paper markets and had availability under our revolving credit facilities during 2021 to fund our short-term liquidity needs, when necessary. We used our available credit facilities to manage short-term liquidity needs as a result of the impacts of the February 2021 extreme cold weather event. We routinely review the sufficiency of our liquidity position, including appropriate sizing of credit facility commitments, by performing various stress test scenarios, such as commodity price movements, increases in margin-related transactions, changes in hedging levels, and the impacts of hypothetical credit downgrades. We closely monitor events in the financial markets and the financial institutions associated with the credit facilities, including monitoring credit ratings and outlooks, credit default swap levels, capital raising, and merger activity. See PART I, ITEM 1A. RISK FACTORS for additional information regarding the effects of uncertainty in the capital and credit markets.

We believe our cash flow from operating activities, access to credit markets and our credit facilities provide sufficient liquidity to support the estimated future cash requirements discussed below.

If we lost our investment grade credit rating as of December 31, 2021, we would have been required to provide incremental collateral of approximately \$2.1 billion to meet collateral obligations for derivatives, non-derivatives, NPNS, and applicable payables and receivables, net of the contractual right of offset under master netting agreements, which was well within the \$3.4 billion of available credit capacity of our revolver as of December 31, 2021. See Note 16 — Derivative Financial Instruments and Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information.

#### **Capital Expenditures**

Our most recent estimate of capital expenditures for plant additions and improvements is approximately \$1.7 billion for 2022 and approximately \$2.9 billion for the period from 2023 to 2024. Projected capital expenditures and other investments are subject to periodic review and revision to reflect changes in economic conditions and other factors.

Approximately 50% of projected capital expenditures are for the acquisition of nuclear fuel, with the remaining amounts primarily reflecting additions and upgrades to existing generation facilities (including material condition improvements during nuclear refueling outages).

We anticipate that we will fund capital expenditures with a combination of internally generated funds and borrowings.

#### **Cash Requirements for Other Financial Commitments**

The following table summarizes our future estimated cash payments as of December 31, 2021 under existing financial commitments:

	2022	Beyond 2022	Total	Time Period
Long-term debt	\$ 1,218	\$ 4,878	\$ 6,096	2022 - 2042
Interest payments on long-term debt <sup>(a)</sup>	252	3,011	3,263	2022 - 2042
Operating leases <sup>(b)</sup>	35	611	646	2022 - 2056
Purchase power obligations <sup>(c)</sup>	620	1,109	1,729	2022 - 2036
Fuel purchase agreements <sup>(d)</sup>	1,020	4,452	5,472	2022 - 2054
Other purchase obligations <sup>(e)</sup>	1,159	1,231	2,390	2022 - 2046
SNF obligation	—	1,210	1,210	2022 - 2035
Pension contributions <sup>(f)</sup>	192	93	285	2022 - 2027
<b>Total cash requirements</b>	<b>\$ 4,496</b>	<b>\$ 16,595</b>	<b>\$ 21,091</b>	

(a) Interest payments are estimated based on final maturity dates of debt securities outstanding at December 31, 2021 and do not reflect anticipated future refinancing, early redemptions, or debt issuances. Variable rate interest obligations are estimated based on rates as of December 31, 2021.

(b) Capacity payments associated with contracted generation lease agreements are net of sublease and capacity offsets of \$57 million and \$315 million for 2022 and thereafter, respectively and \$372 million in total.

(c) Purchase power obligations primarily include expected payments for REC purchases and capacity payments associated with contracted generation agreements, which may be reduced based on plant availability. Expected payments exclude payments on renewable generation contracts that are contingent in nature.

(d) Represents commitments to purchase nuclear fuel, natural gas and related transportation, storage capacity and services.

(e) Represents the future estimated value at December 31, 2021 of the cash flows associated with all contracts, both cancellable and non-cancellable, entered into with third-parties for the provision of services and materials, entered into in the normal course of business not specifically reflected elsewhere in this table. These estimates are subject to significant variability from period to period.

(f) These amounts represent our expected contributions to our qualified pension plans. Qualified pension contributions for years after 2027 are not included.

See Note 19 — Commitments and Contingencies and Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information of our other commitments potentially triggered by future events. Additionally, see below for where to find additional information regarding the financial commitments in the table above in the Notes to the Consolidated Financial Statements.

Item	Location within Notes to the Consolidated Financial Statements
Long-term debt	Note 17 — Debt and Credit Agreements
Interest payments on long-term debt	Note 17 — Debt and Credit Agreements
Operating leases	Note 11 — Leases
SNF obligation	Note 19 — Commitments and Contingencies

### Project Financing

Project financing is based upon a nonrecourse financial structure, in which project debt is paid back from the cash generated by a specific asset or portfolio of assets. Borrowings under these agreements are secured by the assets and equity of each respective project. Lenders do not have recourse against us in the event of a default. If a project financing entity does not maintain compliance with its specific debt covenants, there could be a requirement to accelerate repayment of the associated debt or other project-related borrowings earlier than the stated maturity dates. In these instances, if such repayment were not satisfied, or restructured, the lenders or security holders would generally have rights to foreclose against the project-specific assets and related collateral. The potential requirement to repay the debt or other borrowings earlier than otherwise anticipated could lead to impairments due to a higher likelihood of disposing of the respective project-specific assets significantly before the end of their useful lives. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on project finance credit facilities and nonrecourse debt.

**Credit Facilities**

We meet our short-term liquidity requirements primarily through the issuance of commercial paper. We may use our credit facilities for general corporate purposes, including meeting short-term funding requirements and the issuance of letters of credit. See Note 17 — Debt and Credit Agreements of the Notes to Consolidated Financial Statements for additional information on our credit facilities.

**Capital Structure**

At December 31, 2021, our capital structure consisted of the following:

	Percentage of Capital Structure
Commercial paper and notes payable	10 %
Long-term debt	29 %
Long-term debt to affiliates	2 %
Member's equity	59 %

**Security Ratings**

Our access to the capital markets, including the commercial paper market, and our financing costs in those markets, may depend on our securities ratings.

Our borrowings are not subject to default or prepayment as a result of a downgrade of our securities, although such a downgrade could increase fees and interest charges under our credit agreements.

As part of the normal course of business, we enter into contracts that contain express provisions or otherwise permit us and our counterparties to demand adequate assurance of future performance when there are reasonable grounds for doing so. In accordance with the contracts and applicable contracts law, if we are downgraded by a credit rating agency, it is possible that a counterparty would attempt to rely on such a downgrade as a basis for making a demand for adequate assurance of future performance, which could include the posting of additional collateral. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on collateral provisions.

On February 24, 2021, S&P lowered our senior unsecured debt rating to 'BBB-' from 'BBB' in response to the financial impacts of the February 2021 weather event and outages at our Texas-based generating assets. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information. The S&P rating change did not materially impact our financial statements. Furthermore, there were no material increases in required collateral or financial assurances or material impacts to our anticipated access to liquidity or cost of financing. At separation S&P and Moody's affirmed the senior unsecured ratings of BBB- and Baa2, respectively. Fitch also affirmed their final rating of BBB, prior to formally withdrawing coverage on January 5th. We will only be engaging S&P and Moody's for ratings coverage following separation.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We are exposed to market risks associated with adverse changes in commodity prices, counterparty credit, interest rates, and equity prices. We manage these risks through risk management policies and objectives for risk assessment, control and valuation, counterparty credit approval, and the monitoring and reporting of risk exposures. Historically, reporting on risk management issues has been to Exelon's Risk Management Committee and the Risk Committee of Exelon's Board of Directors. After separation, reporting on risk management issues will be to the Executive Committee, the Risk Management Committees of our generation and customer-facing businesses, and the Audit and Risk Committee of the Board of Directors.

**Commodity Price Risk**

Commodity price risk is associated with price movements resulting from changes in supply and demand, fuel costs, market liquidity, weather conditions, governmental, regulatory and environmental policies, and other factors. To the extent the total amount of energy we generate and purchase differs from the amount of energy we

have contracted to sell, we are exposed to market fluctuations in commodity prices. We seek to mitigate our commodity price risk through the sale and purchase of electricity, fossil fuel, and other commodities.

Electricity available from our owned or contracted generation supply in excess of our obligations to customers is sold into the wholesale markets. To reduce commodity price risk caused by market fluctuations, we enter into non-derivative contracts as well as derivative contracts, including swaps, futures, forwards, and options, with approved counterparties to hedge anticipated exposures. We use derivative instruments as economic hedges to mitigate exposure to fluctuations in commodity prices. We expect the settlement of the majority of our economic hedges will occur during 2022 through 2024.

In general, increases and decreases in forward market prices have a positive and negative impact, respectively, on our owned and contracted generation positions which have not been hedged. For merchant revenues not already hedged via comprehensive state programs, such as the CMC in Illinois, we utilize a three-year ratable sales plan to align our hedging strategy with our financial objectives. The prompt three-year merchant revenues are hedged on an approximate rolling 90%/60%/30% basis. We may also enter transactions that are outside of this ratable hedging program. As of December 31, 2021, the percentage of expected generation hedged for the Mid-Atlantic, Midwest, New York, and ERCOT reportable segments is 92%-95% and 73%-76% for 2022 and 2023, respectively. The percentage of expected generation hedged is the amount of equivalent sales divided by the expected generation. Expected generation is the volume of energy that best represents our commodity position in energy markets from owned or contracted generation based upon a simulated dispatch model that makes assumptions regarding future market conditions, which are calibrated to market quotes for power, fuel, load following products and options. Equivalent sales represent all hedging products, which include economic hedges, CMC payments, and certain non-derivative contracts.

A portion of our hedging strategy may be accomplished with fuel products based on assumed correlations between power and fuel prices, which routinely change in the market. Market price risk exposure is the risk of a change in the value of unhedged positions. The forecasted market price risk exposure for our entire economic hedge portfolio associated with a \$5/MWh reduction in the annual average around-the-clock energy price based on December 31, 2021 market conditions and hedged position would be a decrease in pre-tax net income of approximately \$20 million and \$243 million for 2022 and 2023, respectively. Power price sensitivities are derived by adjusting power price assumptions while keeping all other price inputs constant. We actively manage our portfolio to mitigate market price risk exposure for our unhedged position. Actual results could differ depending on the specific timing of, and markets affected by, price changes, as well as future changes in our portfolio. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information.

#### **Fuel Procurement**

We procure natural gas through long-term and short-term contracts, and spot-market purchases. Nuclear fuel assemblies are obtained predominantly through long-term uranium concentrate supply contracts, contracted conversion services, contracted enrichment services, or a combination thereof, and contracted fuel fabrication services. The supply markets for uranium concentrates and certain nuclear fuel services are subject to price fluctuations and availability restrictions. Supply market conditions may make our procurement contracts subject to credit risk related to the potential non-performance of counterparties to deliver the contracted commodity or service at the contracted prices. Approximately 50% of our uranium concentrate requirements from 2022 through 2026 are supplied by three suppliers. In the event of non-performance by these or other suppliers, we believe that replacement uranium concentrates can be obtained, although at prices that may be unfavorable when compared to the prices under the current supply agreements. Geopolitical developments, including the Russian Ukraine conflict and United States sanctions against Russia, have the potential to impact delivery from multiple suppliers in the international uranium industry. Non-performance by these counterparties could have a material adverse impact in our financial statements.

#### **Trading and Non-Trading Marketing Activities**

The following table detailing our trading and non-trading marketing activities is included to address the recommended disclosures by the energy industry's Committee of Chief Risk Officers (CCRO).

The following table provides detail on changes in our commodity mark-to-market net asset or liability balance sheet position from December 31, 2019 to December 31, 2021. It indicates the drivers behind changes in the balance sheet amounts. This table incorporates the mark-to-market activities that are immediately recorded in earnings. This table excludes all NPNS contracts and does not segregate proprietary trading activity. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information on the balance sheet classification of the mark-to-market energy contract net assets (liabilities) recorded as of December 31, 2021 and 2020.

	Mark-to-market Energy Contract Net Assets (Liabilities)	
Balance as of December 31, 2019	\$	868 <sup>(a)</sup>
Total change in fair value during 2020 of contracts recorded in result of operations		(203)
Reclassification to realized at settlement of contracts recorded in results of operations		469
Changes in allocated collateral		(513)
Net option premium paid		139
Option premium amortization		(104)
Upfront payments and amortizations <sup>(b)</sup>		73
Balance as of December 31, 2020	\$	729 <sup>(a)</sup>
Total change in fair value during 2021 of contracts recorded in result of operations		797
Reclassification to realized at settlement of contracts recorded in results of operations		(228)
Changes in allocated collateral		96
Net option premium paid		338
Option premium amortization		(125)
Upfront payments and amortizations <sup>(b)</sup>		15
Balance as of December 31, 2021	\$	1,622 <sup>(a)</sup>

(a) Amounts are shown net of collateral paid to and received from counterparties.

(b) Includes derivative contracts acquired or sold through upfront payments or receipts of cash, excluding option premiums, and the associated amortizations.

## Fair Values

The following table presents maturity and source of fair value for mark-to-market commodity contract net assets (liabilities). The table provides two fundamental pieces of information. First, the table provides the source of fair value used in determining the carrying amount of our total mark-to-market net assets (liabilities), net of allocated collateral. Second, the table shows the maturity, by year, of our commodity contract net assets (liabilities), net of allocated collateral, giving an indication of when these mark-to-market amounts will settle and either generate or require cash. See Note 18 — Fair Value of Financial Assets and Liabilities of the Notes to Consolidated Financial Statements for additional information regarding fair value measurements and the fair value hierarchy.

	Maturities Within						Total Fair Value
	2022	2023	2024	2025	2026	2027 and Beyond	
<b>Normal Operations, Commodity derivative contracts<sup>(a)(b)</sup>:</b>							
Actively quoted prices (Level 1)	\$ 711	\$ 66	\$ 53	\$ 43	\$ 24	\$ —	\$ 897
Prices provided by external sources (Level 2)	442	436	(60)	1	—	—	819
Prices based on model or other valuation methods (Level 3)	37	(74)	23	5	(24)	(61)	(94)
<b>Total</b>	<b>\$ 1,190</b>	<b>\$ 428</b>	<b>\$ 16</b>	<b>\$ 49</b>	<b>\$ —</b>	<b>\$ (61)</b>	<b>\$ 1,622</b>

(a) Mark-to-market gains and losses on other economic hedge and trading derivative contracts that are recorded in the results of operations.

(b) Amounts are shown net of collateral paid/(received) from counterparties (and offset against mark-to-market assets and liabilities) of \$512 million at December 31, 2021.

## Credit Risk

We would be exposed to credit-related losses in the event of non-performance by counterparties that execute derivative instruments. The credit exposure of derivative contracts, before collateral, is represented by the fair value of contracts at the reporting date. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for a detailed discussion of credit risk.

The following tables provide information on our credit exposure for all derivative instruments, NPNS, and payables and receivables, net of collateral and instruments that are subject to master netting agreements, as of December 31, 2021. The tables further delineate that exposure by credit rating of the counterparties and provide guidance on the concentration of credit risk to individual counterparties and an indication of the duration of a company's credit risk by credit rating of the counterparties. The figures in the table below exclude credit risk exposure from individual retail customers, uranium procurement contracts, and exposure through RTOs, ISOs, and commodity exchanges, which are discussed below.

Rating as of December 31, 2021	Total Exposure Before Credit Collateral	Credit Collateral <sup>(a)</sup>	Net Exposure	Number of Counterparties Greater than 10% of Net Exposure	Net Exposure of Counterparties Greater than 10% of Net Exposure
Investment grade	\$ 715	\$ 176	\$ 539	1	\$ 106
Non-investment grade	13	—	13	—	—
<b>No external ratings</b>					
Internally rated—investment grade	111	—	111	—	—
Internally rated—non-investment grade	226	47	179	—	—
<b>Total</b>	<b>\$ 1,065</b>	<b>\$ 223</b>	<b>\$ 842</b>	<b>1</b>	<b>\$ 106</b>



(a) As of December 31, 2021, credit collateral held from counterparties where we had credit exposure included \$163 million of cash and \$60 million of letters of credit.

Rating as of December 31, 2021	Maturity of Credit Risk Exposure			Total Exposure Before Credit Collateral
	Less than 2 Years	2-5 Years	Exposure Greater than 5 Years	
Investment grade	\$ 605	\$ 62	\$ 48	\$ 715
Non-investment grade	13	—	—	13
No external ratings				
Internally rated—investment grade	111	—	—	111
Internally rated—non-investment grade	181	39	6	226
Total	\$ 910	\$ 101	\$ 54	\$ 1,065

Net Credit Exposure by Type of Counterparty	As of December 31, 2021
Financial institutions	\$ 32
Investor-owned utilities, marketers, power producers	711
Energy cooperatives and municipalities	62
Other	37
Total	\$ 842

### Credit-Risk-Related Contingent Features

As part of the normal course of business, we routinely enter into physical or financial contracts for the sale and purchase of electricity, natural gas, and other commodities. In accordance with the contracts and applicable law, if we are downgraded by a credit rating agency, especially if such downgrade is to a level below investment grade, it is possible that a counterparty would attempt to rely on such a downgrade as a basis for making a demand for adequate assurance of future performance. Depending on our net position with a counterparty, the demand could be for the posting of collateral. In the absence of expressly agreed-to provisions that specify the collateral that must be provided, collateral requested will be a function of the facts and circumstances of the situation at the time of the demand. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information regarding collateral requirements and Note 19 — Commitments and Contingencies of the Notes to Consolidated Financial Statements for additional information regarding the letters of credit supporting the cash collateral.

We transact output through bilateral contracts. The bilateral contracts are subject to credit risk, which relates to the ability of counterparties to meet their contractual payment obligations. Any failure to collect these payments from counterparties could have a material impact on our financial statements. As market prices rise above or fall below contracted price levels, we are required to post collateral with purchasers; as market prices fall below contracted price levels, counterparties are required to post collateral with us. To post collateral, we depend on access to bank credit facilities, which serve as liquidity sources to fund collateral requirements. See ITEM 7. Liquidity and Capital Resources — Credit Matters — Credit Facilities for additional information.

### RTOs and ISOs

We participate in all, or some, of the established, wholesale spot energy markets that are administered by PJM, ISO-NE, NYISO, CAISO, MISO, SPP, AESO, OIESO, and ERCOT. ERCOT is not subject to regulation by FERC but performs a similar function in Texas to that performed by RTOs in markets regulated by FERC. In these areas, power is traded through bilateral agreements between buyers and sellers and on the spot energy markets that are administered by the RTOs or ISOs, as applicable. In areas where there is no spot energy market, electricity is purchased and sold solely through bilateral agreements. For sales into the spot markets administered by an RTO or ISO, the RTO or ISO maintains financial assurance policies that are established and enforced by those administrators. The credit policies of the RTOs and ISOs may, under certain circumstances, require that losses arising from the default of one member on spot energy market transactions be shared by the remaining participants. Non-performance or non-payment by a major counterparty could result in a material

adverse impact on our financial statements. See Note 3 — Regulatory Matters of the Notes to Consolidated Financial Statements for additional information on the February 2021 extreme cold weather event and Texas-based generating asset outages.

### **Exchange Traded Transactions**

We enter into commodity transactions on NYMEX, ICE, NASDAQ, NGX, and the Nodal exchange ("the Exchanges"). The Exchange clearinghouses act as the counterparty to each trade. Transactions on the Exchanges must adhere to comprehensive collateral and margining requirements. As a result, transactions on Exchanges are significantly collateralized and have limited counterparty credit risk.

### **Interest Rate and Foreign Exchange Risk**

We use a combination of fixed-rate and variable-rate debt to manage interest rate exposure. We may also utilize interest rate swaps to manage our interest rate exposure. A hypothetical 50 basis point increase in the interest rates associated with unhedged variable-rate debt (excluding Commercial Paper) and fixed-to-floating swaps would result in approximately a \$2 million decrease in our pre-tax income for the year ended December 31, 2021. To manage foreign exchange rate exposure associated with international energy purchases in currencies other than U.S. dollars, we utilize foreign currency derivatives, which are typically designated as economic hedges. See Note 16 — Derivative Financial Instruments of the Notes to Consolidated Financial Statements for additional information.

### **Equity Price Risk**

We maintain trust funds, as required by the NRC, to fund the costs of decommissioning our nuclear plants. Our NDT funds are reflected at fair value in the Consolidated Balance Sheets. The mix of securities in the trust funds is designed to provide returns to be used to fund decommissioning and to compensate us for inflationary increases in decommissioning costs; however, the equity securities in the trust funds are exposed to price fluctuations in equity markets, and the value of fixed-rate, fixed-income securities are exposed to changes in interest rates. We actively monitor the investment performance of the trust funds and periodically review asset allocations in accordance with our NDT fund investment policy. A hypothetical 25 basis points increase in interest rates and 10% decrease in equity prices would result in a \$892 million reduction in the fair value of the trust assets as of December 31, 2021. This calculation holds all other variables constant and assumes only the discussed changes in interest rates and equity prices. See Liquidity and Capital Resources section of ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS for additional information.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

**Management's Report on Internal Control Over Financial Reporting**

We are responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We assessed the effectiveness of our internal control over financial reporting as of December 31, 2021. In making this assessment, we used the criteria in *Internal Control—Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this assessment, we concluded that, as of December 31, 2021, our internal control over financial reporting was effective.

February 25, 2022

## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Member of Constellation Energy Generation, LLC

### **Opinion on the Financial Statements**

We have audited the consolidated financial statements, including the related notes, as listed in the index appearing under Item 15(a)(i), and the financial statement schedule listed in the index appearing under Item 15(a)(ii), of Constellation Energy Generation, LLC (formerly known as Exelon Generation Company, LLC) and its subsidiaries (the "Company") (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021 in conformity with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### **Critical Audit Matters**

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that (i) relate to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

### **Annual Nuclear Decommissioning Asset Retirement Obligations (AROs) Assessment**

As described in Notes 1 and 10 to the consolidated financial statements, the Company has a legal obligation to decommission its nuclear generation stations following permanent cessation of operations. To estimate its decommissioning obligations related to its nuclear generating stations for financial accounting and reporting purposes, management uses a probability-weighted, discounted cash flow model which, on a unit-by-unit basis, considers multiple outcome scenarios that include significant estimates and assumptions, and are based on decommissioning cost studies, cost escalation rates, probabilistic cash flow models, and discount rates. Management updates its AROs annually, unless circumstances warrant more frequent updates, based on its review of updated cost studies and its annual evaluation of cost escalation factors and probabilities assigned to various scenarios. As of December 31, 2021, the nuclear decommissioning AROs were \$12.7 billion.

The principal considerations for our determination that performing procedures relating to the Company's annual nuclear decommissioning AROs assessment is a critical audit matter are the significant judgment by management when estimating its decommissioning obligations; this in turn led to a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating the reasonableness of management's discounted cash flow model and significant assumptions related to decommissioning cost studies. In addition, the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's development of the inputs, assumptions, and model used in management's AROs assessment. These procedures also included, among others, testing management's process for estimating the decommissioning obligations by evaluating the appropriateness of the discounted cash flow model, testing the completeness and accuracy of data used by management, and evaluating the reasonableness of management's significant assumptions related to decommissioning cost studies. Professionals with specialized skill and knowledge were used to assist in evaluating the results of decommissioning cost studies.

#### *Impairment Assessment of Long-Lived Generation Assets*

As described in Notes 1, 8, and 12 to the consolidated financial statements, the Company evaluates the carrying value of long-lived assets or asset groups for recoverability whenever events or changes in circumstances indicate that the carrying value of those assets may not be recoverable. Indicators of impairment may include a deteriorating business climate, including, but not limited to, declines in energy prices, condition of the asset, or plans to dispose of a long-lived asset significantly before the end of its useful life. Management determines if long-lived assets or asset groups are potentially impaired by comparing the undiscounted expected future cash flows to the carrying value when indicators of impairment exist. When the undiscounted cash flow analysis indicates a long-lived asset or asset group may not be recoverable, the amount of the impairment loss is determined by measuring the excess of the carrying amount of the long-lived asset or asset group over its fair value. The fair value analysis is primarily based on the income approach using significant unobservable inputs including revenue and generation forecasts, projected capital and maintenance expenditures, and discount rates. As of December 31, 2021, the total carrying value of long-lived generation assets subject to this assessment was \$19.6 billion.

The principal considerations for our determination that performing procedures relating to the Company's impairment assessment of long-lived generation assets is a critical audit matter are the significant judgment by management in assessing the recoverability and estimating the fair value of these long-lived generation assets or asset groups; this in turn led to a high degree of auditor judgment, subjectivity and effort in performing procedures and evaluating the reasonableness of management's significant assumptions related to revenue and generation forecasts. In addition, the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's development of the inputs, assumptions, and model used to assess the recoverability and estimate the fair value of the Company's long-lived generation assets or asset groups. These procedures also included, among others, testing management's process for developing the expected future cash flows for the long-lived generation assets or asset groups by evaluating the appropriateness of the future cash flow model, testing the completeness and accuracy of the data used by management, and evaluating the reasonableness of management's significant assumptions related to revenue and generation forecasts. Evaluating the reasonableness of the revenue and generation forecasts involved considering whether the forecasts were consistent with future commodity prices and external market data. Professionals with specialized skill and knowledge were used to assist in evaluating the reasonableness of the revenue forecasts.

/s/ PricewaterhouseCoopers LLP  
Baltimore, Maryland  
February 25, 2022

We have served as the Company's auditor since 2001.

**Constellation Energy Generation, LLC and Subsidiary Companies**  
**Consolidated Statements of Operations and Comprehensive Income**

(In millions)	For the Years Ended December 31,		
	2021	2020	2019
<b>Operating revenues</b>			
Operating revenues	\$ 18,461	\$ 16,392	\$ 17,752
Operating revenues from affiliates	1,188	1,211	1,172
Total operating revenues	19,649	17,603	18,924
<b>Operating expenses</b>			
Purchased power and fuel	12,157	9,592	10,849
Purchased power and fuel from affiliates	6	(7)	7
Operating and maintenance	3,934	4,613	4,131
Operating and maintenance from affiliates	621	555	587
Depreciation and amortization	3,003	2,123	1,535
Taxes other than income taxes	475	482	519
Total operating expenses	20,196	17,358	17,628
<b>Gain on sales of assets and businesses</b>	201	11	27
<b>Operating (loss) income</b>	(346)	256	1,323
<b>Other income and (deductions)</b>			
Interest expense, net	(282)	(328)	(394)
Interest expense to affiliates	(15)	(29)	(35)
Other, net	795	937	1,023
Total other income and (deductions)	498	580	594
<b>Income before income taxes</b>	152	836	1,917
<b>Income taxes</b>	225	249	516
<b>Equity in losses of unconsolidated affiliates</b>	(10)	(8)	(184)
<b>Net (loss) income</b>	(83)	579	1,217
<b>Net income (loss) attributable to noncontrolling interests</b>	122	(10)	92
<b>Net (loss) income attributable to membership interest</b>	\$ (205)	\$ 589	\$ 1,125
<b>Comprehensive (loss) income, net of income taxes</b>			
Net (loss) income	\$ (83)	\$ 579	\$ 1,217
<b>Other comprehensive (loss) income, net of income taxes</b>			
Unrealized loss on cash flow hedges	(1)	(2)	—
Unrealized gain on investments in unconsolidated affiliates	—	—	1
Unrealized gain on foreign currency translation	—	4	6
Other comprehensive (loss) income, net of income taxes	(1)	2	7
<b>Comprehensive (loss) income</b>	(84)	581	1,224
<b>Comprehensive income (loss) attributable to noncontrolling interests</b>	122	(10)	93
<b>Comprehensive (loss) income attributable to membership interest</b>	\$ (206)	\$ 591	\$ 1,131

**Constellation Energy Generation, LLC and Subsidiary Companies**  
**Consolidated Statements of Cash Flows**

(In millions)	For the Years Ended December 31,		
	2021	2020	2019
<b>Cash flows from operating activities</b>			
Net (loss) income	\$ (83)	\$ 579	\$ 1,217
Adjustments to reconcile net (loss) income to net cash flows provided by operating activities:			
Depreciation, amortization, and accretion, including nuclear fuel and energy contract amortization	4,540	3,636	3,063
Asset impairments	545	563	201
Gain on sales of assets and businesses	(201)	(11)	(27)
Deferred income taxes and amortization of investment tax credits	(205)	78	361
Net fair value changes related to derivatives	(568)	(270)	228
Net realized and unrealized gains on NDT funds	(586)	(461)	(663)
Net unrealized (losses) gains on equity investments	160	(186)	—
Other non-cash operating activities	(605)	18	(124)
Changes in assets and liabilities:			
Accounts receivable	(616)	1,125	(186)
Receivables from and payables to affiliates, net	14	24	(52)
Inventories	(68)	(77)	(47)
Accounts payable and accrued expenses	346	(343)	(248)
Option premiums paid, net	(338)	(139)	(29)
Collateral (posted) received, net	(130)	479	(481)
Income taxes	256	186	302
Pension and non-pension postretirement benefit contributions	(259)	(255)	(175)
Other assets and liabilities	(3,540)	(4,362)	(467)
Net cash flows (used in) provided by operating activities	(1,338)	584	2,873
<b>Cash flows from investing activities</b>			
Capital expenditures	(1,329)	(1,747)	(1,845)
Proceeds from NDT fund sales	6,532	3,341	10,051
Investment in NDT funds	(6,673)	(3,464)	(10,087)
Collection of DPP	3,902	3,771	—
Proceeds from sales of assets and businesses	878	46	52
Acquisitions of assets and businesses, net	—	—	(41)
Other investing activities	(28)	11	3
Net cash flows provided by (used in) investing activities	3,282	1,958	(1,867)
<b>Cash flows from financing activities</b>			
Changes in short-term borrowings	362	20	320
Proceeds from short-term borrowings with maturities greater than 90 days	880	500	—
Issuance of long-term debt	152	3,155	42
Retirement of long-term debt	(105)	(4,334)	(813)
Retirement of long-term debt to affiliate	—	(550)	—
Changes in money pool with Exelon	(285)	285	(100)
Acquisition of CENG noncontrolling interest	(885)	—	—
Distributions to member	(1,832)	(1,734)	(899)
Contributions from member	64	64	41
Other financing activities	(46)	(70)	(51)
Net cash flows used in financing activities	(1,695)	(2,664)	(1,460)
<b>Increase (decrease) in cash, restricted cash, and cash equivalents</b>	249	(122)	(454)
<b>Cash, restricted cash, and cash equivalents at beginning of period</b>	327	449	903
<b>Cash, restricted cash, and cash equivalents at end of period</b>	\$ 576	\$ 327	\$ 449
<b>Supplemental cash flow information</b>			
Increase (decrease) in capital expenditures not paid	\$ 96	\$ (88)	\$ (34)
Increase in DPP	3,652	4,441	—
Increase in PP&E related to ARO update	618	850	959

See the Notes to Consolidated Financial Statements

**Constellation Energy Generation, LLC and Subsidiary Companies**  
**Consolidated Balance Sheets**

(In millions)	December 31,	
	2021	2020
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 504	\$ 226
Restricted cash and cash equivalents	72	89
Accounts receivable		
Customer accounts receivable	1,724	1,330
Customer allowance for credit losses	(55)	(32)
Customer accounts receivable, net	1,669	1,298
Other accounts receivable	597	352
Other allowance for credit losses	(5)	—
Other accounts receivable, net	592	352
Mark-to-market derivative assets	2,169	644
Receivables from affiliates	160	153
Inventories, net		
Fossil fuel and emission allowances	284	233
Materials and supplies	1,004	978
Renewable energy credits	520	621
Assets held for sale	13	958
Other	994	1,395
Total current assets	7,981	6,947
<b>Property, plant, and equipment (net of accumulated depreciation and amortization of \$15,873 and \$13,370 as of December 31, 2021 and 2020, respectively)</b>	<b>19,612</b>	<b>22,214</b>
<b>Deferred debits and other assets</b>		
Nuclear decommissioning trust funds	15,938	14,464
Investments	174	184
Mark-to-market derivative assets	949	555
Prepaid pension asset	1,683	1,558
Deferred income taxes	32	6
Other	1,717	2,166
Total deferred debits and other assets	20,493	18,933
<b>Total assets<sup>(a)</sup></b>	<b>\$ 48,086</b>	<b>\$ 48,094</b>

See the Notes to Consolidated Financial Statements



**Constellation Energy Generation, LLC and Subsidiary Companies**  
**Consolidated Balance Sheets**

(In millions)	December 31,	
	2021	2020
<b>LIABILITIES AND EQUITY</b>		
<b>Current liabilities</b>		
Short-term borrowings	\$ 2,082	\$ 840
Long-term debt due within one year	1,220	197
Accounts payable	1,757	1,253
Accrued expenses	737	788
Payables to affiliates	131	107
Borrowings from money pool with Exelon	—	285
Mark-to-market derivative liabilities	981	262
Renewable energy credit obligation	777	661
Liabilities held for sale	3	375
Other	308	451
Total current liabilities	7,996	5,219
<b>Long-term debt</b>	4,575	5,566
<b>Long-term debt to affiliates</b>	319	324
<b>Deferred credits and other liabilities</b>		
Deferred income taxes and unamortized investment tax credits	3,703	3,656
Asset retirement obligations	12,819	12,054
Non-pension postretirement benefit obligations	847	858
Spent nuclear fuel obligation	1,210	1,208
Payables to affiliates	3,357	3,017
Mark-to-market derivative liabilities	513	205
Other	1,133	1,311
Total deferred credits and other liabilities	23,582	22,309
Total liabilities <sup>(a)</sup>	36,472	33,418
<b>Commitments and contingencies</b>		
<b>Equity</b>		
Member's equity		
Membership interest	10,482	9,624
Undistributed earnings	768	2,805
Accumulated other comprehensive loss, net	(31)	(30)
Total member's equity	11,219	12,399
Noncontrolling interests	395	2,277
Total equity	11,614	14,676
<b>Total liabilities and equity</b>	\$ 48,086	\$ 48,094

(a) Our consolidated assets include \$2,549 million and \$10,182 million as of December 31, 2021 and 2020, respectively, of certain VIEs that can only be used to settle the liabilities of the VIE. Our consolidated liabilities include \$1,077 million and \$3,572 million as of December 31, 2021 and 2020, respectively, of certain VIEs for which the VIE creditors do not have recourse to us. See Note 21—Variable Interest Entities for additional information.

See the Notes to Consolidated Financial Statements

**Constellation Energy Generation, LLC and Subsidiary Companies**  
**Consolidated Statements of Changes in Equity**

(In millions)	Member's Equity				
	Membership Interest	Undistributed Earnings	Accumulated Other Comprehensive Loss, net	Noncontrolling Interests	Total Equity
<b>Balance, December 31, 2018</b>	\$ 9,518	\$ 3,724	\$ (38)	\$ 2,304	\$ 15,508
Net income	—	1,125	—	92	1,217
Sale of noncontrolling interests	7	—	—	—	7
Changes in equity of noncontrolling interests	—	—	—	(48)	(48)
Distributions to member	—	(899)	—	—	(899)
Contributions from member	41	—	—	—	41
Other comprehensive income (loss), net of income taxes	—	—	6	(2)	4
<b>Balance, December 31, 2019</b>	\$ 9,566	\$ 3,950	\$ (32)	\$ 2,346	\$ 15,830
Net income (loss)	—	589	—	(10)	579
Sale of noncontrolling interests	3	—	—	—	3
Changes in equity of noncontrolling interests	—	—	—	(59)	(59)
Distribution to member of deferred taxes associated with net retirement benefit obligation	(9)	—	—	—	(9)
Distributions to member	—	(1,734)	—	—	(1,734)
Contributions from member	64	—	—	—	64
Other comprehensive income, net of income taxes	—	—	2	—	2
<b>Balance, December 31, 2020</b>	\$ 9,624	\$ 2,805	\$ (30)	\$ 2,277	\$ 14,676
Net (loss) income	—	(205)	—	122	(83)
Changes in equity of noncontrolling interests	—	—	—	(37)	(37)
Acquisition of CENG noncontrolling interest	1,080	—	—	(1,965)	(885)
Deferred tax adjustment related to acquisition of CENG noncontrolling interest	(288)	—	—	—	(288)
Distributions to member	—	(1,832)	—	—	(1,832)
Contributions from member	64	—	—	—	64
Acquisition of other noncontrolling interest	2	—	—	(2)	—
Other comprehensive loss, net of income taxes	—	—	(1)	—	(1)
<b>Balance, December 31, 2021</b>	\$ 10,482	\$ 768	\$ (31)	\$ 395	\$ 11,614

See the Notes to Consolidated Financial Statements

**Notes to Consolidated Financial Statements**  
**(Dollars in millions, unless otherwise noted)**

**1. Significant Accounting Policies**

**Description of Business**

We are a supplier of clean energy. Our generating capacity consists of nuclear, wind, solar, natural gas and hydroelectric assets. Through our integrated business operations, we sell electricity, natural gas, and other energy related products and sustainable solutions to various types of customers, including distribution utilities, municipalities, cooperatives, and commercial, industrial, governmental, and residential customers in competitive markets across multiple geographic regions. We have five reportable segments: Mid-Atlantic, Midwest, New York, ERCOT and Other Power Regions.

**Basis of Presentation**

On February 21, 2021, the board of directors of Exelon authorized management to pursue a plan to separate its competitive generation and customer-facing energy businesses, conducted through Constellation Energy Generation, LLC ("Constellation", formerly Exelon Generation Company, LLC) and its subsidiaries, into an independent, publicly-traded company. CEG Parent, a direct, wholly owned subsidiary of Exelon, was newly formed for the purpose of separation and had not engaged in any business activities nor had any assets or liabilities prior to the separation. On February 1, 2022, Exelon completed the separation by distributing all the outstanding shares of CEG Parent's common stock, on a pro rata basis to the holders of Exelon's common stock, with CEG Parent holding all the interests in Constellation previously held by Exelon. See Note 24 — Separation from Exelon for additional information.

As an individual registrant, Constellation has historically filed consolidated financial statements to reflect its financial position and operating results as a stand-alone, wholly owned subsidiary of Exelon. The accompanying Consolidated Financial Statements of Constellation have been prepared in accordance with GAAP for annual financial statements and in accordance with the instructions to Form 10-K and Regulation S-X promulgated by the SEC. The Consolidated Financial Statements include the accounts of our subsidiaries and all intercompany transactions have been eliminated. Unless otherwise indicated or the context otherwise requires, references herein to the terms "we," "us," and "our" refer to Constellation.

We own 100% of our significant consolidated subsidiaries, either directly or indirectly, except for certain consolidated VIEs, including CRP, of which we hold a 51% interest. The remaining interests in the consolidated VIEs are included in noncontrolling interests on the Consolidated Balance Sheets. See Note 21 — Variable Interest Entities for additional information on consolidated VIEs.

We consolidate the accounts of entities in which we have a controlling financial interest, after the elimination of intercompany transactions. Where we do not have a controlling financial interest in an entity, proportionate consolidation, equity method accounting or accounting for investments in equity securities with or without readily determinable fair value is applied. We apply proportionate consolidation when we have an undivided interest in an asset and are proportionately liable for our share of each liability associated with the asset. We proportionately consolidate our undivided ownership interest in jointly owned electric plants. Under proportionate consolidation, we separately record our proportionate share of the assets, liabilities, revenues and expenses related to the undivided interest in the asset. We apply equity method accounting when we have a significant influence over an investee through an ownership in equity, which generally approximates a 20% to 50% voting interest.

We apply equity method accounting to certain investments and joint ventures. Under equity method accounting, we report our interest in the entity as an investment and our percentage share of the earnings from the entity as single line items in our financial statements. We use accounting for investments in equity securities with or without readily determinable fair values if we lack a significant influence, which generally results when we hold less than 20% of the common stock of an entity. Under accounting for investments in equity securities with readily determinable fair values, the investments are reported based on quoted prices in active markets and realized and unrealized gains and losses are included in earnings. Under accounting for investments in equity securities without readily determinable fair values, the investments are reported at cost adjusted for changes from observable transactions for identical or similar investments of the same issuer, less impairment, and changes in measurement are reported in earnings.

**COVID-19**

We have taken steps to mitigate the potential risks posed by the global outbreak (pandemic) of the 2019 novel coronavirus (COVID-19). We provide a critical service to our customers and have taken measures to keep employees who operate the business safe and minimize unnecessary risk of exposure to the virus, including extra precautions for employees who work in the field. We have implemented work from home policies where appropriate and imposed travel limitations on employees.

Management makes estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and accompanying notes, and the amounts of revenues and expenses reported during the periods covered by those financial statements and accompanying notes. As of December 31, 2021 and 2020, and through the date of this report, management assessed certain accounting matters that require consideration of forecasted financial information, including, but not limited to the allowance for credit losses and the carrying value of other long-lived assets, in context with the information reasonably available to us and the unknown future impacts of COVID-19. Our future assessment of the magnitude and duration of COVID-19, as well as other factors, could result in material impacts in the consolidated financial statements in future reporting periods.

**Use of Estimates**

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Areas in which significant estimates have been made include, but are not limited to, the accounting for nuclear decommissioning costs and other AROs, pension and OPEB plans, inventory reserves, allowance for credit losses, long-lived asset impairment assessments, derivative instruments, unamortized energy contracts, fixed asset depreciation, environmental costs and other loss contingencies, taxes and unbilled energy revenues. Actual results could differ from those estimates.

**Revenues**

**Operating Revenues.** Our operating revenues generally consist of revenues from contracts with customers involving the sale and delivery of energy commodities and related products and services and realized and unrealized revenues recognized under mark-to-market energy commodity derivative contracts. We recognize revenue from contracts with customers to depict the transfer of goods or services to customers in an amount that we expect to be entitled to in exchange for those goods or services. Our primary source of revenue includes competitive sales of power, natural gas, and other energy-related products and services. At the end of each reporting period, we accrue an estimate for the unbilled amount of energy delivered or services provided to customers.

**Option Contracts, Swaps and Commodity Derivatives.** Certain option contracts and swap arrangements that meet the definition of derivative instruments are recorded at fair value with subsequent changes in fair value recognized as revenue or expense. The classification of revenue or expense is based on the intent of the transaction. See Note 16 — Derivative Financial Instruments for additional information.

**Taxes Directly Imposed on Revenue-Producing Transactions.** We collect certain taxes from customers such as sales and gross receipts taxes, along with other taxes, surcharges and fees, that are levied by state or local governments on the sale or distribution of electricity and natural gas. Some of these taxes are imposed on the customer, but paid by us, while others are imposed on us. Where these taxes are imposed on the customer, such as sales taxes, they are reported on a net basis with no impact to the Consolidated Statements of Operations and Comprehensive Income. However, where these taxes are imposed on us, such as gross receipts taxes, they are reported on a gross basis. Accordingly, revenues are recognized for the taxes collected from customers along with an offsetting expense. See Note 22 — Supplemental Financial Information for the taxes that are presented on a gross basis.

**Leases**

We recognize a ROU asset and lease liability for operating leases with a term of greater than one year. Operating lease ROU assets are included in Other deferred debits and other assets and operating lease liabilities are included in Other current liabilities and Other deferred credits and other liabilities on the Consolidated

Balance Sheets. The ROU asset is measured as the sum of (1) the present value of all remaining fixed and in-substance fixed payments using the rate implicit in the lease whenever that is readily determinable or our incremental borrowing rate, (2) any lease payments made at or before the commencement date (less any lease incentives received) and (3) any initial direct costs incurred. The lease liability is measured the same as the ROU asset, but excludes any payments made before the commencement date and initial direct costs incurred. Lease terms include options to extend or terminate the lease if it is reasonably certain they will be exercised. We include non-lease components for most asset classes, which are service-related costs that are not integral to the use of the asset, in the measurement of the ROU asset and lease liability.

Expense for operating leases and leases with a term of one year or less is recognized on a straight-line basis over the term of the lease, unless another systematic and rational basis is more representative of the derivation of benefit from use of the leased property. Variable lease payments are recognized in the period in which the related obligation is incurred and consist primarily of payments for purchases of electricity under contracted generation that are based on the electricity produced by those generating assets. Operating lease expense and variable lease payments are recorded to Purchased power and fuel expense for contracted generation or Operating and maintenance expense for all other lease agreements in the Consolidated Statements of Operations and Comprehensive Income.

Income from operating leases, including subleases, is recognized on a straight-line basis over the term of the lease, unless another systematic and rational basis is more representative of the pattern in which income is earned over the term of the lease. Variable lease payments are recognized in the period in which the related obligation is performed and consist primarily of payments received from sales of electricity under contracted generation that are based on the electricity produced by those generating assets. Operating lease income and variable lease payments are recorded to Operating revenues in the Consolidated Statements of Operations and Comprehensive Income.

Our operating leases consist primarily of contracted generation, real estate including office buildings, and vehicles and equipment. We generally account for contracted generation in which the generating asset is not renewable as a lease if the customer has dispatch rights and obtains substantially all the economic benefits. We generally do not account for contracted generation in which the generating asset is renewable as a lease if the customer does not design the generating asset. We account for land right arrangements that provide for exclusive use as leases while shared use land arrangements are generally not leases.

See Note 11 — Leases for additional information.

**Income Taxes**

Deferred federal and state income taxes are recorded on significant temporary differences between the book and tax basis of assets and liabilities and for tax benefits carried forward. Investment tax credits have been deferred in the Consolidated Balance Sheets and are recognized in book income over the life of the related property. We account for uncertain income tax positions using a benefit recognition model with a two-step approach; a more-likely-than-not recognition criterion; and a measurement approach that measures the position as the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement. If it is not more-likely-than-not that the benefit of the tax position will be sustained on its technical merits, no benefit is recorded. Uncertain tax positions that relate only to timing of when an item is included on a tax return are considered to have met the recognition threshold. We recognize accrued interest related to unrecognized tax benefits in Interest expense, net or Other, net (interest income) and recognize penalties related to unrecognized tax benefits in Other, net in the Consolidated Statements of Operations and Comprehensive Income.

**Cash and Cash Equivalents**

We consider investments purchased with an original maturity of three months or less to be cash equivalents.

**Restricted Cash and Cash Equivalents**

Restricted cash and cash equivalents represent funds that are restricted to satisfy designated current liabilities. As of December 31, 2021 and 2020, restricted cash and cash equivalents primarily represented the project-specific nonrecourse financing structures for debt service and financing of operations of the underlying entities. See Note 17 — Debt and Credit Agreements and Note 22 — Supplemental Financial Information for additional information.

**Allowance for Credit Losses on Accounts Receivables**

The allowance for credit losses reflects our best estimate of losses on the customers' accounts receivable balances based on historical experience, current information, and reasonable and supportable forecasts.

The allowance for credit losses for our retail customers is based on accounts receivable aging historical experience coupled with specific identification through a credit monitoring process, which considers current conditions and forward-looking information such as industry trends, macroeconomic factors, changes in the regulatory environment, external credit ratings, publicly available news, payment status, payment history, and the exercise of collateral calls. The allowance for credit losses for our wholesale customers is developed using a credit monitoring process, like that used for retail customers. When a wholesale customer's risk characteristics are no longer aligned with the pooled population, we use specific identification to develop an allowance for credit losses. Adjustments to the allowance for credit losses are recorded in Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income.

We have certain non-customer receivables in Other deferred debits and other assets which primarily are with governmental agencies and other high-quality counterparties with no history of default. As such, the allowance for credit losses related to these receivables is not material. We monitor these balances and will record an allowance if there are indicators of a decline in credit quality.

**Variable Interest Entities**

We account for our investments in and arrangements with VIEs based on the following specific requirements:

- qualitative assessment of factors determinant in whether we have a controlling financial interest,
- ongoing reconsideration of this assessment, and
- where we consolidate a VIE (as primary beneficiary), disclosure of (1) the assets of the consolidated VIE, if they can be used to only settle specific obligations of the consolidated VIE, and (2) the liabilities of a consolidated VIE for which creditors do not have recourse to the general credit of the primary beneficiary.

See Note 21 — Variable Interest Entities for additional information.

**Inventories**

Inventory is recorded at the lower of weighted average cost or net realizable value. Provisions are recorded for excess and obsolete inventory. Natural gas, oil, materials and supplies, and emissions allowances are generally included in inventory when purchased. Natural gas, oil, and emissions allowances are expensed to Purchased power and fuel expense when used or sold. Materials and supplies generally include items utilized within our generating plants and are expensed to Operating and maintenance or capitalized to Property, plant and equipment, as appropriate, when installed or used.

**Debt and Equity Security Investments**

**Debt Security Investments.** Debt securities are reported at fair value and classified as available-for-sale securities. Unrealized gains and losses, net of tax, are reported in Other Comprehensive Income.

**Equity Security Investments without Readily Determinable Fair Values.** We have certain equity securities without readily determinable fair values. We have elected to use the measurement alternative to measure these investments, defined as cost adjusted for changes from observable transactions for identical or similar investments of the same issuer, less impairment. Changes in measurement are reported in Other, net in the Consolidated Statements of Operations and Comprehensive Income.

**Equity Security Investments with Readily Determinable Fair Values.** We have certain equity securities with readily determinable fair values. For equity securities held in NDT funds, realized and unrealized gains and losses, net of tax, on our NDT funds associated with the Regulatory Agreement Units are included in Noncurrent payables to affiliates. Realized and unrealized gains and losses, net of tax, on our NDT funds associated with the Non-Regulatory Agreement Units are included in earnings. Our NDT funds are classified as current or noncurrent assets, depending on the timing of the decommissioning activities and income taxes on trust earnings. For all other equity securities with readily determinable fair values, realized and unrealized gains and losses are included in Other, net in the Consolidated Statements of Operations and Comprehensive Income. See Note 18 — Fair Value of Financial Assets and Liabilities and Note 10 — Asset Retirement Obligations for additional information.

**Property, Plant and Equipment**

Property, plant and equipment is recorded at original cost. Original cost includes construction-related direct labor and material costs. When appropriate, original cost also includes capitalized interest. Costs associated with nuclear outages and planned major maintenance activities, are expensed to Operating and maintenance expense or capitalized to Property, plant, and equipment based on the nature of the activities in the period incurred. The cost of repairs and maintenance and minor replacements of property, is charged to Operating and maintenance expense as incurred.

Upon retirement, the cost of property is generally charged to accumulated depreciation in accordance with the composite and group methods of depreciation. Upon replacement of an asset, the costs to remove the asset, net of salvage, are capitalized to gross plant when incurred as part of the cost of the newly-installed asset and recorded to depreciation expense over the life of the new asset. Removal costs, net of salvage, incurred for property that will not be replaced is charged to Operating and maintenance expense as incurred.

**Capitalized Software.** Certain costs, such as design, coding, and testing incurred during the application development stage of software projects that are internally developed or purchased for operational use are capitalized in Property, plant and equipment in the Consolidated Balance Sheets. Similar costs incurred for cloud-based solutions treated as service arrangements are capitalized in Other current assets and Deferred debits and other assets in the Consolidated Balance Sheets. Such capitalized amounts are amortized ratably over the expected lives of the projects when they become operational, generally not to exceed five years. Certain other capitalized software costs are being amortized over longer lives based on the expected life.

**Capitalized Interest.** During construction, we capitalize the costs of debt funds used to finance construction projects. Capitalization of debt funds is recorded as a charge to construction work in progress and as a non-cash credit to interest expense. See Note 8 — Property, Plant, and Equipment, Note 9 — Jointly Owned Electric Utility Plant and Note 22 — Supplemental Financial Information for additional information.

**Nuclear Fuel**

The cost of nuclear fuel is capitalized in Property, plant and equipment and charged to Purchased power and fuel using the unit-of-production method. Any potential future SNF disposal fees will also be expensed through Purchased power and fuel expense. Additionally, certain on-site SNF storage costs are being reimbursed by the DOE since a DOE (or government-owned) long-term storage facility has not been completed. See Note 19 — Commitments and Contingencies for additional information regarding the cost of SNF storage and disposal.

**Depreciation and Amortization**

Except for the amortization of nuclear fuel, depreciation is generally recorded over the estimated service lives of property, plant and equipment on a straight-line basis using the group, composite or unitary methods of depreciation. The group approach is typically for groups of similar assets that have approximately the same useful lives and the composite approach is used for dissimilar assets that have different lives. Under both methods, a reporting entity depreciates the assets over the average life of the assets in the group. The estimated service lives are based on a combination of depreciation studies, historical retirements, site licenses and management estimates of operating costs and expected future energy market conditions. See Note 7 — Early Plant Retirements for additional information on the impacts of early plant retirements, Note 8 — Property, Plant, and Equipment for additional information regarding depreciation, and Note 22 — Supplemental Financial Information for additional information regarding nuclear fuel and ARC.

**Asset Retirement Obligations**

We estimate and recognize a liability for our legal obligation to perform asset retirement activities even though the timing and/or methods of settlement may be conditional on future events. We generally update our nuclear decommissioning ARO annually, unless circumstances warrant more frequent updates, based on our annual evaluation of cost escalation factors and probabilities assigned to the multiple outcome scenarios within our probability-weighted discounted cash flow models. Our multiple outcome scenarios are generally based on decommissioning cost studies which are updated, on a rotational basis, for each of our nuclear units at least every five years, unless circumstances warrant more frequent updates. AROs are accreted throughout each year to reflect the time value of money for these present value obligations through a charge to Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income for Non-Regulatory Agreement Units and through a decrease in noncurrent payables to affiliates for Regulatory Agreement Units. See Note 10 — Asset Retirement Obligations for additional information.

**Guarantees**

If necessary, we recognize a liability at the time of issuance of a guarantee for the fair value of the obligations we have undertaken by issuing the guarantee. The liability is reduced or eliminated as we are released from risk under the guarantee. Depending on the nature of the guarantee, the release from risk may be recognized only upon the expiration or settlement of the guarantee or by a systematic and rational amortization method over the term of the guarantee. See Note 19 — Commitments and Contingencies for additional information.

**Asset Impairments**

**Long-Lived Assets.** We regularly monitor and evaluate the carrying value of long-lived assets or asset groups for recoverability whenever events or changes in circumstances indicate that the carrying value of those assets may not be recoverable. Indicators of impairment may include a deteriorating business climate, including, but not limited to, declines in energy prices, condition of the asset, or plans to dispose of a long-lived asset significantly before the end of its useful life. We determine if long-lived assets or asset groups are potentially impaired by comparing the undiscounted expected future cash flows to the carrying value when indicators of impairment exist. When the undiscounted cash flow analysis indicates a long-lived asset or asset group may not be recoverable, the amount of the impairment loss is determined by measuring the excess of the carrying amount of the long-lived asset or asset group over its fair value. See Note 12 — Asset Impairments for additional information.

**Equity Method Investments.** We regularly monitor and evaluate equity method investments to determine whether they are impaired. An impairment is recorded when the investment has experienced a decline in value that is other-than-temporary in nature. Additionally, if the entity in which we hold an investment recognizes an impairment loss, we would record their proportionate share of that impairment loss and evaluate the investment for an other-than-temporary decline in value.

**Debt Security Investments.** Declines in the fair value of debt security investments below the cost basis are reviewed to determine if such declines are other-than-temporary. If the decline is determined to be other-than-temporary, the amount of the impairment loss is included in earnings.

**Equity Security Investments.** Equity investments with readily determinable fair values are measured and recorded at fair value with any changes in fair value recorded in earnings. Investments in equity securities without readily determinable fair values are qualitatively assessed for impairment each reporting period. If it is determined that the equity security is impaired, an impairment loss will be recognized in earnings to the amount by which the security's carrying amount exceeds its fair value.

**Derivative Financial Instruments**

All derivatives are recognized on the balance sheet at their fair value unless they qualify for certain exceptions, including NPNS. For derivatives intended to serve as economic hedges, changes in fair value are recognized in earnings each period. Amounts classified in earnings are included in Operating revenue, Purchased power and fuel, Interest expense, or Other, net in the Consolidated Statements of Operations and Comprehensive Income based on the activity the transaction is economically hedging. While most of the derivatives serve as economic hedges, there are also derivatives entered into for proprietary trading purposes, subject to our RMP, and changes in the fair value of those derivatives are recorded in revenue or expense in the Consolidated Statements of



Operations and Comprehensive Income. Cash inflows and outflows related to derivative instruments are included as a component of operating, investing, or financing cash flows in the Consolidated Statements of Cash Flows, depending on the nature of each transaction.

As part of the energy marketing business, we enter contracts to buy and sell energy to meet the requirements of our customers. These contracts include short-term and long-term commitments to purchase and sell energy and energy-related products in the energy markets with the intent and ability to deliver or take delivery of the underlying physical commodity. NPNS are contracts where physical delivery is probable, quantities are expected to be used or sold in the normal course of business over a reasonable period and will not be financially settled. Revenues and expenses on derivative contracts that qualify, and are designated, as NPNS are recognized when the underlying physical transaction is completed. While these contracts are considered derivative financial instruments, they are not required to be recorded at fair value. See Note 16 — Derivative Financial Instruments for additional information.

**Retirement Benefits**

Exelon sponsored defined benefit pension plans and OPEB plans as described in Note 15 — Retirement Benefits . The plan obligations and costs of providing benefits under these plans were measured as of December 31, 2021. We accounted for our participation in Exelon's pension and OPEB plans by applying multi-employer accounting. Exelon allocated costs related to its pension and OPEB plans to its subsidiaries based on both active and retired employee participation in each plan. We included the service cost and non-service cost components in Operating and maintenance expense and Property, plant, and equipment, net in the consolidated financial statements.

**2. Mergers, Acquisitions, and Dispositions*****CENG Put Option***

Prior to August 6, 2021, we owned a 50.01% membership interest in CENG, a joint venture with EDF, which wholly owns the Calvert Cliffs and Ginna nuclear stations and Nine Mile Point Unit 1, in addition to an 82% undivided ownership interest in Nine Mile Point Unit 2. CENG is 100% consolidated in our financial statements. See Note 21 — Variable Interest Entities for additional information.

On April 1, 2014, we entered into various agreements including a NOSA, an amended LLC Operating Agreement, an Employee Matters Agreement, and a Put Option Agreement, among others with EDF. Under the amended LLC Operating Agreement, CENG made a \$400 million special distribution to EDF and committed to make preferred distributions to us until we had received aggregate distributions of \$400 million plus a return of 8.50% per annum.

Under the terms of the Put Option Agreement, EDF had the option to sell its 49.99% equity interest in CENG exercisable beginning on January 1, 2016 and thereafter until June 30, 2022. On November 20, 2019, we received notice of EDF's intention to exercise the put option, and the put automatically exercised on January 19, 2020 at the end of the sixty-day advance notice period. The transaction required approval by FERC and the NYPSC, which approvals were received on July 30, 2020 and April 15, 2021, respectively. On August 6, 2021, we entered into a settlement agreement pursuant to which we purchased EDF's equity interest in CENG for a net purchase price of \$885 million, which includes, among other things, an adjustment for EDF's share of the outstanding balance of the preferred distribution payable to us by CENG. The difference between the net purchase price and EDF's noncontrolling interest as of August 6, 2021 was recorded to Membership interest in the Consolidated Balance Sheet. As a result of the transaction, we also recorded deferred tax liabilities of \$288 million in Membership interest in the Consolidated Balance Sheet. See Note 14 — Income Taxes for additional information.

The following table summarizes the effects of the changes in our ownership interest in CENG in Members Equity:

	<b>For the Year Ended December 31, 2021</b>
Net loss attributable to membership interest	\$ (205)
Pre-tax increase in membership interest for purchase of EDF's 49.99% equity interest <sup>(a)</sup>	1,080
Decrease in membership interest due to deferred tax liabilities resulting from purchase of EDF's 49.99% equity interest <sup>(a)</sup>	(288)
Change from net loss attributable to membership interest and transfers from noncontrolling interest	\$ 587

(a) Represents non-cash activity in the consolidated financial statements.

**Agreement for Sale of Our Solar Business**

On December 8, 2020, we entered into an agreement with an affiliate of Brookfield Renewable, for the sale of a significant portion of our solar business, including 360 MW of generation in operation or under construction across more than 600 sites across the United States. We will retain certain solar assets not included in this agreement, primarily Antelope Valley.

Completion of the transaction contemplated by the sale agreement was subject to the satisfaction of several closing conditions that were satisfied in the first quarter of 2021. The sale was completed on March 31, 2021 for a purchase price of \$810 million. We received cash proceeds of \$675 million, net of \$125 million long-term debt assumed by the buyer and certain working capital and other post-closing adjustments. We recognized a pre-tax gain of \$68 million which is included in Gain on sales of assets and businesses in the Consolidated Statement of Operations and Comprehensive Income.

See Note 17 — Debt and Credit Agreements for additional information on the SolGen nonrecourse debt included as part of the transaction.

**Agreement for Sale of Our Biomass Facility**

On April 28, 2021, we entered into a purchase agreement with ReGenerate, under which ReGenerate agreed to purchase our interest in the Albany Green Energy biomass facility. As a result, in the second quarter of 2021, we recorded a pre-tax impairment charge of \$140 million in Operating and maintenance expense in the Consolidated Statement of Operations and Comprehensive Income. Completion of the transaction was subject to the satisfaction of various customary closing conditions that were satisfied in the second quarter of 2021. The sale was completed on June 30, 2021 for a net purchase price of \$36 million.

**Disposition of Oyster Creek**

On July 31, 2018, we entered into an agreement with Holtec and its indirect wholly owned subsidiary, OCEP, for the sale and decommissioning of Oyster Creek located in Forked River, New Jersey, which permanently ceased generation operations on September 17, 2018. Completion of the transaction contemplated by the sale agreement was subject to the satisfaction of several closing conditions, including approval of the license transfer from the NRC and other regulatory approvals, and a private letter ruling from the IRS, which were satisfied in the second quarter of 2019. The sale was completed on July 1, 2019. We recognized a loss on the sale in the third quarter of 2019, which was immaterial.

Under the terms of the transaction, we transferred to OCEP substantially all the assets associated with Oyster Creek, including assets held in NDT funds, along with the assumption of liability for all responsibility for the site, including full decommissioning and ongoing management of the SNF until it is moved offsite. The terms of the transaction also include various forms of performance assurance for the obligations of OCEP to timely complete the required decommissioning, including a parental guaranty from Holtec for all performance and payment obligations of OCEP, and a requirement for Holtec to deliver a letter of credit to us upon the occurrence of specified events.

### 3. Regulatory Matters

The following matters below discuss the status of our material regulatory and legislative proceedings.

#### ***Impacts of the February 2021 Extreme Cold Weather Event and Texas-based Generating Assets Outages***

Beginning on February 15, 2021, our Texas-based generating assets within the ERCOT market, specifically Colorado Bend II, Wolf Hollow II, and Handley, experienced outages as a result of extreme cold weather conditions. In addition, those weather conditions drove increased demand for service, dramatically increased wholesale power prices, and also increased gas prices in certain regions. In response to the high demand and significantly reduced total generation on the system, the PUCT directed ERCOT to use an administrative price cap of \$9,000 per MWh during firm load shedding events.

The estimated impact to our Net income for the year ended December 31, 2021 arising from these market and weather conditions was a reduction of approximately \$800 million. The ultimate impact to our consolidated financial statements may be affected by a number of factors, including the impacts of customer and counterparty defaults and recoveries, any additional solutions to address the financial challenges caused by the event, and related litigation and contract disputes.

During February and March 2021, various parties with differing interests, including generators and retail providers, filed requests with the PUCT to void the PUCT's orders setting prices at \$9,000 per MWh during firm load shedding events. Other requests were made for the PUCT to enforce its order and reduce prices for 33 hours between February 18 and February 19 after firm load shedding ceased, and to cap ancillary services at \$9,000 per MWh. On March 2, 2021, a third-party filed a notice of appeal in the Court of Appeals for the Third District of Texas challenging the validity of the PUCT's actions. We intervened in that appeal and filed our initial brief on June 2, 2021 and reply brief on November 5, 2021. On April 19, 2021, we filed a declaratory action and request for judicial review of the PUCT's orders setting prices at \$9,000 per MWh in the District Court of Travis County, Texas. We subsequently requested that the District Court of Travis County, Texas stay its proceeding pending action by the Court of Appeals in the third-party proceeding. On May 17, 2021, we amended our petition for declaratory action and request for judicial review pending in the District Court of Travis County, Texas. We cannot reasonably predict the outcome of these proceedings or the potential financial statement impact.

Due to the event, a number of ERCOT market participants experienced bankruptcies or defaulted on payments to ERCOT, resulting in approximately a \$3.0 billion payment shortfall in collections, which is allocated to the remaining ERCOT market participants. As of December 31, 2021, we have recorded our estimated portion of this obligation, net of legislative solutions, of approximately \$17 million on a discounted basis, which is to be paid over a term of 83 years. ERCOT rules historically have limited recovery of default from market participants to \$2.5 million per month market-wide. In February 2021, the PUCT gave ERCOT discretion to disregard those rules, but ERCOT has declined to exercise that discretion as to the imposition of uplift charges. On March 8, 2021, a third-party filed a notice of appeal in the Court of Appeals for the Third District of Texas challenging the validity of the PUCT's order to ERCOT in February 2021. We intervened in that appeal and filed an initial brief on July 7, 2021. The case has been stayed until March 3, 2022 to afford time for the PUCT to respond to ERCOT's November 18, 2021 request that the PUCT withdraw its February 2021 order. On May 7, 2021, we filed a declaratory action and request for judicial review of the PUCT's order in the District Court of Travis County, Texas. We subsequently requested that the District Court of Travis County, Texas stay its proceeding pending action by the Court of Appeals in the third-party proceeding. We cannot reasonably predict the outcome of these proceedings or the potential financial statement impact.

Additionally, several legislative proposals were introduced in the Texas legislature during February and March 2021 concerning the amount, timing and allocation of recovery of the \$3.0 billion shortfall, as well as recovery of other costs associated with the PUCT's directive to set prices at \$9,000 per MWh. Two of these proposals were enacted into law in June 2021 and establish financing mechanisms that ERCOT and certain market participants can utilize to fund amounts owed to ERCOT. We participated in proceedings before the PUCT addressing the proposed allocation of the \$2.1 billion in securitized funds for reliability and ancillary service charges over \$9,000 per MWh. In September 2021, we entered into a settlement agreement and stipulation to resolve the allocation issues. The PUCT approved the settlement agreement and stipulation on October 13, 2021.

In addition, other legislative proposals were introduced in the Texas legislature during February and March 2021 addressing cold-weather preparation for power plants and natural gas production and transportation

infrastructure and the market structure for reliability services. The Texas legislature addressed these proposals by enacting a bill with a broad set of market reforms that, among other things, directed the PUCT to establish weatherization standards for electric generators within six months of enactment and gave the PUCT authority to impose administrative penalties if the new proposed standards, once adopted, are not met. On October 21, 2021, the PUCT adopted a rule change requiring generators by December 1, 2021 to complete a number of specified winter readiness preparations and to submit to ERCOT a report describing and certifying the completion of those preparations. The PUCT described these requirements as the first phase of its actions with respect to winter preparedness, which we completed timely, and will be followed by a second phase consisting of a year-round set of weather preparedness standards to be informed by a weather study conducted by ERCOT and submitted to the PUCT on December 15, 2021.

The legislation also directs the PUCT to evaluate whether additional ancillary services are needed for reliability in the ERCOT power region to provide adequate incentives for dispatchable generation. Throughout 2021, we and others submitted various proposals to the PUCT with respect to a range of potential market reforms, including the implementation of additional ancillary service products as well as changes to the high system-wide offer cap and operating reserve demand curve, which remain pending. On December 2, 2021, the PUCT reduced ERCOT's high system-wide offer cap to \$5,000 per MWh.

In February 2021, more than 70 local distribution companies (LDCs) and natural gas pipelines in multiple states throughout the mid-continent region, where we serve natural gas customers, issued operational flow orders (OFOs), curtailments or other limitations on natural gas transportation or use to manage the operational integrity of the applicable LDC or pipeline system. When in effect, gas transportation or use above these limitations is subject to significant penalties according to the applicable LDCs' and natural gas pipelines' tariffs. Gas transportation and supply in many states became restricted due to wells freezing and pipeline compression disruption, while demand was increasing due to the extreme cold temperatures, resulting in extremely high natural gas prices. Due to the extraordinary circumstances, many LDCs and natural gas pipelines have either voluntarily waived or have sought applicable regulatory approvals to waive the tariff penalties associated with the extreme weather event. During March 2021, three natural gas pipelines filed individual petitions with FERC requesting approval to waive OFO penalties. We also filed motions in March 2021 to intervene and filed comments in support of these FERC waiver requests. On March 25, 2021, FERC issued an order on one of the petitions approving a pipeline's request for a limited waiver of penalties for February 15, 2021. On April 23, 2021, we and several other entities filed a request at FERC for rehearing of this order which was denied on May 24, 2021. We and the other entities filed an appeal of the rehearing of the order with the U.S. Court of Appeals for the D.C. Circuit on July 21, 2021. Additionally, we and the other entities filed a complaint requesting that FERC expand the order to include additional days of the weather event in February, from February 16 through February 19, 2021. On October 21, 2021, FERC denied the complaint finding that a pipeline has the discretion whether to waive penalties under its tariff, and on December 6, 2021 the related D.C. Circuit petition for review was withdrawn. During April 2021, FERC issued orders on the remaining petitions approving the requests to waive the penalties. During May 2021, an LDC filed a motion with the Kansas Corporation Commission (KCC) requesting the KCC to grant a waiver from the tariff and allow the LDC to reduce the amounts assessed by permitting the removal of a multiplier from the penalty calculation. On January 20, 2022, a unanimous settlement was filed with the KCC that amended previously filed October 8, 2021 and November 30, 2021 nonunanimous settlements which, if approved, would resolve this matter. We cannot reasonably predict the outcome of the KCC proceeding.

#### **Illinois Regulatory Matters**

**Clean Energy Law.** On September 15, 2021, the Illinois Public Act 102-0662 was signed into law by the Governor of Illinois ("Clean Energy Law"). The Clean Energy Law establishes decarbonization requirements for Illinois as well as programs to support the retention and development of emissions-free sources of electricity. Among other things, the Clean Energy Law authorized the IPA to procure up to 54.5 million CMCs from qualifying nuclear plants for a five-year period beginning on June 1, 2022 through May 31, 2027. CMCs are credits for the carbon-free attributes of eligible nuclear power plants in PJM. Our Byron, Dresden, and Braidwood nuclear plants located in Illinois participated in the CMC procurement process and were awarded contracts that commit each plant to operate through May 31, 2027. Pursuant to these contracts, ComEd will procure CMCs based upon the number of MWhs produced annually by each plant, subject to minimum performance requirements. The price to be paid for each CMC was established through a competitive bidding process that included consumer-protection measures that capped the maximum acceptable bid amount and reduces CMC prices by an energy price index, the base residual auction capacity price in the ComEd zone of PJM, and the monetized value of any federal tax

credit or other subsidy, if applicable. The consumer protection measures contained in the new law will result in net payments to ComEd ratepayers if the energy index, the capacity price and applicable federal tax credits or subsidy exceed the CMC contract price. Regulatory or legal challenges regarding the validity or implementation of the Clean Energy Law are possible and we cannot reasonably predict the outcome of any such challenges.

See Note 7 – Early Plant Retirements for the impacts of the provisions above on the Illinois nuclear plants and the consolidated financial statements.

#### ***New Jersey Regulatory Matters***

***New Jersey Clean Energy Legislation.*** On May 23, 2018, New Jersey enacted legislation that established a ZEC program that provides compensation for nuclear plants that demonstrate to the NJBPU that they meet certain requirements, including that they make a significant contribution to air quality in the state and that their revenues are insufficient to cover their costs and risks. Under the legislation, the NJBPU will issue ZECs to qualifying nuclear power plants and the electric distribution utilities in New Jersey will be required to purchase those ZECs. On April 18, 2019, the NJBPU approved the award of ZECs to Salem 1 and Salem 2. Upon approval, we began recognizing revenue for the sale of New Jersey ZECs in the month they are generated. On March 19, 2021, a three-judge panel of the Superior Court of New Jersey Appellate Division unanimously affirmed the NJBPU's April 2019 order awarding ZECs for the first eligibility period. On April 8, 2021, New Jersey Rate Counsel filed a notice asking the New Jersey Supreme Court to hear the appeal of the Superior Court's order. On July 9, 2021, the New Jersey Supreme Court declined to hear the appeal. On October 1, 2020, we and PSEG filed applications seeking ZECs for the second eligibility period (June 2022 through May 2025). On April 27, 2021, the NJBPU approved the award of ZECs to Salem 1 and Salem 2 for the second eligibility period. On May 11, 2021, the New Jersey Rate Counsel appealed the April 27, 2021 decision to the Superior Court of New Jersey Appellate Division. Briefing on the appeal is expected to conclude in the first half of 2022. We cannot reasonably predict the outcome of this proceeding.

#### ***New England Regulatory Matters***

***Mystic Units 8 and 9 and Everett Marine Terminal Cost of Service Agreement.*** On March 29, 2018, we notified grid operator ISO-NE of our plans to early retire Mystic Units 8 and 9 absent regulatory reforms on June 1, 2022. On May 16, 2018, we made a filing with FERC to establish cost-of-service compensation and terms and conditions of service for Mystic Units 8 and 9 for the period between June 1, 2022 - May 31, 2024. On December 20, 2018, FERC issued an order accepting the cost of service compensation, reflecting a number of adjustments to the annual fixed revenue requirement and allowing for recovery of a substantial portion of the costs associated with the adjacent Everett Marine Terminal we acquired in October 2018. Those adjustments were reflected in a compliance filing made on March 1, 2019. In the December 20, 2018 order, FERC also directed a paper hearing on ROE using a new methodology. On January 22, 2019, we and several other parties filed requests for rehearing of certain findings in the order. On July 15, 2021, FERC issued an order establishing the ROE to be used in the cost of service agreement for Mystic 8 and 9 at 9.33%. On August 16, 2021, we and several other parties filed requests for rehearing of certain aspects of the July 15, 2021 order. These requests were denied by operation of law; however, FERC indicated it would address the issues raised in the request in a future order.

On July 17, 2020, FERC issued three orders, which together affirmed the recovery of key elements of Mystic's cost of service compensation, including recovery of costs associated with the operation of the Everett Marine Terminal. FERC directed a downward adjustment to the rate base for Mystic Units 8 and 9, the effect of which will be partially offset by elimination of a crediting mechanism for third-party gas sales during the term of the cost of service agreement. In addition, several parties filed protests to a compliance filing by us on September 15, 2020, taking issue with how gross plant in-service was calculated, and we filed an answer to the protests on October 21, 2020. On December 21, 2020, FERC issued an order on rehearing of the three July 17, 2020 orders, clarifying several cost of service provisions. Several parties appealed the December 21, 2020 order to the U.S. Court of Appeals for the D.C. Circuit and that appeal was consolidated with appeals of orders issued December 20, 2018 and July 17, 2020 in the Mystic proceeding. Briefs in support of their petitions for review were filed by us and several other parties on September 7, 2021. Briefing concluded in February 2022 and oral argument is scheduled to begin in May 2022.

On February 25, 2021, Mystic made its filing to comply with the December 21, 2020 order. On April 26, 2021, FERC rejected Mystic's language and directed another compliance filing relating to the claw back provision language, which only applies if Mystic 8 and 9 were to continue operation after the conclusion of the cost-of-

service period. FERC's April 26, 2021 order also accepted in part and rejected in part Mystic's September 15, 2020 compliance filing. It directed a further compliance filing in 60 days consistent with the information provided in Mystic's October 21, 2020 answer to protests, which Mystic filed on June 2, 2021 and FERC accepted on July 29, 2021. On August 16, 2021, Mystic made a compliance filing, reflecting changes to the cost of service agreement to comply with the July 15, 2021 order on ROE.

On August 25, 2020, a group of New England generators filed a complaint against us seeking to extend the scope of the claw back provision in the cost-of-service agreement, whereby we would refund certain amounts recovered during the term of the cost of service if it returns to market afterwards. On April 15, 2021 FERC dismissed the complaint.

On February 16, 2021, we filed an unopposed motion to voluntarily dismiss an appeal filed with the U.S. Court of Appeals for the D.C. Circuit stemming from a June 2020 complaint filed with FERC against ISO-NE over failures to follow its tariff in evaluating Mystic for transmission security for the 2024 to 2025 Capacity Commitment Period, which was granted on February 18, 2021.

See Note 7 — Early Plant Retirements and Note 12 — Asset Impairments for additional information on the impacts of our August 2020 decision to retire Mystic Units 8 and 9 upon expiration of the cost of service agreement.

**Federal Regulatory Matters**

**PJM and NYISO MOPR Proceedings.** PJM and NYISO capacity markets include a MOPR. If a resource is subjected to a MOPR, its offer is adjusted to effectively remove the revenues it receives through a state government-provided financial support program - resulting in a higher offer that may not clear the capacity market. Prior to December 19, 2019, the MOPR in PJM applied only to certain new gas-fired resources. Currently, the MOPR in NYISO applies only to certain resources in downstate New York.

For our nuclear facilities in PJM and NYISO that are currently receiving state-supported compensation for carbon-free attributes, an expanded MOPR would require exclusion of such compensation when bidding into future capacity auctions, resulting in an increased risk of these facilities not receiving capacity revenues in future auctions.

On December 19, 2019, FERC required PJM to broadly apply the MOPR to all new and existing resources including nuclear, renewables, demand response, energy efficiency, storage, and all resources owned by vertically-integrated utilities. This greatly expanded the breadth and scope of PJM's MOPR, which became effective as of PJM's capacity auction for the 2022-23 planning year. While FERC included some limited exemptions, no exemptions were available to state-supported nuclear resources.

FERC provided no new mechanism for accommodating state-supported resources other than the existing FRR mechanism (under which an entire utility zone would be removed from PJM's capacity auction along with sufficient resources to support the load in such zone). In response to FERC's order, PJM submitted a compliance filing on March 18, 2020 wherein PJM proposed tariff language interpreting and implementing FERC's directives, and proposed a schedule for resuming capacity auctions that is contingent on the timing of FERC's action on the compliance filing.

On April 16, 2020, FERC issued an order largely denying most requests for rehearing of FERC's December 2019 order but granting a few clarifications that required an additional PJM compliance filing which PJM submitted on June 1, 2020.

A number of parties, including us, have filed petitions for review of FERC's orders in this proceeding, which remain pending before the Court of Appeals for the Seventh Circuit.

As a result, the MOPR applied in the capacity auction for the 2022-23 planning year to our owned or jointly owned nuclear plants in those states receiving a benefit under the Illinois ZES, and the New Jersey ZEC program. The MOPR prevented Quad Cities from clearing in that capacity auction.

At the direction of the PJM Board of Managers, PJM and its stakeholders developed further MOPR reforms to ensure that the capacity market rules respect and accommodate state resource preferences such as the ZEC programs. PJM filed related tariff revisions at FERC on July 30, 2021 and, on September 29, 2021, PJM's

proposed MOPR reforms became effective by operation of law. Under the new tariff provisions, the MOPR will no longer apply to any of our owned or jointly owned nuclear plants. Requests for rehearing of FERC's notice establishing the effective date for PJM's proposed market reforms were filed in October 2021 and denied by operation of law on November 4, 2021. Several parties have filed petitions for review of FERC's orders in this proceeding, which remain pending before the Court of Appeals for the Third Circuit. We are strenuously opposing these appeals. We cannot reasonably predict the outcome of this proceeding.

On February 20, 2020, FERC issued an order rejecting requests to expand NYISO's version of the MOPR (referred to as buyer-side mitigation rules) beyond its current limited applicability to certain resources in downstate. However, on October 14, 2020, two natural gas-fired generators in New York filed a complaint at FERC seeking to expand the MOPR in NYISO to apply to all resources, new and existing, across the entire NYISO market. We are strenuously opposing expansion of FERC's MOPR policies in the NYISO market. While it is too early in the proceeding to predict its outcome and there are significant differences between the NYISO and PJM markets that would justify a different result, if FERC applies the MOPR in NYISO broadly as requested in the complaint, our facilities in NYISO that are receiving ZEC compensation may be at increased risk of not clearing the capacity auction.

If our state-supported nuclear plants in PJM or NYISO are subjected to a MOPR or equivalent without compensation under an FRR or similar program, it could have a material adverse impact on our financial statements, which we cannot reasonably estimate at this time.

#### **Operating License Renewals**

**Conowingo Hydroelectric Project.** On August 29, 2012, we submitted an application to FERC for a new license for the Conowingo Hydroelectric Project (Conowingo). In connection with our efforts to obtain a water quality certification pursuant to Section 401 of the Clean Water Act (401 Certification) from MDE for Conowingo, we had been working with MDE and other stakeholders to resolve water quality licensing issues, including: (1) water quality, (2) fish habitat, and (3) sediment.

On April 21, 2016, we and the U.S. Fish and Wildlife Service of the U.S. Department of the Interior executed a settlement agreement (DOI Settlement) resolving all fish passage issues between the parties.

On April 27, 2018, MDE issued its 401 Certification for Conowingo. As issued, the 401 Certification contained numerous conditions, including those relating to reduction of nutrients from upstream sources, removal of all visible trash and debris from upstream sources, and implementation of measures relating to fish passage.

On October 29, 2019, we and MDE filed with FERC a Joint Offer of Settlement (Offer of Settlement) that would resolve all outstanding issues relating to the 401 Certification. Pursuant to the Offer of Settlement, the parties submitted Proposed License Articles to FERC to be incorporated by FERC into the new license in accordance with FERC's discretionary authority under the Federal Power Act. Among the Proposed License Articles were modifications to river flows to improve aquatic habitat, eel passage improvements, and initiatives to support rare, threatened and endangered wildlife.

On March 19, 2021, FERC issued a new 50-year license for Conowingo, effective March 1, 2021. FERC adopted the Proposed License Articles into the new license, only making modifications it deemed necessary to allow FERC to enforce the Proposed License Articles. Consistent with the Offer of Settlement, FERC found that MDE waived its 401 Certification and pursuant to a separate agreement with MDE (MDE Settlement), we agreed to implement additional environmental protection, mitigation, and enhancement measures over the 50-year term of the new license. These measures address mussel restoration and other ecological and water quality matters, among other commitments. On April 19, 2021, a few environmental groups filed with FERC a petition for rehearing requesting that FERC reconsider the issuance of the new Conowingo license, which was denied by operation of law on May 20, 2021. On June 17, 2021, the petitioners appealed FERC's ruling to the U.S. Court of Appeals for the D.C. Circuit. On July 15, 2021, FERC issued an order addressing the arguments raised on rehearing, affirming the determinations of its March 19, 2021 order. We cannot predict the outcome of this proceeding.

The financial impact of the DOI and MDE Settlements and other anticipated license commitments are estimated to be \$10 million to \$12 million per year, on average, recognized over the new license term, including capital and operating costs. The actual timing and amount of the majority of these costs are not currently fixed and will vary from year to year throughout the life of the new license.

**Peach Bottom Units 2 and 3.** On March 6, 2020, the NRC approved a second 20-year license renewal for Peach Bottom Units 2 and 3. Peach Bottom Units 2 and 3 are now licensed to operate through 2053 and 2054, respectively. See Note 8 – Property, Plant, and Equipment for additional information regarding the estimated useful life and depreciation provisions for Peach Bottom.

On February 24, 2022, the NRC issued an order related to its review of our subsequent license renewal application for Peach Bottom. While the NRC had previously granted subsequent license renewal to the Peach Bottom units, the NRC was responding to a request for hearing that had not previously been adjudicated. In its decision, the NRC reversed itself and concluded that the previous environmental review required by the National Environmental Policy Act (NEPA) was incomplete because it did not adequately address environmental impacts resulting from extending the units' licenses by 20 years. As a result, the NRC directed its staff to change the expiration dates for the licenses back to 2033 and 2034, until the completion of the NEPA analysis. The NRC directed, however, that the subsequently renewed licenses themselves remain in effect. The NRC also stated that it fully expects that the staff will complete its update of the NEPA analysis before 2033. To date, the NRC staff has not yet taken action to cause amendment of the licenses. We are reviewing the decision and considering our options. We cannot reasonably predict the outcome of this proceeding however any change to the current license expiration dates could have a material adverse financial statement impact.

#### 4. Revenue from Contracts with Customers

We recognize revenue from contracts with customers to depict the transfer of goods or services to customers at an amount that we expect to be entitled to in exchange for those goods or services. Our primary sources of revenue include competitive sales of power, natural gas, and other energy-related products and services. The performance obligations, revenue recognition, and payment terms associated with these sources of revenue are further discussed in the table below. There are no significant financing components for these sources of revenue.

Unless otherwise noted, for each of the significant revenue categories and related performance obligations described below, we have the right to consideration from the customer in an amount that corresponds directly with the value transferred to the customer for the performance completed to date. Therefore, we generally recognize revenue in the amount for which we have the right to invoice the customer. As a result, there are generally no significant judgments used in determining or allocating the transaction price.



**Notes to Consolidated Financial Statements**  
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Note 4 — Revenue from Contracts with Customers

Revenue Source	Description	Performance Obligation	Timing of Revenue Recognition	Payment Terms
Competitive Power Sales	Sales of power and other energy-related commodities to wholesale and retail customers across multiple geographic regions through our customer-facing business.	Various, including the delivery of power (generally delivered over time) and other energy-related commodities such as capacity (generally delivered over time), ZECs, RECs or other ancillary services (generally delivered at a point in time).	Concurrently as power is generated for bundled power sale contracts. <sup>(a)</sup>	Within the month following delivery to the customer.
Competitive Natural Gas Sales	Sales of natural gas on a full requirement basis or for an agreed upon volume to commercial and residential customers.	Delivery of natural gas to the customer.	Over time as the natural gas is delivered and consumed by the customer.	Within the month following delivery to the customer.
Other Competitive Products and Services	Sales of other energy-related products and services such as long-term construction and installation of energy efficiency assets and new power generating facilities, primarily to commercial and industrial customers.	Construction and/or installation of the asset for the customer.	Revenues and associated costs are recognized throughout the contract term using an input method to measure progress towards completion. <sup>(b)</sup>	Within 30 or 45 days from the invoice date.

(a) Certain contracts may contain limits on the total amount of revenue we are able to collect over the entire term of the contract. In such cases, we estimate the total consideration expected to be received over the term of the contract net of the constraint and allocate the expected consideration to the performance obligations in the contract such that revenue is recognized ratably over the term of the entire contract as the performance obligations are satisfied.

(b) The method recognizes revenue based on the various inputs used to satisfy the performance obligation, such as costs incurred and total labor hours expended. The total amount of revenue that will be recognized is based on the agreed upon contractually-stated amount. The average contract term for these projects is approximately 18 months.

We incur incremental costs in order to execute certain retail power and gas sales contracts. These costs, which primarily relate to retail broker fees and sales commissions, are capitalized when incurred as contract acquisition costs and were not material as of December 31, 2021 and 2020.

**Contract Balances**

**Contract Assets**

We record contract assets for the revenue recognized on the construction and installation of energy efficiency assets and new power generating facilities before we have an unconditional right to bill for and receive the consideration from the customer. These contract assets are subsequently reclassified to receivables when the right to payment becomes unconditional. We record contract assets and contract receivables in Other current assets and Customer accounts receivable, net, respectively, in the Consolidated Balance Sheets.

The following table provides a rollforward of the contract assets reflected in the Consolidated Balance Sheets.

	<b>Contract Assets</b>	
Balance as of December 31, 2019	\$	174
Amounts reclassified to receivables		(86)
Revenues recognized		68
Contract assets reclassified as held-for-sale		(12)
Balance as of December 31, 2020		144
Amounts reclassified to receivables		(59)
Revenues recognized		52
Amounts previously held-for-sale		12
Balance as of December 31, 2021	\$	149

**Contract Liabilities**

We record contract liabilities when consideration is received or due prior to the satisfaction of the performance obligations. We record contract liabilities in Other current liabilities and Other noncurrent liabilities in the Consolidated Balance Sheets. These contract liabilities primarily relate to upfront consideration received or due for equipment service plans and the Illinois ZEC program that introduces a cap on the total consideration to be received by us.

The following table provides a rollforward of the contract liabilities reflected in the Consolidated Balance Sheets.

	<b>Contract Liabilities</b>	
Balance as of December 31, 2018	\$	42
Consideration received or due		287
Revenues recognized		(258)
Balance as of December 31, 2019		71
Consideration received or due		282
Revenues recognized		(266)
Contract liabilities reclassified as held-for-sale		(3)
Balance as of December 31, 2020		84
Consideration received or due		251
Revenues recognized		(263)
Amounts previously held-for-sale		3
Balance as of December 31, 2021	\$	75

The following table reflects revenues recognized in the years ended December 31, 2021, 2020 and 2019, which were included in contract liabilities at December 31, 2020, 2019, and 2018, respectively:

	<b>2021</b>		<b>2020</b>		<b>2019</b>	
Revenues recognized	\$	82	\$	64	\$	32

**Transaction Price Allocated to Remaining Performance Obligations**

The following table shows the amounts of future revenues expected to be recorded in each year for performance obligations that are unsatisfied or partially unsatisfied as of December 31, 2021. This disclosure only includes contracts for which the total consideration is fixed and determinable at contract inception. The average contract term varies by customer type and commodity but ranges from one month to several years. This disclosure excludes our power and gas sales contracts as they contain variable volumes and/or variable pricing.

**Notes to Consolidated Financial Statements**  
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Note 4 — Revenue from Contracts with Customers

	2022	2023	2024	2025	2026 and thereafter	Total
Remaining performance obligations	\$ 350	\$ 112	\$ 45	\$ 26	\$ 73	\$ 606

**Revenue Disaggregation**

We disaggregate the revenue recognized from contracts with customers into categories that depict how the nature, amount, timing, and uncertainty of revenue and cash flows are affected by economic factors. See Note 5 — Segment Information for the presentation of revenue disaggregation.

**5. Segment Information**

Operating segments are determined based on information used by the CODM in deciding how to evaluate performance and allocate resources. We have five reportable segments consisting of the Mid-Atlantic, Midwest, New York, ERCOT, and all other power regions referred to collectively as "Other Power Regions."

The basis for our reportable segments is the integrated management of our electricity business that is located in different geographic regions, and largely representative of the footprints of ISO/RTO and/or NERC regions, which utilize multiple supply sources to provide electricity through various distribution channels (wholesale and retail). Our hedging strategies and risk metrics are also aligned to these same geographic regions. Descriptions of each of our five reportable segments are as follows:

- **Mid-Atlantic** represents operations in the eastern half of PJM, which includes New Jersey, Maryland, Virginia, West Virginia, Delaware, the District of Columbia, and parts of Pennsylvania and North Carolina.
- **Midwest** represents operations in the western half of PJM and the United States footprint of MISO, excluding MISO's Southern Region.
- **New York** represents operations within NYISO.
- **ERCOT** represents operations within Electric Reliability Council of Texas that covers a majority of the state of Texas.
- **Other Power Regions:**
  - **New England** represents operations within ISO-NE.
  - **South** represents operations in the FRCC, MISO's Southern Region, and the remaining portions of the SERC not included within MISO or PJM.
  - **West** represents operations in the WECC, which includes CAISO.
  - **Canada** represents operations across the entire country of Canada and includes AESO, OIESO, and the Canadian portion of MISO.

The CODM evaluates the performance of our electric business activities and allocates resources based on Revenues less Purchased Power and Fuel Expense (RNF). We believe this is a useful measurement of operational performance, although it is not a presentation defined under GAAP and may not be comparable to other companies' presentations or deemed more useful than the GAAP information provided elsewhere in this report. Our operating revenues include all sales to third parties and affiliated sales to Exelon's utility subsidiaries. Purchased power costs include all costs associated with the procurement and supply of electricity including capacity, energy, and ancillary services. Fuel expense includes the fuel costs for our owned generation and fuel costs associated with tolling agreements. The results of our other business activities are not regularly reviewed by the CODM and are therefore not classified as operating segments or included in the regional reportable segment amounts. These activities include natural gas, as well as other miscellaneous business activities that are not significant to our overall operating revenues or results of operations. Further, our unrealized mark-to-market gains and losses on economic hedging activities and our amortization of certain intangible assets and liabilities relating to commodity contracts recorded at fair value from mergers and acquisitions are also excluded

**Notes to Consolidated Financial Statements**  
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from the regional reportable segment amounts. The CODM does not use a measure of total assets in making decisions regarding allocating resources to or assessing the performance of these reportable segments.

The following tables disaggregate the revenue recognized from contracts with customers into categories that depict how the nature, amount, timing, and uncertainty of revenue and cash flows are affected by economic factors. The disaggregation of revenues reflects our two primary products of power sales and natural gas sales, with further disaggregation of power sales provided by geographic region. The following tables also show the reconciliation of reportable segment revenues and RNF to our total revenues and RNF for the years ended December 31, 2021, 2020, and 2019.

	2021				
	Revenues from external customers <sup>(a)</sup>			Intersegment Revenues	Total Revenues
	Contracts with customers	Other <sup>(b)</sup>	Total		
Mid-Atlantic	\$ 4,381	\$ 183	\$ 4,564	\$ 20	\$ 4,584
Midwest	4,265	(205)	4,060	—	4,060
New York	1,633	(57)	1,576	(1)	1,575
ERCOT	896	276	1,172	9	1,181
Other Power Regions	3,937	981	4,918	(28)	4,890
Total Competitive Businesses Electric Revenues	\$ 15,112	\$ 1,178	\$ 16,290	\$ —	\$ 16,290
Competitive Businesses Natural Gas Revenues	1,777	1,602	3,379	—	3,379
Competitive Businesses Other Revenues <sup>(c)</sup>	365	(385)	(20)	—	(20)
<b>Total Consolidated Operating Revenues</b>	<b>\$ 17,254</b>	<b>\$ 2,395</b>	<b>\$ 19,649</b>	<b>\$ —</b>	<b>\$ 19,649</b>

	2020				
	Revenues from external customers <sup>(a)</sup>			Intersegment Revenues	Total Revenues
	Contracts with customers	Other <sup>(b)</sup>	Total		
Mid-Atlantic	\$ 4,785	\$ (168)	\$ 4,617	\$ 28	\$ 4,645
Midwest	3,717	312	4,029	(5)	4,024
New York	1,444	(12)	1,432	(1)	1,431
ERCOT	735	198	933	25	958
Other Power Regions	3,586	463	4,049	(47)	4,002
Total Competitive Businesses Electric Revenues	\$ 14,267	\$ 793	\$ 15,060	\$ —	\$ 15,060
Competitive Businesses Natural Gas Revenues	1,283	720	2,003	—	2,003
Competitive Businesses Other Revenues <sup>(c)</sup>	355	185	540	—	540
<b>Total Consolidated Operating Revenues</b>	<b>\$ 15,905</b>	<b>\$ 1,698</b>	<b>\$ 17,603</b>	<b>\$ —</b>	<b>\$ 17,603</b>

**Notes to Consolidated Financial Statements**  
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Note 5 — Segment Information

	2019				
	Revenues from external customers <sup>(a)</sup>			Intersegment Revenues	Total Revenues
	Contracts with customers	Other <sup>(b)</sup>	Total		
Mid-Atlantic	\$ 5,053	\$ 17	\$ 5,070	\$ 4	\$ 5,074
Midwest	4,095	232	4,327	(34)	4,293
New York	1,571	25	1,596	—	1,596
ERCOT	768	229	997	16	1,013
Other Power Regions	3,687	608	4,295	(49)	4,246
Total Competitive Businesses Electric Revenues	\$ 15,174	\$ 1,111	\$ 16,285	\$ (63)	\$ 16,222
Competitive Businesses Natural Gas Revenues	1,446	702	2,148	62	2,210
Competitive Businesses Other Revenues <sup>(c)</sup>	440	51	491	1	492
<b>Total Consolidated Operating Revenues</b>	<b>\$ 17,060</b>	<b>\$ 1,864</b>	<b>\$ 18,924</b>	<b>\$ —</b>	<b>\$ 18,924</b>

(a) Includes all wholesale and retail electric sales to third parties and affiliated sales to Exelon's utility subsidiaries.

(b) Includes revenues from derivatives and leases.

(c) Represents activities not allocated to a region. See text above for a description of included activities. Includes unrealized mark-to-market losses of \$633 million, gains of \$110 million and losses of \$4 million for the years ended December 31, 2021, 2020, and 2019, respectively, and the elimination of intersegment revenues.

	2021			2020			2019		
	RNF from external customers <sup>(a)</sup>	Intersegment RNF	Total RNF	RNF from external customers <sup>(a)</sup>	Intersegment RNF	Total RNF	RNF from external customers <sup>(a)</sup>	Intersegment RNF	Total RNF
Mid-Atlantic	\$ 2,247	\$ 17	\$ 2,264	\$ 2,174	\$ 30	\$ 2,204	\$ 2,637	\$ 18	\$ 2,655
Midwest	2,717	—	2,717	2,902	—	2,902	2,994	(32)	2,962
New York	1,151	10	1,161	983	14	997	1,081	13	1,094
ERCOT	(668)	(157)	(825)	407	19	426	338	(30)	308
Other Power Regions	984	(93)	891	759	(94)	665	694	(74)	620
Total RNF for Reportable Segments	\$ 6,431	\$ (223)	\$ 6,208	\$ 7,225	\$ (31)	\$ 7,194	\$ 7,744	\$ (105)	\$ 7,639
Other <sup>(b)</sup>	1,055	223	1,278	793	31	824	324	105	429
<b>Total RNF</b>	<b>\$ 7,486</b>	<b>\$ —</b>	<b>\$ 7,486</b>	<b>\$ 8,018</b>	<b>\$ —</b>	<b>\$ 8,018</b>	<b>\$ 8,068</b>	<b>\$ —</b>	<b>\$ 8,068</b>

(a) Includes purchases and sales from/to third parties and affiliated sales to Exelon's utility subsidiaries.

(b) Other represents activities not allocated to a region. See text above for a description of included activities. Primarily includes:

- unrealized mark-to-market gains of \$565 million and \$295 million and losses of \$215 million for the years ended December 31, 2021, 2020, and 2019, respectively;
- accelerated nuclear fuel amortization associated with the announced early plant retirements as discussed in Note 7 - Early Plant Retirements of \$148 million, \$60 million, and \$13 million for the years ended December 31, 2021, 2020, and 2019, respectively; and
- the elimination of intersegment RNF.

## 6. Accounts Receivable

### Allowance for Credit Losses on Accounts Receivable

The following table presents the rollforward of Allowance for Credit Losses on Customer Accounts Receivable.

	Allowance for Credit Losses	
Balance as of December 31, 2019	\$	80
Plus: Current period provision for expected credit losses		13
Less: Write-offs, net of recoveries <sup>(a)</sup>		5
Less: Sale of customer accounts receivable <sup>(b)</sup>		56
Balance as of December 31, 2020 <sup>(c)</sup>		32
Plus: Current period provision for expected credit losses		30
Less: Write-offs, net of recoveries <sup>(a)</sup>		7
Balance as of December 31, 2021 <sup>(c)</sup>	\$	55

(a) Recoveries were not material.

(b) See below for additional information on the sale of customer accounts receivable in the second quarter of 2020.

(c) Allowance for Credit Losses on Other Accounts Receivable was not material as of December 31, 2021 and 2020, respectively.

### Unbilled Customer Revenue

We recorded \$373 million and \$258 million of unbilled customer revenues in Customer accounts receivables, net in the Consolidated Balance Sheets as of December 31, 2021 and 2020, respectively.

### Sales of Customer Accounts Receivable

On April 8, 2020, NER, a bankruptcy remote, special purpose entity, which is wholly owned by us, entered into a revolving accounts receivable financing arrangement with a number of financial institutions and a commercial paper conduit (the Purchasers) to sell certain customer accounts receivable (the Facility). The Facility had a maximum funding limit of \$750 million and was scheduled to expire on April 7, 2021, unless renewed by the mutual consent of the parties in accordance with its terms. The Facility was renewed on March 29, 2021. The Facility term was extended through March 29, 2024, unless further renewed by the mutual consent of the parties, and the maximum funding limit was increased to \$900 million. Under the Facility, NER may sell eligible short-term customer accounts receivable to the Purchasers in exchange for cash and subordinated interest. The transfers are reported as sales of receivables in the consolidated financial statements. The subordinated interest in collections upon the receivables sold to the Purchasers is referred to as the DPP, which is reflected in Other current assets in the Consolidated Balance Sheets.

The Facility requires the balance of eligible receivables to be maintained at or above the balance of cash proceeds received from the Purchasers. To the extent the eligible receivables decrease below such balance, we are required to repay cash to the Purchasers. When eligible receivables exceed cash proceeds, we have the ability to increase the cash received up to the maximum funding limit. These cash inflows and outflows impact the DPP.

On April 8, 2020, we derecognized and transferred approximately \$1.2 billion of receivables at fair value to the Purchasers in exchange for approximately \$500 million in cash purchase price and \$650 million of DPP.

During the first quarter of 2021, we received additional cash of \$250 million from the Purchasers for the remaining available funding in the Facility.

Additionally, during the first quarter of 2021, we received cash of approximately \$150 million from the Purchasers in connection with the increased funding limit at the time of the Facility renewal.

During the second quarter of 2021, we returned cash of \$50 million to the Purchasers due to the eligible receivables decreasing temporarily. Subsequently, in the second quarter, we received cash of \$50 million from the Purchasers as a result of an increase in the eligible receivable balance. The \$50 million cash outflow and

**Notes to Consolidated Financial Statements**  
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inflow is included in the Collection of DPP line in Cash flows from investing activities in the Consolidated Statement of Cash Flows.

The following table summarizes the impact of the sale of certain receivables:

	As of December 31,			
	2021		2020	
Derecognized receivables transferred at fair value	\$	1,265	\$	1,139
Cash proceeds received		900		500
DPP		365		639

	For the Years Ended December 31,			
	2021		2020	
Loss on sale of receivables <sup>(a)</sup>	\$	36	\$	30

(a) Reflected in Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income.

	For the Years Ended December 31,			
	2021		2020	
Proceeds from new transfers <sup>(a)</sup>	\$	6,095	\$	2,816
Cash collections received on DPP and reinvested in the Facility <sup>(b)</sup>		3,502		3,771
Cash collections reinvested in the Facility		9,597		6,587

(a) Customer accounts receivable sold into the Facility were \$9,747 million and \$6,608 million for the years ended December 31, 2021 and 2020, respectively.

(b) Does not include the \$400 million in cash proceeds received from the Purchasers in the first quarter of 2021.

Our risk of loss following the transfer of accounts receivable is limited to the DPP outstanding. Payment of DPP is not subject to significant risks other than delinquencies and credit losses on accounts receivable transferred, which have historically been and are expected to be immaterial. We continue to service the receivables sold in exchange for a servicing fee. We did not record a servicing asset or liability as the servicing fees were immaterial.

We recognize the cash proceeds received upon sale in Net cash provided by operating activities in the Consolidated Statements of Cash Flows. The collection and reinvestment of DPP is recognized in Net cash provided by investing activities in the Consolidated Statements of Cash Flows.

See Note 18 — Fair Value of Financial Assets and Liabilities and Note 21 — Variable Interest Entities for additional information.

#### Other Purchases and Sales of Customer and Other Accounts Receivables

We are required, under supplier tariffs in ISO-NE, MISO, NYISO, and PJM, to sell customer and other receivables to utility companies, which include Exelon's utility subsidiaries. The following table presents the total receivables sold.

	For the Years Ended December 31,			
	2021		2020	
Total receivables sold	\$	147	\$	824
Related party transactions:				
Receivables sold to Exelon's utility subsidiaries		23		252

## 7. Early Plant Retirements

We continuously evaluate factors that affect the current and expected economic value of our plants, including, but not limited to: market power prices, results of capacity auctions, potential legislative and regulatory solutions to ensure plants are fairly compensated for benefits they provide through their carbon-free emissions, reliability or fuel security, and the impact of potential rules from the EPA requiring reduction of carbon and other emissions and the efforts of states to implement those final rules. The precise timing of an early retirement date for any plant, and the resulting financial statement impacts, may be affected by many factors, including the status of potential regulatory or legislative solutions, results of any transmission system reliability study assessments, the nature of any co-owner requirements and stipulations, and NDT fund requirements for nuclear plants, among other factors. However, the earliest retirement date for any plant would usually be the first year in which the unit does not have capacity or other obligations, and where applicable, just prior to its next scheduled nuclear refueling outage.

### Nuclear Generation

On August 27, 2020, we announced our intention to permanently cease our operations at Byron in September 2021 and at Dresden in November 2021. Neither of these nuclear plants cleared in PJM's capacity auction for the 2022-2023 planning year held in May 2021. Our Braidwood and LaSalle nuclear plants in Illinois did clear in the capacity auction, but were also showing increased signs of economic distress.

On September 15, 2021, the Illinois Public Act 102-0662 was signed into law by the Governor of Illinois ("Clean Energy Law"). The Clean Energy Law is designed to achieve 100% carbon-free power by 2045 to enable the state's transition to a clean energy economy. Among other things, the Clean Energy Law authorized the IPA to procure up to 54.5 million CMCs from qualifying nuclear plants for a five-year period beginning on June 1, 2022 through May 31, 2027. CMCs are credits for the carbon-free attributes of eligible nuclear power plants in PJM. Our Byron, Dresden, and Braidwood nuclear plants located in Illinois participated in the CMC procurement process and were awarded contracts that commit each plant to operate through May 31, 2027. See Note 3 — Regulatory Matters for additional information. Following enactment of the legislation, we announced on September 15, 2021, that we have reversed our previous decision to retire Byron and Dresden given the opportunity for additional revenue under the Clean Energy Law. In addition, we no longer consider the Braidwood or LaSalle nuclear plants to be at risk for premature retirement.

As a result of the decision to early retire Byron and Dresden, we recognized certain one-time charges in the third and fourth quarters of 2020 related to materials and supplies inventory reserve adjustments, employee-related costs including severance benefit costs, and construction work-in-progress impairments, among other items. In addition, there were ongoing annual financial impacts stemming from shortening the expected economic useful lives of these nuclear plants primarily related to accelerated depreciation of plant assets (including any ARC), accelerated amortization of nuclear fuel, and changes in ARO accretion expense associated with the changes in decommissioning timing and cost assumptions to reflect an earlier retirement date.

In the third quarter of 2021, we reversed \$81 million of severance benefit costs and \$13 million of other one-time charges initially recorded in Operating and maintenance expense in the third and fourth quarters of 2020 associated with the early retirements. In addition, we updated the expected economic useful life for both facilities to 2044 and 2046 for Byron Units 1 and 2, respectively, and to 2029 and 2031 for Dresden Units 2 and 3, respectively, the end of the respective NRC operating license for each unit. Depreciation was therefore adjusted beginning September 15, 2021, to reflect these extended useful life estimates. See Note 10 — Asset Retirement Obligations for additional detail on changes to the nuclear decommissioning ARO balances resulting from the initial decision and subsequent reversal of the decision to early retire Byron and Dresden.

In Pennsylvania, the TMI nuclear plant did not clear in the May 2017 PJM capacity auction for the 2020-2021 planning year, the third consecutive year that TMI failed to clear the PJM base residual capacity auction and on May 30, 2017, based on these capacity auction results, prolonged periods of low wholesale power prices, and the absence of federal or state policies, we announced that we would permanently cease generation operations at TMI. On September 20, 2019, TMI permanently ceased generation operations.

The total impact for the years ended December 31, 2021, 2020, and 2019 in the Consolidated Statements of Operations and Comprehensive Income resulting from the initial decision and subsequent reversal of the decision to early retire Byron and Dresden, and decision to early retire TMI is summarized in the table below.



**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 7 — Early Plant Retirements

Income statement expense (pre-tax)	2021 <sup>(a)</sup>	2020 <sup>(a)</sup>	2019 <sup>(b)</sup>
<b>Depreciation and amortization</b>			
Accelerated depreciation <sup>(c)</sup>	\$ 1,805	\$ 895	\$ 216
Accelerated nuclear fuel amortization	148	60	13
<b>Operating and maintenance</b>			
One-time charges	(94)	255	—
Other charges <sup>(d)</sup>	9	34	(53)
Contractual offset <sup>(e)</sup>	(451)	(364)	—
<b>Total</b>	<b>\$ 1,417</b>	<b>\$ 880</b>	<b>\$ 176</b>

(a) Reflects expense for Byron and Dresden.

(b) Reflects expense for TMI.

(c) Includes the accelerated depreciation of plant assets including any ARC.

(d) For 2020 and 2019, reflects the net impacts associated with the remeasurement of the ARO. See Note 10 - Asset Retirement Obligations for additional information.

(e) Reflects contractual offset for ARO accretion, ARC depreciation, ARO remeasurement, and excludes any changes in earnings in the NDT funds. Decommissioning-related impacts were not offset for the Byron units starting in the second quarter of 2021 due to the inability to recognize a regulatory asset at ComEd. With our September 15, 2021 reversal of the previous decision to retire Byron, we resumed contractual offset for Byron as of that date. Based on the regulatory agreement with the ICC, decommissioning-related activities are offset in the Consolidated Statements of Operations and Comprehensive Income as long as the net cumulative decommissioning-related activity result in a regulatory liability at ComEd. The offset resulted in an equal adjustment to the noncurrent payables to ComEd. See Note 10 - Asset Retirement Obligations for additional information.

We remain committed to continued operations for our other nuclear plants receiving state-supported payments under the Illinois ZES (Clinton and Quad Cities), New Jersey ZEC program (Salem), and the New York CES (FitzPatrick, Ginna, and Nine Mile Point) assuming the continued effectiveness of each program. To the extent each program does not operate as expected over the full term, each of these plants would be at heightened risk for early retirement, which could have a material impact in future financial statements. See Note 3 — Regulatory Matters for additional information on the New Jersey ZEC program.

We continue to work with stakeholders on state policy solutions to support continued operation of our nuclear fleet, while also advocating for broader market reforms at the regional and federal level. The absence of such solutions or reforms could have a material unfavorable impact on our future results of operations.

**Other Generation**

In March 2018, we notified ISO-NE of our plans to early retire, among other assets, the Mystic Generating Station's units 8 and 9 (Mystic 8 and 9) absent regulatory reforms to properly value reliability and regional fuel security. Thereafter, ISO-NE identified Mystic 8 and 9 as being needed to ensure fuel security for the region and entered into a cost of service agreement with these two units for the period between June 1, 2022 - May 31, 2024. The agreement was approved by FERC in December 2018.

On June 10, 2020, we filed a complaint with FERC against ISO-NE stating that ISO-NE failed to follow its tariff with respect to its evaluation of Mystic 8 and 9 for transmission security for the 2024 to 2025 Capacity Commitment Period and that the modifications that ISO-NE made to its unfiled planning procedures to avoid retaining Mystic 8 and 9 should have been filed with FERC for approval. On August 17, 2020, FERC issued an order denying the complaint. As a result, on August 20, 2020, we announced we will permanently cease generation operations at Mystic 8 and 9 at the expiration of the cost of service commitment in May 2024. See Note 3 — Regulatory Matters for additional discussion of Mystic's cost of service agreement.

As a result of the decision to early retire Mystic 8 and 9, we recognized \$22 million of one-time charges for the year ended December 31, 2020, related to materials and supplies inventory reserve adjustments, among other items. In addition, there are annual financial impacts stemming from shortening the expected economic useful life of Mystic 8 and 9 primarily related to accelerated depreciation of plant assets. We recorded incremental Depreciation and amortization expense of \$41 million and \$26 million for the years ended December 31, 2021 and 2020, respectively. See Note 12 — Asset Impairments for impairment assessment considerations of the New England Asset Group.

### 8. Property, Plant, and Equipment

The following table presents a summary of property, plant, and equipment by asset category as of December 31, 2021 and 2020:

Asset Category	December 31, 2021		December 31, 2020	
Electric	\$	29,910	\$	29,724
Nuclear fuel <sup>(a)</sup>		5,166		5,399
Construction work in progress		399		450
Other property, plant, and equipment		10		11
<b>Total property, plant, and equipment</b>		<b>35,485</b>		<b>35,584</b>
Less: accumulated depreciation <sup>(b)</sup>		15,873		13,370
<b>Property, plant, and equipment, net</b>	<b>\$</b>	<b>19,612</b>	<b>\$</b>	<b>22,214</b>

(a) Includes nuclear fuel that is in the fabrication and installation phase of \$859 million and \$939 million as of December 31, 2021 and 2020, respectively.

(b) Includes accumulated amortization of nuclear fuel in the reactor core of \$2,765 million and \$2,774 million as of December 31, 2021 and 2020, respectively.

The following table presents the average service life for each asset category in number of years:

Asset Category	Average Service Life (years)
Electric	1-52
Nuclear fuel	1-8
Other property, plant, and equipment	1-10

Depreciation provisions are based on the estimated useful lives of the stations, which correspond with the term of the NRC operating licenses for each of our nuclear units. Beginning August 2020, Byron, Dresden, and Mystic depreciation provisions were based on their announced shutdown dates of September 2021, November 2021, and May 2024, respectively. On September 15, 2021, we updated the expected useful lives for Byron and Dresden to reflect the end of the available NRC operating license for each unit. See Note 3 — Regulatory Matters for additional information regarding license renewal and Note 7 — Early Plant Retirements for additional information on the impacts related to Byron, Dresden, and Mystic.

Annual depreciation rates for electric generation were 8.67%, 6.11%, and 4.35% for the years ended December 31, 2021, 2020, and 2019, respectively. Nuclear fuel amortization is charged to fuel expense using the unit-of-production method and not included in the annual depreciation rates.

#### Capitalized Interest

Capitalized interest was \$15 million, \$22 million, and \$24 million for the years ended December 31, 2021, 2020, and 2019, respectively.

See Note 1 — Significant Accounting Policies for additional information regarding property, plant, and equipment policies.

**9. Jointly Owned Electric Utility Plant**

Our material undivided ownership interests in jointly owned nuclear plants as of December 31, 2021 and 2020 were as follows:

Operator	Nuclear Generation			
	Quad Cities	Peach Bottom	Salem	Nine Mile Point Unit 2
	Constellation	Constellation	PSEG Nuclear	Constellation
Ownership interest	75.00 %	50.00 %	42.59 %	82.00 %
<b>Our share as of December 31, 2021</b>				
Plant in service	\$ 1,211	\$ 1,515	\$ 756	\$ 1,002
Accumulated depreciation	715	628	299	222
Construction work in progress	11	12	20	41
<b>Our share as of December 31, 2020</b>				
Plant in service	\$ 1,188	\$ 1,506	\$ 717	\$ 990
Accumulated depreciation	670	601	265	187
Construction work in progress	13	13	39	25

Our undivided ownership interests are financed with our funds and all operations are accounted for as if such participating interests were wholly owned facilities. Our share of direct expenses of the jointly owned plants are included in Purchased power and fuel and Operating and maintenance expenses in the Consolidated Statements of Operations and Comprehensive Income.

**10. Asset Retirement Obligations**

**Nuclear Decommissioning Asset Retirement Obligations**

We have a legal obligation to decommission our nuclear power plants following the permanent cessation of operations. To estimate our decommissioning obligations related to our nuclear generating stations for financial accounting and reporting purposes, we use a probability-weighted, discounted cash flow model which, on a unit-by-unit basis, considers multiple outcome scenarios that include significant estimates and assumptions, and are based on decommissioning cost studies, cost escalation rates, probabilistic cash flow models, and discount rates. We update our AROs annually, unless circumstances warrant more frequent updates, based on our review of updated cost studies and our annual evaluation of cost escalation factors and probabilities assigned to various scenarios. We began decommissioning the TMI nuclear plant upon permanently ceasing operations in 2019. See below section for decommissioning of Zion Station.

The financial statement impact for changes in the ARO, on an individual unit basis, due to the changes in and timing of estimated cash flows generally result in a corresponding change in the unit's ARC in Property, plant, and equipment in the Consolidated Balance Sheets. If the ARO decreases for a Non-Regulatory Agreement unit

without any remaining ARC, the corresponding change is recorded as a decrease in Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income.

The following table provides a rollforward of the nuclear decommissioning AROs reflected in the Consolidated Balance Sheets from December 31, 2019 to December 31, 2021:

	<b>Nuclear Decommissioning AROs</b>	
Balance as of December 31, 2019	\$	10,504
Net increase due to changes in, and timing of, estimated future cash flows		1,022
Accretion expense		489
Costs incurred related to decommissioning plants		(93)
Balance as of December 31, 2020 <sup>(a)</sup>		11,922
Net increase due to changes in, and timing of, estimated future cash flows		324
Accretion expense		503
Costs incurred related to decommissioning plants		(73)
Balance as of December 31, 2021 <sup>(a)</sup>	\$	12,676

(a) Includes \$72 million and \$80 million as the current portion of the ARO as of December 31, 2021 and 2020, respectively, which is included in Other current liabilities in the Consolidated Balance Sheets.

The net \$324 million increase in the ARO during 2021 for changes in the amounts and timing of estimated decommissioning cash flows was driven by multiple adjustments throughout the year. These adjustments primarily include:

- An increase of approximately \$550 million for updated cost escalation rates, primarily for labor and energy, and a decrease in discount rates.
- An increase of approximately \$90 million due to revisions to assumed retirement dates for several nuclear plants.
- A net decrease of approximately \$170 million was driven by updates to Byron and Dresden reflecting changes in assumed retirement dates and assumed methods of decommissioning as a result of the reversal of the decision to early retire the plants. See Note 7 — Early Plant Retirements for additional information.
- A net decrease of approximately \$150 million due to lower estimated decommissioning costs resulting from the completion of updated cost studies for seven nuclear plants.

The 2021 ARO updates resulted in a decrease of \$51 million in Operating and maintenance expense for the year ended December 31, 2021 in the Consolidated Statement of Operations and Comprehensive Income.

The net \$1,022 million increase in the ARO during 2020 for changes in the amounts and timing of estimated decommissioning cash flows was driven by multiple adjustments throughout the year. These adjustments primarily include:

- A net increase of approximately \$800 million was driven by updates to Byron and Dresden reflecting changes in assumed retirement dates and assumed methods of decommissioning as a result of the announcement to early retire these plants in 2021. Refer to Note 7 — Early Plant Retirements for additional information.
- An increase of approximately \$360 million resulting from the change in the assumed DOE spent fuel acceptance date for disposal from 2030 to 2035.
- A decrease of approximately \$220 million due to lower estimated decommissioning costs resulting from the completion of updated cost studies primarily for two nuclear plants.

The 2020 ARO updates resulted in an increase of \$60 million in Operating and maintenance expense for the year ended December 31, 2020 in the Consolidated Statement of Operations and Comprehensive Income.

**NDT Funds**

NDT funds have been established for each of our nuclear units to satisfy our nuclear decommissioning obligations, as required by the NRC, and withdrawals from these funds for reasons other than to pay for decommissioning are restricted pursuant to NRC requirements until all decommissioning activities have been completed. Generally, NDT funds established for a particular unit may not be used to fund the decommissioning obligations of any other unit.

The NDT funds associated with our nuclear units have been funded with amounts collected from the previous owners and their respective utility customers. PECO is authorized to collect funds, in revenues, through regulated rates for decommissioning the former PECO nuclear plants, and these collections are scheduled through the operating lives of these former PECO plants. The amounts collected from PECO customers are remitted to us and deposited into the NDT funds for the unit for which funds are collected. Every five years, PECO files a rate adjustment with the PAPUC that reflects PECO's calculations of the estimated amount needed to decommission each of the former PECO units based on updated fund balances and estimated decommissioning costs. The rate adjustment is used to determine the amount collectible from PECO customers. On March 31, 2017, PECO filed its Nuclear Decommissioning Cost Adjustment with the PAPUC proposing an annual recovery from customers of approximately \$4 million. On August 8, 2017, the PAPUC approved the filing and the new rates became effective January 1, 2018.

Any shortfall of funds necessary for decommissioning, determined for each generating station unit, are generally required to be funded by us, with the exception of a shortfall for the current decommissioning activities at Zion Station, where certain decommissioning activities have been transferred to a third-party (see Zion Station Decommissioning below) and the former PECO nuclear plants where, through PECO, we have recourse to collect additional amounts from PECO customers related to a shortfall of NDT funds for those units, subject to certain limitations and thresholds, as prescribed by an order from the PAPUC that limits collection of amounts associated with the first \$50 million of any shortfall of trust funds compared to decommissioning costs, as well as 5% of any additional shortfalls, on an aggregate basis for all former PECO units. The initial \$50 million and up to 5% of any additional shortfalls would be borne by us. No recourse exists to collect additional amounts from utility customers for any of our other nuclear units.

With respect to the former ComEd and former PECO units, any funds remaining in the NDTs after all decommissioning has been completed are required to be refunded to ComEd's or PECO's customers, subject to certain limitations that allow sharing of excess funds with us related to the former PECO units. With respect to our other nuclear units, we retain any funds remaining after decommissioning. However, in connection with CENG's acquisition of the Nine Mile Point and Ginna plants and settlements with certain regulatory agencies, certain conditions pertaining to NDT funds apply that, if met, could possibly result in obligations to make payments to certain third parties (clawbacks). For Nine Mile Point and Ginna, the clawback provisions are triggered only in the event that the required decommissioning activities are discontinued or not started or completed in a timely manner. In the event that the clawback provisions are triggered for Nine Mile Point, then, depending upon the triggering event, an amount equal to 50% of the total amount withdrawn from the funds for non-decommissioning activities as defined in the agreement or 50% of any excess funds in the trust funds above the amounts required for decommissioning (including SNF management and site restoration) is to be paid to the Nine Mile Point sellers. In the event that the clawback provisions are triggered for Ginna, then an amount equal to any estimated cost savings realized by not completing any of the required decommissioning activities is to be paid to the Ginna sellers. We expect to comply with applicable regulations and timely commence and complete all required decommissioning activities.

We had NDT funds totaling \$16,064 million and \$14,599 million as of December 31, 2021 and 2020, respectively. The NDT funds also include \$126 million and \$134 million for the current portion of the NDT funds as of December 31, 2021 and 2020, respectively, which are included in Other current assets in the Consolidated Balance Sheets. See Note 22 — Supplemental Financial Information for additional information on activities of the NDT funds.

**Accounting Implications of the Regulatory Agreements with ComEd and PECO**

Based on the regulatory agreements with the ICC and PAPUC that dictate our obligations related to the shortfall or excess of NDT funds necessary for decommissioning the former ComEd units on a unit-by-unit basis and the former PECO units in total, decommissioning-related activities net of applicable taxes, including realized and

unrealized gains and losses on the NDT funds, depreciation of the ARC, and accretion of the decommissioning obligation are generally offset in the Consolidated Statements of Operations and Comprehensive Income and are recorded as related party balances in the Consolidated Balance Sheets. For the purposes of making this determination, the decommissioning obligation referred to is different, as described below, from the calculation used in the NRC minimum funding obligation filings based on NRC guidelines.

For the former PECO units, given the symmetric settlement provisions that allow for continued recovery of decommissioning costs from PECO customers in the event of a shortfall and the obligation for us to ultimately return excess funds to PECO customers (on an aggregate basis for all seven units), decommissioning-related activities are generally offset in the Consolidated Statements of Operations and Comprehensive Income regardless of whether the NDT funds are expected to exceed or fall short of the total estimated decommissioning obligation. The offset of decommissioning-related activities in the Consolidated Statement of Operations and Comprehensive Income results in an equal adjustment to noncurrent payables to or noncurrent receivables from affiliates. Any changes to the existing PECO regulatory agreements could impact our ability to offset decommissioning-related activities in the Consolidated Statement of Operations and Comprehensive Income, and the potential impact to our financial statements could be material.

For the former ComEd units, given no further recovery from ComEd customers is permitted and we retain an obligation to ultimately return any unused NDTs to ComEd customers (on a unit-by-unit basis), to the extent the related NDT investment balances are expected to exceed the total estimated decommissioning obligation for each unit, decommissioning-related activities are offset in the Consolidated Statements of Operations and Comprehensive Income which results in us recognizing a noncurrent payable to affiliates. However, given the asymmetric settlement provision that does not allow for continued recovery from ComEd customers in the event of a shortfall, recognition of a regulatory asset at ComEd is not permissible and accounting for decommissioning-related activities for that unit would not be offset, and the impact to the Consolidated Statements of Operations and Comprehensive Income could be material during such periods. During the second and third quarter of 2021, a pre-tax charge of \$53 million and \$140 million, respectively, was recorded in the Consolidated Statement of Operations and Comprehensive Income for decommissioning-related activities that were not offset for the Byron units due to contractual offset being temporarily suspended. With our September 15, 2021 reversal of the previous decision to retire Byron and the corresponding adjustment to the ARO for Byron discussed previously, we resumed contractual offset for Byron as of that date.

As of December 31, 2021, decommissioning-related activities for all of the former ComEd units, except for Zion (see Zion Station Decommissioning below), are currently offset in the Consolidated Statements of Operations and Comprehensive Income.

The decommissioning-related activities related to the Non-Regulatory Agreement Units are reflected in the Consolidated Statements of Operations and Comprehensive Income.

#### **Zion Station Decommissioning**

In 2010, we completed an ASA under which ZionSolutions assumed responsibility for decommissioning Zion Station and we transferred to ZionSolutions substantially all the Zion Station's assets, including the related NDT funds. Following ZionSolutions' completion of its contractual obligations and transfer of the NRC license back to us, we will store the SNF at Zion Station until it is transferred to the DOE for ultimate disposal, and complete all remaining decommissioning activities associated with the SNF dry storage facility.

We had retained our obligation for the SNF upon transfer of the NRC license to us as well as certain NDT assets to fund the obligation to maintain the SNF at Zion Station until transfer to the DOE and to complete all remaining decommissioning activities for the SNF storage facility. Any shortage of funds necessary to maintain the SNF and decommission the SNF storage facility is ultimately required to be funded by us. As of December 31, 2021, the ARO associated with Zion's SNF storage facility is \$140 million and the NDT funds available to fund this obligation are \$65 million.

#### **NRC Minimum Funding Requirements**

NRC regulations require that licensees of nuclear generating facilities demonstrate reasonable assurance that funds will be available in specified minimum amounts to decommission the facility at the end of its life. The estimated decommissioning obligations are calculated using an NRC methodology that is different from the ARO recorded in the Consolidated Balance Sheets primarily due to differences in the type of costs included in the

estimates, the basis for estimating such costs, and assumptions regarding the decommissioning alternatives to be used, potential license renewals, decommissioning cost escalation, and the growth rate in the NDT funds. Under NRC regulations, if the minimum funding requirements for radiological decommissioning calculated under the NRC methodology are greater than the future value of the NDT funds, also calculated under the NRC methodology, then the NRC requires resolution of the shortfalls which could include further funding or other financial guarantees.

Key assumptions used in the minimum funding calculation for radiological decommissioning costs using the NRC methodology at December 31, 2021 include: (1) consideration of costs only for the removal of radiological contamination at each unit; (2) the option on a unit-by-unit basis to use generic, non-site specific cost estimates; (3) consideration of only one decommissioning scenario for each unit; (4) the plants cease operation at the end of their current license lives (with no assumed license renewals for those units that have not already received renewals); (5) the assumption of current nominal dollar cost estimates that are neither escalated through the anticipated period of decommissioning, nor discounted using the CARFR; and (6) assumed annual after-tax returns on the NDT funds of 2% (3% for the former PECO units, as specified by the PAPUC).

In contrast, the key criteria and assumptions used by us to determine the ARO and to forecast the target growth in the NDT funds as of December 31, 2021 include: (1) the use of site specific cost estimates that are updated at least once every five years; (2) the inclusion in the ARO estimate of all legally unavoidable costs required to decommission the unit (e.g., radiological decommissioning and full site restoration for certain units, on-site SNF maintenance and storage subsequent to ceasing operations and until DOE acceptance, and disposal of certain LLRW); (3) as applicable, the consideration of multiple scenarios where decommissioning and site restoration activities, as applicable, are completed under possible scenarios ranging from 10 to 70 years after the cessation of plant operations or the end of the current licensed operating life; (4) the consideration of multiple end of life scenarios; (5) the measurement of the obligation at the present value of the future estimated costs and an annual average accretion of the ARO of approximately 4% through a period of approximately 30 years after the end of the extended lives of the units; and (6) an estimated targeted annual pre-tax return on the NDT funds of 5.5% to 6.3% (as compared to a historical 5-year annual average pre-tax return of approximately 10.2%).

We are required to provide to the NRC a biennial report by unit (annually for units that have been retired or are within five years of license expiration), based on values as of December 31, addressing our ability to meet the NRC minimum funding levels. Depending on the value of the trust funds, we may be required to take steps, such as providing financial guarantees through surety bonds, letters of credit, or parent company guarantees or making additional contributions to the trusts, which could be significant, to ensure that the trusts are adequately funded and that NRC minimum funding requirements are met. As a result, our cash flows and financial position may be significantly adversely affected.

We filed our biennial decommissioning funding status report with the NRC on February 24, 2021 for all units, including our shutdown units, except for Zion Station which is included in a separate report to the NRC submitted by ZionSolutions, LLC. The status report demonstrated adequate decommissioning funding assurance as of December 31, 2020 for all units except for Byron Units 1 and 2. We filed an updated decommissioning funding status report for Byron Units 1 and 2 and Dresden Units 2 and 3 on September 28, 2021 based on their current license expiration dates consistent with our announcements regarding the continued operations of these units. This report demonstrated adequate decommissioning funding assurance as of December 31, 2020 for Byron Units 1 and 2 and Dresden Units 2 and 3.

We will file the next decommissioning funding status report with the NRC by March 31, 2022. This report will also reflect the status of decommissioning funding assurance as of December 31, 2021 for shutdown units.

As the future values of trust funds change due to market conditions, the NRC minimum funding status of our units will change. In addition, if changes occur to the regulatory agreement with the PAPUC that currently allows amounts to be collected from PECO customers for decommissioning the former PECO units, the NRC minimum funding status of those plants could change at subsequent NRC filing dates.

#### **Impact of Separation from Exelon**

Satisfying a condition precedent, on December 16, 2021, the NYPSC authorized our separation from Exelon and accepted the terms of a Joint Proposal that became binding upon closing of the separation on February 1, 2022. As part of the Joint Proposal, among other items, we have projected completion of radiological decommissioning

and site restoration activities necessary to achieve a partial site release from the NRC (release of the site for unrestricted use, except for any on-site dry cask storage) within 20 years from the end of licensed life for each of our Ginna and FitzPatrick units and from the end of licensed life for the last of the NMP operating units. While there is flexibility under the Joint Proposal for decommissioning timing, we expect to increase the AROs associated with our New York nuclear plants during the first quarter of 2022 to reflect this scenario.

The Joint Proposal also required a contribution of \$15 million to the NDT for NMP Unit 2 in January 2022 and requires various financial assurance mechanisms through the duration of decommissioning and site restoration, including a minimum NDT balance for each unit, adjusted for specific stages of decommissioning, and a parent guaranty for site restoration costs updated annually as site restoration progresses, which must be replaced with a third-party surety bond or equivalent financial instrument in the event we fall below investment grade.

See Note 24 — Separation from Exelon for additional information.

#### Non-Nuclear Asset Retirement Obligations

We have AROs for plant closure costs associated with our natural gas, oil, and renewable generating facilities, including asbestos abatement, removal of certain storage tanks, restoring leased land to the condition it was in prior to construction of renewable generating stations, and other decommissioning-related activities. See Note 1 — Significant Accounting Policies for additional information on the accounting policy for AROs.

The following table provides a rollforward of the non-nuclear AROs reflected in the Consolidated Balance Sheets from December 31, 2019 to December 31, 2021:

	Non-nuclear AROs
Balance as of December 31, 2019	\$ 216
Net increase due to changes in, and timing of, estimated future cash flows	2
Development projects	1
Accretion expense	11
Asset divestitures	(4)
Payments	(4)
AROs reclassified to liabilities held for sale	(10)
Balance as of December 31, 2020	212
Net increase due to changes in, and timing of, estimated future cash flows	5
Accretion expense	11
Asset divestitures	(19)
Payments	(3)
AROs previously held for sale	10
Balance as of December 31, 2021	\$ 216

#### 11. Leases

##### Lessee

We have operating leases for which we are the lessee. The significant types of leases are contracted generation, real estate, and vehicles and equipment. The following table outlines other terms and conditions of the lease agreements as of December 31, 2021. We did not have material finance leases in 2021, 2020, or in 2019.

	Years
Remaining lease terms	1-34
Options to extend the term	1-30
Options to terminate within	1-2



The components of operating lease costs were as follows:

	For the Years Ended December 31,		
	2021	2020	2019
Operating lease costs	\$ 161	\$ 194	\$ 222
Variable lease costs	168	234	282
Short-term lease costs	—	2	19
Total lease costs <sup>(a)</sup>	\$ 329	\$ 430	\$ 523

(a) Excludes \$44 million of sublease income recorded for each of the years ended December 31, 2021, 2020, and 2019 respectively.

The following table provides additional information regarding the presentation of operating lease ROU assets and lease liabilities in the Consolidated Balance Sheets:

	As of December 31,	
	2021	2020
<b>Operating lease ROU assets<sup>(a)</sup></b>		
Other deferred debits and other assets	\$ 604	\$ 726
<b>Operating lease liabilities<sup>(a)</sup></b>		
Other current liabilities	72	132
Other deferred credits and other liabilities	705	775
Total operating lease liabilities	\$ 777	\$ 907

(a) The operating ROU assets and lease liabilities include \$293 million and \$429 million, respectively, related to contracted generation as of December 31, 2021, and \$387 million and \$528 million, respectively, as of December 31, 2020.

The weighted average remaining lease terms, in years, and the weighted average discount rates for operating leases were as follows:

	Weighted Average Remaining Lease Terms (in Years)	Weighted Average Discount Rates
As of December 31, 2021	10.1	5.0 %
As of December 31, 2020	10.5	4.9 %
As of December 31, 2019	10.6	4.8 %

Future minimum lease payments for operating leases as of December 31, 2021 were as follows:

Year	Future Minimum Lease payments
2022	\$ 92
2023	99
2024	97
2025	99
2026	100
Remaining years	531
Total	1,018
Interest	241
Total operating lease liabilities	\$ 777

Cash paid for amounts included in the measurement of operating lease liabilities was \$162 million, \$204 million, and \$206 million for the years ended December 31, 2021, 2020, and 2019, respectively.

ROU assets obtained in exchange for operating lease obligations were \$(2) million, \$3 million, and \$14 million for the years ended December 31, 2021, 2020, and 2019, respectively.

**Lessor**

We have operating leases for which we are the lessor. The significant types of leases are contracted generation and real estate. The following table outlines other terms and conditions of the lease agreements as of December 31, 2021.

	Years
Remaining lease terms	1-18
Options to extend the term	1-5

The components of lease income were as follows:

	For the Years Ended December 31,			
	2021		2020	2019
Operating lease income	\$ 47		\$ 47	\$ 47
Variable lease income	261		282	258

Future minimum lease payments to be recovered under operating leases as of December 31, 2021 were as follows:

Year	Minimum lease payments to be recovered
2022	\$ 45
2023	45
2024	45
2025	45
2026	45
Remaining years	137
<b>Total</b>	<b>\$ 362</b>

**12. Asset Impairments**

We evaluate the carrying value of long-lived assets or asset groups for recoverability whenever events or changes in circumstances indicate that the carrying value of those assets may not be recoverable. Indicators of impairment may include a deteriorating business climate, including, but not limited to, declines in energy prices, condition of the asset, or plans to dispose of a long-lived asset significantly before the end of its useful life. We determine if long-lived assets or asset groups are potentially impaired by comparing the undiscounted expected future cash flows to the carrying value when indicators of impairment exist. When the undiscounted cash flow analysis indicates a long-lived asset or asset group may not be recoverable, the amount of the impairment loss is determined by measuring the excess of the carrying amount of the long-lived asset or asset group over its fair value. The fair value analysis is primarily based on the income approach using significant unobservable inputs (Level 3) including revenue and generation forecasts, projected capital and maintenance expenditures and discount rates. A variation in the assumptions used could lead to a different conclusion regarding the recoverability of an asset or asset group and, thus, could potentially result in material future impairments of our long-lived assets.

**New England Asset Group**

In the third quarter of 2020, in conjunction with the retirement announcement of Mystic Units 8 and 9, we completed a comprehensive review of the estimated undiscounted future cash flows of the New England asset group and concluded that the estimated undiscounted future cash flows and fair value of the New England asset

group were less than their carrying values. As a result, a pre-tax impairment charge of \$500 million was recorded in the third quarter of 2020 in Operating and maintenance expense in the Consolidated Statement of Operations and Comprehensive Income. See Note 7 - Early Plant Retirements for additional information.

In the second quarter of 2021, an overall decline in the asset group's portfolio value suggested that the carrying value of the New England asset group may be impaired. We completed a comprehensive review of the estimated undiscounted future cash flows of the New England asset group and concluded that the carrying value was not recoverable and that its fair value was less than its carrying value. As a result, a pre-tax impairment charge of \$350 million was recorded in the second quarter of 2021 in Operating and maintenance expense in the Consolidated Statement of Operations and Comprehensive Income.

#### Contracted Wind Project

In the third quarter of 2021, significant long-term operational issues anticipated for a specific wind turbine technology suggested that the carrying value of a contracted wind asset, located in Maryland and part of the CRP joint venture, may be impaired. We completed a comprehensive review of the estimated undiscounted future cash flows and concluded that the carrying value of this contracted wind project was not recoverable and that its fair value was less than its carrying value. As a result, in the third quarter of 2021, a pre-tax impairment charge of \$45 million was recorded in Operating and maintenance expense, \$21 million of which was offset in Net income attributable to noncontrolling interests in the Consolidated Statement of Operations and Comprehensive Income.

#### Equity Method Investments in Certain Distributed Energy Companies

In the third quarter of 2019, our equity method investments in certain distributed energy companies were fully impaired due to an other-than-temporary decline in market conditions and underperforming projects. We recorded a pre-tax impairment charge of \$164 million in Equity in losses of unconsolidated affiliates and an offsetting pre-tax \$96 million in Net income attributable to noncontrolling interests in the Consolidated Statement of Operations and Comprehensive Income. As a result, we accelerated the amortization of investment tax credits associated with these companies and recorded a benefit of \$46 million in Income taxes. The impairment charge and the accelerated amortization of investment tax credits resulted in a net \$15 million decrease to our earnings. See Note 21 — Variable Interest Entities for additional information.

### 13. Intangible Assets

Our intangible assets and liabilities, included in Other current assets, Other deferred debits and other assets, Other current liabilities, Other deferred credits and other liabilities in the Consolidated Balance Sheets, consisted of the following as of December 31, 2021 and 2020. The intangible assets and liabilities shown below are generally amortized on a straight line basis, except for unamortized energy contracts which are amortized in relation to the expected realization of the underlying cash flows:

	December 31, 2021			December 31, 2020		
	Gross	Accumulated Amortization	Net	Gross	Accumulated Amortization	Net
Unamortized Energy Contracts	\$ 1,963	\$ (1,673)	\$ 290	\$ 1,963	\$ (1,642)	\$ 321
Customer Relationships	330	(243)	87	326	(215)	111
Trade Name	222	(218)	4	222	(197)	25
<b>Total</b>	<b>\$ 2,515</b>	<b>\$ (2,134)</b>	<b>\$ 381</b>	<b>\$ 2,511</b>	<b>\$ (2,054)</b>	<b>\$ 457</b>

The following table summarizes the amortization expense related to intangible assets and liabilities for each of the years ended December 31, 2021, 2020, and 2019:

For the Years Ended December 31,	Amortization Expense <sup>(a)</sup>
2021	\$ 80
2020	81
2019	74

(a) See Note 22 — Supplemental Financial Information for additional information related to the amortization of unamortized energy contracts.

The following table summarizes the estimated future amortization expense related to intangible assets and liabilities as of December 31, 2021:

For the Years Ending December 31,	Estimated Future Amortization Expense
2022	\$ 60
2023	53
2024	50
2025	44
2026	37

#### Renewable Energy Credits

RECs are included in Renewable energy credits in the Consolidated Balance Sheets. Purchased RECs are recorded at cost on the date they are purchased. The cost of RECs purchased on a stand-alone basis is based on the transaction price, while the cost of RECs acquired through PPAs represents the difference between the total contract price and the market price of energy at contract inception. Generally, revenue for RECs that are sold to a counterparty under a contract that specifically identifies a power plant is recognized at a point in time when the power is produced. This includes both bundled and unbundled REC sales. Otherwise, the revenue is recognized upon physical transfer of the REC to the customer.

The following table presents current RECs as of December 31, 2021 and 2020:

	As of December 31, 2021	As of December 31, 2020
Current REC's	\$ 520	\$ 621

#### 14. Income Taxes

##### Components of Income Tax Expense or Benefit

Income tax expense (benefit) from continuing operations is comprised of the following components:

	For the Years Ended December 31,		
	2021	2020	2019
Included in operations:			
Federal			
Current	\$ 394	\$ 130	\$ 147
Deferred	(153)	150	346
Investment tax credit amortization	(15)	(25)	(69)
State			
Current	36	40	10
Deferred	(37)	(46)	82
Total	\$ 225	\$ 249	\$ 516

**Rate Reconciliation**

The effective income tax rate from continuing operations varies from the U.S. federal statutory rate principally due to the following:

	For the Years Ended December 31,		
	2021 <sup>(a)</sup>	2020 <sup>(a)</sup>	2019 <sup>(a)</sup>
U.S. federal statutory rate	21.0 %	21.0 %	21.0 %
Increase (decrease) due to:			
State income taxes, net of federal income tax benefit	—	0.5	3.8
Qualified NDT fund income	165.1	23.5	12.3
Amortization of investment tax credit, including deferred taxes on basis differences	(9.0)	(2.6)	(3.0)
Production tax credits and other credits	(28.7)	(5.4)	(4.8)
Noncontrolling interests	(3.0)	3.2	(1.2)
Tax Settlements	—	(10.3)	—
Other	2.6	(0.1)	(1.2)
Effective income tax rate <sup>(b)</sup>	148.0 %	29.8 %	26.9 %

(a) Positive percentages represent income tax expense. Negative percentages represent income tax benefit.

(b) The higher effective tax rate in 2021 is primarily due to the impacts of the February 2021 extreme cold weather event on Income before income taxes.

**Tax Differences and Carryforwards**

The tax effects of temporary differences and carryforwards, which give rise to significant portions of the deferred tax assets (liabilities), as of December 31, 2021 and 2020 are presented below:

	As of December 31, 2021		As of December 31, 2020	
Plant basis differences	\$	(2,812)	\$	(2,592)
Accrual based contracts		(38)		(37)
Derivatives and other financial instruments		(172)		(41)
Deferred pension and postretirement obligation		(274)		(236)
Nuclear decommissioning activities		(912)		(742)
Deferred debt refinancing costs		15		16
Tax loss carryforward		53		55
Tax credit carryforward, net of valuation allowances		778		838
Investment in partnerships		(252)		(813)
Other, net		312		347
Deferred income tax liabilities (net)	\$	(3,302)	\$	(3,205)
Unamortized investment tax credits <sup>(a)</sup>		(369)		(445)
Total deferred income tax liabilities (net) and unamortized investment tax credits	\$	(3,671)	\$	(3,650)

(a) Does not include unamortized investment tax credits reclassified to liabilities held for sale as of December 31, 2020.

The following table provides our carryforwards, of which the state related items are presented on a post-apportioned basis, and any corresponding valuation allowances as of December 31, 2021.

Federal	As of December 31, 2021	
Federal general business credits carryforwards and other carryforwards <sup>(a)</sup>	\$	806
<b>State</b>		
State net operating losses and other carryforwards		869
Deferred taxes on state tax attributes (net)		74
Valuation allowance on state tax attributes		22
Year in which net operating loss or credit carryforwards will begin to expire <sup>(a)</sup>		2035

(a) The federal general business credit carryforward will begin expiring in 2035.

**Tabular Reconciliation of Unrecognized Tax Benefits**

The following table presents changes in unrecognized tax benefits.

	Unrecognized tax benefits	
Balance as of December 31, 2018	\$	408
Change to positions that only affect timing		12
Increases based on tax positions related to 2019		1
Increases based on tax positions prior to 2019		19
Decreases based on tax positions prior to 2019		(3)
Increase from settlements with taxing authorities		4
Balance as of December 31, 2019		441
Increases based on tax positions related to 2020		1
Increases based on tax positions prior to 2020		23
Decreases based on tax positions prior to 2020 <sup>(a)</sup>		(346)
Decrease from settlements with taxing authorities <sup>(a)</sup>		(69)
Balance as of December 31, 2020		50
Change to positions that only affect timing		(1)
Increases based on tax positions related to 2021		1
Increases based on tax positions prior to 2021		1
Decreases based on tax positions prior to 2021		(2)
Balance as of December 31, 2021	\$	49

(a) Our unrecognized federal and state tax benefits decreased in the first quarter of 2020 by approximately \$411 million due to the settlement of a federal refund claim with IRS Appeals. The recognition of these tax benefits resulted in an increase in net income of \$73 million in the first quarter of 2020, reflecting a decrease to income tax expense of \$67 million.

**Recognition of unrecognized tax benefits**

The following table presents the unrecognized tax benefits that, if recognized, would decrease the effective tax rate.

December 31, 2021	\$	39
December 31, 2020		39
December 31, 2019		429

**Reasonably possible the total amount of unrecognized tax benefits could significantly increase or decrease within 12 months after the reporting date**

No amounts are expected to significantly increase or decrease within 12 months after the reporting date.

**Total amounts of interest and penalties recognized**

We did not record material interest and penalty expense related to tax positions reflected in the Consolidated Balance Sheets. Interest expense and penalty expense are recorded in Interest expense, net and Other, net, respectively, in Other income and deductions in the Consolidated Statements of Operations and Comprehensive Income.

#### Description of tax years open to assessment by major jurisdiction

Major Jurisdiction	Open Years <sup>(a)</sup>
Federal consolidated income tax returns	2010-2020
Illinois unitary corporate income tax returns	2012-2020
New Jersey separate corporate income tax returns	2017-2018
New York combined corporate income tax returns	2011-2020
Pennsylvania separate corporate income tax returns	2011-2016
Pennsylvania separate corporate income tax returns	2018-2020

(a) Tax years open to assessment include years when we were consolidated by Exelon. See discussion below under the Tax Matters Agreement for responsibility of taxes of these open years.

#### Other Tax Matters

##### CENG Put Option

On August 6, 2021, we entered into a settlement agreement with EDF pursuant to which we purchased EDF's equity interest in CENG. We recorded deferred tax liabilities of \$288 million against Membership interest in the Consolidated Balance Sheet. The deferred tax liabilities represent the tax effect on the difference between the net purchase price and EDF's noncontrolling interest as of August 6, 2021. The deferred tax liabilities will reverse during the remaining operating lives and during decommissioning of the CENG nuclear plants. See Note 2 – Mergers, Acquisitions, and Dispositions for additional information.

##### Allocation of Tax Benefits

We are a party to an agreement with Exelon and other subsidiaries of Exelon that provides for the allocation of consolidated tax liabilities and benefits (Tax Sharing Agreement). The Tax Sharing Agreement provides that each party is allocated an amount of tax similar to that which would be owed had the party been separately subject to tax. In addition, any net federal and state benefits attributable to Exelon were reallocated to the parties. That allocation was treated as a contribution from Exelon to the party receiving the benefit.

The following table presents the allocation of tax benefits from Exelon to us under the Tax Sharing Agreement.

December 31, 2021	\$	64
December 31, 2020		64
December 31, 2019		41

##### Research and Development Activities

In the fourth quarter of 2019, we recognized additional tax benefits related to certain research and development activities that qualify for federal and state tax incentives for the 2010 through 2018 tax years, which resulted in an increase in net income of \$75 million for the year ended December 31, 2019, reflecting a decrease in Income tax expense of \$66 million.

##### Tax Matters Agreement

In connection with the separation, we entered into a Tax Matters Agreement ("TMA") with Exelon. The TMA will govern the respective rights, responsibilities, and obligations between us and Exelon after the separation with respect to tax liabilities and benefits, tax attributes, tax returns, tax contests and other tax sharing regarding U.S. federal, state, local and foreign income taxes, other tax matters and related tax returns.

*Responsibility and Indemnification for Taxes.* As a former subsidiary of Exelon, we will have joint and several liability with Exelon to the IRS and certain state jurisdictions relating to the taxable periods that we were included in federal and state filings. However, the TMA specifies the portion of this tax liability for which we will bear contractual responsibility, and we and Exelon will each agree to indemnify each other against any amounts for which such indemnified party is not responsible. Specifically, we will generally be liable for taxes due and payable in connection with tax returns that we are required to file. We will also generally be liable for our share of certain taxes required to be paid by Exelon with respect to taxable years or periods (or portions thereof) ending on or prior to the separation to the extent that we would have been responsible for such taxes under the existing Exelon tax sharing agreement.

*Tax Refunds and Attributes.* The TMA will provide for the allocation of certain pre-closing tax attributes between us and Exelon. Tax attributes generally will be allocated in accordance with the principles set forth in the existing Exelon tax sharing agreement, unless otherwise required by law. Under the TMA, we will generally be entitled to refunds for taxes for which we are responsible. In addition, it is expected that after the separation, Exelon will have tax credit carryforwards that may be used to offset Exelon's future tax liabilities. A significant portion of such carryforwards were generated by our business, and we recognized a receivable upon separation for the tax credit carryforwards expected to be utilized by Exelon after separation in accordance with the terms of the TMA.

#### **15. Retirement Benefits**

Substantially all our current employees participated in Exelon-sponsored defined benefit pension plans and OPEB plans as of December 31, 2021. Substantially all non-union employees and electing union employees hired on or after January 1, 2001 participate in cash balance pension plans. Effective January 1, 2009, substantially all newly-hired union-represented employees participate in cash balance pension plans. Effective February 1, 2018, for most newly-hired non-represented, non-craft, employees, and for certain newly-hired union employees pursuant to their collective bargaining agreements, these newly-hired employees are not eligible for pension benefits, and will instead be eligible to receive an enhanced non-discretionary employer contribution in an Exelon defined contribution savings plan. Effective January 1, 2018, most newly-hired non-represented, non-craft, employees are not eligible for OPEB benefits and employees represented by Local 614 are not eligible for retiree health care benefits. Effective January 1, 2021, most non-represented, non-craft, employees who are under the age of 40 are not eligible for retiree health care benefits. Effective January 1, 2022, management employees retiring on or after that date are no longer eligible for retiree life insurance benefits.



The tables below show the pension and OPEB plans in which our employees participated as of December 31, 2021:

Name of Plan
<b>Qualified Pension Plans:</b>
Exelon Corporation Retirement Program <sup>(a)</sup>
Exelon Corporation Pension Plan for Bargaining Unit Employees <sup>(a)</sup>
Exelon New England Union Employees Pension Plan <sup>(a)</sup>
Exelon Employee Pension Plan for Clinton, TMI, and Oyster Creek <sup>(a)</sup>
Pension Plan of Constellation Energy Group, Inc. <sup>(b)</sup>
Pension Plan of Constellation Energy Nuclear Group, LLC <sup>(c)</sup>
Nine Mile Point Pension Plan <sup>(c)</sup>
Constellation Mystic Power, LLC Union Employees Pension Plan Including Plan A and Plan B <sup>(b)</sup>
Pepco Holdings LLC Retirement Plan <sup>(d)</sup>
<b>Non-Qualified Pension Plans:</b>
Exelon Corporation Supplemental Pension Benefit Plan and 2000 Excess Benefit Plan <sup>(a)</sup>
Exelon Corporation Supplemental Management Retirement Plan <sup>(a)</sup>
Constellation Energy Group, Inc. Senior Executive Supplemental Plan <sup>(b)</sup>
Constellation Energy Group, Inc. Supplemental Pension Plan <sup>(b)</sup>
Constellation Energy Group, Inc. Benefits Restoration Plan <sup>(b)</sup>
Constellation Energy Nuclear Plan, LLC Executive Retirement Plan <sup>(c)</sup>
Constellation Energy Nuclear Plan, LLC Benefits Restoration Plan <sup>(c)</sup>
Baltimore Gas & Electric Company Executive Benefit Plan <sup>(b)</sup>
Baltimore Gas & Electric Company Manager Benefit Plan <sup>(b)</sup>
Pepco Holdings LLC 2011 Supplemental Executive Retirement Plan <sup>(d)</sup>
Conectiv Supplemental Executive Retirement Plan <sup>(d)</sup>
<b>OPEB Plans:</b>
PECO Energy Company Retiree Medical Plan <sup>(a)</sup>
Exelon Corporation Health Care Program <sup>(a)</sup>
Exelon Corporation Employees' Life Insurance Plan <sup>(a)</sup>
Exelon Corporation Health Reimbursement Arrangement Plan <sup>(a)</sup>
Constellation Energy Group, Inc. Retiree Medical Plan <sup>(b)</sup>
Constellation Energy Group, Inc. Retiree Dental Plan <sup>(b)</sup>
Constellation Energy Group, Inc. Employee Life Insurance Plan and Family Life Insurance Plan <sup>(b)</sup>
Constellation Mystic Power, LLC Post-Employment Medical Account Savings Plan <sup>(b)</sup>
Exelon New England Union Post-Employment Medical Savings Account Plan <sup>(a)</sup>
Retiree Medical Plan of Constellation Energy Nuclear Group, LLC <sup>(c)</sup>
Retiree Dental Plan of Constellation Energy Nuclear Group, LLC <sup>(c)</sup>
Nine Mile Point Nuclear Station, LLC Medical Care and Prescription Drug Plan for Retired Employees <sup>(c)</sup>
Pepco Holdings LLC Welfare Plan for Retirees <sup>(d)</sup>

- (a) These plans are collectively referred to as the legacy Exelon plans.
- (b) These plans are collectively referred to as the legacy Constellation Energy Group (CEG) Plans.
- (c) These plans are collectively referred to as the legacy CENG plans.
- (d) These plans are collectively referred to as the legacy PHI plans.

**Costs Allocation from Exelon**

We account for our participation in Exelon's pension and OPEB plans by applying multi-employer accounting. Exelon allocates costs related to its pension and OPEB plans to its subsidiaries based on both active and retired employee participation in each plan.

We were allocated pension and OPEB costs from Exelon of \$123 million, \$115 million, and \$135 million for the years ended December 31, 2021, 2020, and 2019, respectively. We include the service cost and non-service cost components in Operating and maintenance expense and Property, plant, and equipment, net (where criteria for capitalization of direct labor has been met) in the consolidated financial statements.

**Contributions**

Exelon allocates contributions related to its legacy Exelon pension and OPEB plans to its subsidiaries based on accounting cost. For legacy CEG, CENG, FitzPatrick, and PHI plans, pension and OPEB contributions are allocated to the subsidiaries based on employee participation (both active and retired). The following tables provide our contributions to the pension and OPEB plans:

Pension Benefits						OPEB					
2021		2020		2019		2021		2020		2019	
\$	231	\$	236	\$	160	\$	28	\$	19	\$	15

Exelon considers various factors when making pension funding decisions, including actuarially determined minimum contribution requirements under ERISA, contributions required to avoid benefit restrictions and at-risk status as defined by the Pension Protection Act of 2006 (the Act), management of the pension obligation, and regulatory implications. The Act requires the attainment of certain funding levels to avoid benefit restrictions (such as an inability to pay lump sums or to accrue benefits prospectively), and at-risk status (which triggers higher minimum contribution requirements and participant notification). The projected contributions below reflect a funding strategy to make levelized annual contributions with the objective of achieving 100% funded status on an Accumulated Benefit Obligation ("ABO") basis over time. This level funding strategy helps minimize volatility of future period required pension contributions. Unlike the qualified pension plans, Exelon's non-qualified pension plans are not funded, given that they are not subject to statutory minimum contribution requirements.

While OPEB plans are also not subject to statutory minimum contribution requirements, Exelon does fund certain of its plans. For Exelon's funded OPEB plans, contributions generally equal accounting costs, however, Exelon's management has historically considered several factors in determining the level of contributions to its OPEB plans, including liabilities management, levels of benefit claims paid, and regulatory implications (amounts deemed prudent to meet regulatory expectations and best assure continued rate recovery).

**Defined Contribution Savings Plan**

We participate in various 401(k) defined contribution savings plans that are sponsored by Exelon. The plans are qualified under applicable sections of the IRC and allow employees to contribute a portion of their pre-tax and/or after-tax income in accordance with specified guidelines. We match a percentage of the employee contributions up to certain limits. The matching contributions to the savings plan were \$53 million, \$63 million, and \$73 million for the years ended December 31, 2021, 2020, and 2019, respectively.

**Impact of Separation from Exelon**

Effective February 1, 2022, in connection with the separation, pension and OPEB obligations and the related plan assets for participants were transferred to pension and OPEB plans established by us as the plan sponsor.

As the plan sponsor, effective with the first quarter of 2022, our Consolidated Balance Sheet will reflect an unfunded projected benefit obligation ("PBO") equal to an excess of the PBO over the fair value of the plan assets, consistent with a single employer benefit plan approach. We will no longer account for our participation in Exelon's pension and OPEB plans under the multi-employer benefit plan approach that has historically resulted in recognition of a net prepaid pension asset in our Consolidated Balance Sheets representing an excess of contributions over cumulative costs.

In addition, we will be required to report the service cost and other non-service cost components of net periodic benefit costs for all plans separately in our Consolidated Statements of Operations and Comprehensive Income. Effective in the first quarter of 2022, the service cost component will be included in Operating and maintenance expense and Property, plant, and equipment, net (where criteria for capitalization of direct labor has been met) while the non-service cost components will be included in Other, net.

We have also established various 401(k) defined contribution savings plans that are now sponsored by us. Refer to Note 24 — Separation from Exelon for additional details on the separation.

The following table provides our planned contributions to our qualified pension plans, non-qualified pension plans, and OPEB plans in 2022 (including our benefit payments related to unfunded plans):

	Qualified Pension Plans	Non-Qualified Pension Plans	OPEB
Planned contributions	\$ 192	\$ 9	\$ 11

#### 16. Derivative Financial Instruments

We use derivative instruments to manage commodity price risk, interest rate risk, and foreign exchange risk related to ongoing business operations.

Authoritative guidance requires that derivative instruments be recognized as either assets or liabilities at fair value, with changes in fair value of the derivative recognized in earnings immediately. Other accounting treatments are available through special election and designation, provided they meet specific, restrictive criteria both at the time of designation and on an ongoing basis. These alternative permissible accounting treatments include NPNS, cash flow hedges, and fair value hedges. All derivative economic hedges related to commodities, referred to as economic hedges, are recorded at fair value through earnings. For all NPNS derivative instruments, accounts receivable or accounts payable are recorded when derivatives settle and revenue or expense is recognized in earnings as the underlying physical commodity is sold or consumed.

Authoritative guidance about offsetting assets and liabilities requires the fair value of derivative instruments to be shown in the Notes to Consolidated Financial Statements on a gross basis, even when the derivative instruments are subject to legally enforceable master netting agreements and qualify for net presentation in the Consolidated Balance Sheets. A master netting agreement is an agreement between two counterparties that may have derivative and non-derivative contracts with each other providing for the net settlement of all referenced contracts via one payment stream, which takes place as the contracts deliver, when collateral is requested or in the event of default. In the tables below, which present fair value balances, our energy-related economic hedges and proprietary trading derivatives are shown gross. The impact of the netting of fair value balances with the same counterparty that are subject to legally enforceable master netting agreements, as well as netting of cash collateral, including margin on exchange positions, is aggregated in the collateral and netting columns.

Our use of cash collateral is generally unrestricted unless we are downgraded below investment grade.

#### Commodity Price Risk

We employ established policies and procedures to manage our risks associated with market fluctuations in commodity prices by entering into physical and financial derivative contracts, including swaps, futures, forwards, options, and short-term and long-term commitments to purchase and sell energy and commodity products. We believe these instruments, which are either determined to be non-derivative or classified as economic hedges, mitigate exposure to fluctuations in commodity prices.

To the extent the amount of energy we produce differs from the amount of energy we have contracted to sell, we are exposed to market fluctuations in the prices of electricity, fossil fuels, and other commodities. We use a variety of derivative and non-derivative instruments to manage the commodity price risk of our electric generation facilities, including power and gas sales, fuel and power purchases, natural gas transportation and pipeline capacity agreements, and other energy-related products marketed and purchased. To manage these risks, we may enter into fixed-price derivative or non-derivative contracts to hedge the variability in future cash flows from expected sales of power and gas and purchases of power and fuel. The objectives for executing such hedges include fixing the price for a portion of anticipated future electricity sales at a level that provides an acceptable return. We are also exposed to differences between the locational settlement prices of certain economic hedges and the hedged generating units. This price difference is actively managed through other instruments which include derivative congestion products, whose changes in fair value are recognized in earnings each period, and auction revenue rights, which are accounted for on an accrual basis.

**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 16 — Derivative Financial Instruments

Additionally, we are exposed to certain market risks through our proprietary trading activities. The proprietary trading activities are a complement to our energy marketing portfolio but represent a small portion of our overall energy marketing activities and are subject to limits established by the RMC.

The following tables provide a summary of the derivative fair value balances recorded as of December 31, 2021 and 2020:

	Economic Hedges	Proprietary Trading	Collateral (a)(b)	Netting <sup>(a)</sup>	Total
<b>December 31, 2021</b>					
Mark-to-market derivative assets (current assets)	\$ 10,915	\$ 25	\$ 152	\$ (8,923)	\$ 2,169
Mark-to-market derivative assets (noncurrent assets)	3,224	2	15	(2,298)	943
Total mark-to-market derivative assets	14,139	27	167	(11,221)	3,112
Mark-to-market derivative liabilities (current liabilities)	(10,143)	(19)	262	8,923	(977)
Mark-to-market derivative liabilities (noncurrent liabilities)	(2,893)	(1)	83	2,298	(513)
Total mark-to-market derivative liabilities	(13,036)	(20)	345	11,221	(1,490)
Total mark-to-market derivative net assets (liabilities)	\$ 1,103	\$ 7	\$ 512	\$ —	\$ 1,622
<b>December 31, 2020</b>					
Mark-to-market derivative assets (current assets)	\$ 2,757	\$ 40	\$ 103	\$ (2,261)	\$ 639
Mark-to-market derivative assets (noncurrent assets)	1,501	4	64	(1,015)	554
Total mark-to-market derivative assets	4,258	44	167	(3,276)	1,193
Mark-to-market derivative liabilities (current liabilities)	(2,629)	(23)	131	2,261	(260)
Mark-to-market derivative liabilities (noncurrent liabilities)	(1,335)	(2)	118	1,015	(204)
Total mark-to-market derivative liabilities	(3,964)	(25)	249	3,276	(464)
Total mark-to-market derivative net assets (liabilities)	\$ 294	\$ 19	\$ 416	\$ —	\$ 729

(a) We net all available amounts allowed under the derivative authoritative guidance in the balance sheet. These amounts include unrealized derivative transactions with the same counterparty under legally enforceable master netting agreements and cash collateral. In some cases we may have other offsetting exposures, subject to a master netting or similar agreement, such as trade receivables and payables, transactions that do not qualify as derivatives, letters of credit and other forms of non-cash collateral. These amounts are not material as of December 31, 2021 and 2020 and not reflected in the table above.

(b) Includes \$897 million held and \$209 million posted of variation margin on the exchanges as of December 31, 2021 and 2020, respectively.

**Economic Hedges (Commodity Price Risk)**

For the years ended December 31, 2021, 2020, and 2019, we recognized the following net pre-tax commodity mark-to-market gains (losses) which are also located in the Net fair value changes related to derivatives line in the Consolidated Statements of Cash Flows.

Income Statement Location	Gain (Loss)		
	2021	2020	2019
Operating revenues	\$ (635)	\$ 112	\$ —
Purchased power and fuel	1,206	168	(204)
Total	\$ 571	\$ 280	\$ (204)

In general, increases and decreases in forward market prices have a positive and negative impact, respectively, on owned and contracted generation positions that have not been hedged. For merchant revenues not already hedged via comprehensive state programs, such as the CMC in Illinois, we utilize a three-year ratable sales plan to align our hedging strategy with our financial objectives. The prompt three-year merchant revenues are hedged on an approximate rolling 90%/60%/30% basis. We may also enter into transactions that are outside of this ratable hedging program. As of December 31, 2021, the percentage of expected generation hedged for the Mid-

Atlantic, Midwest, New York, and ERCOT reportable segments is 92%-95% and 73%-76% for 2022 and 2023, respectively.

**Proprietary Trading (Commodity Price Risk)**

We also execute commodity derivatives for proprietary trading purposes. Proprietary trading includes all contracts executed with the intent of benefiting from shifts or changes in market prices as opposed to those executed with the intent of hedging or managing risk. Gains and losses associated with proprietary trading are reported as Operating revenues in the Consolidated Statements of Operations and Comprehensive Income and are included in the Net fair value changes related to derivatives line in the Consolidated Statements of Cash Flows. For the years ended December 31, 2021, 2020, and 2019, net pre-tax commodity mark-to-market gains and losses were not material.

**Interest Rate and Foreign Exchange Risk**

We utilize interest rate swaps to manage our interest rate exposure and foreign currency derivatives to manage foreign exchange rate exposure associated with international commodity purchases in currencies other than U.S. dollars, both of which are treated as economic hedges. The notional amounts were \$486 million and \$665 million as of December 31, 2021 and 2020, respectively.

The mark-to-market derivative assets and liabilities as of December 31, 2021 and 2020 and the mark-to-market gains and losses for the years ended December 31, 2021, 2020, and 2019 were not material.

**Credit Risk**

We would be exposed to credit-related losses in the event of non-performance by counterparties on executed derivative instruments. The credit exposure of derivative contracts, before collateral, is represented by the fair value of contracts as of the reporting date.

For commodity derivatives, we enter into enabling agreements that allow for payment netting with our counterparties, which reduces our exposure to counterparty risk by providing for the offset of amounts payable to the counterparty against amounts receivable from the counterparty. Typically, each enabling agreement is for a specific commodity and, with respect to each individual counterparty, netting is limited to transactions involving that specific commodity product, except where master netting agreements exist with a counterparty that allows for cross product netting. In addition to payment netting language in the enabling agreement, our credit department establishes credit limits, margining thresholds and collateral requirements for each counterparty, which are defined in the derivative contracts. Counterparty credit limits are based on an internal credit review process that considers a variety of factors, including the results of a scoring model, leverage, liquidity, profitability, credit ratings by credit rating agencies, and risk management capabilities. To the extent that a counterparty's margining thresholds are exceeded, the counterparty is required to post collateral with us as specified in each enabling agreement. Our credit department monitors current and forward credit exposure to counterparties and their affiliates, both on an individual and an aggregate basis.

The following tables provide information on the credit exposure for all derivative instruments, NPNS and payables and receivables, net of collateral and instruments that are subject to master netting agreements, as of December 31, 2021. The tables further delineate that exposure by credit rating of the counterparties and provide guidance on the concentration of credit risk to individual counterparties. The amounts in the tables below exclude credit risk exposure from individual retail counterparties, nuclear fuel procurement contracts, and exposure through RTOs, ISOs, NYMEX, ICE, NASDAQ, NGX, and Nodal commodity exchanges.

Rating as of December 31, 2021	Total Exposure Before Credit Collateral	Credit Collateral <sup>(a)</sup>	Net Exposure	Number of Counterparties Greater than 10% of Net Exposure	Net Exposure of Counterparties Greater than 10% of Net Exposure
Investment grade	\$ 715	\$ 176	\$ 539	1	\$ 106
Non-investment grade	13	—	13	—	—
No external ratings					
Internally rated — investment grade	111	—	111	—	—
Internally rated — non-investment grade	226	47	179	—	—
Total	\$ 1,065	\$ 223	\$ 842	1	\$ 106

Net Credit Exposure by Type of Counterparty

	As of December 31, 2021
Financial institutions	\$ 32
Investor-owned utilities, marketers, power producers	711
Energy cooperatives and municipalities	62
Other	37
Total	\$ 842

(a) As of December 31, 2021, credit collateral held from counterparties where we had credit exposure included \$163 million of cash and \$60 million of letters of credit. The credit collateral does not include non-liquid collateral.

**Credit-Risk-Related Contingent Features**

As part of the normal course of business, we routinely enter into physically or financially settled contracts for the purchase and sale of electric capacity, electricity, fuels, emissions allowances, and other energy-related products. Certain of our derivative instruments contain provisions that require us to post collateral. We also enter into commodity transactions on exchanges where the exchanges act as the counterparty to each trade. Transactions on the exchanges must adhere to comprehensive collateral and margining requirements. This collateral may be posted in the form of cash or credit support with thresholds contingent upon our credit rating from each of the major credit rating agencies. The collateral and credit support requirements vary by contract and by counterparty. These credit-risk related contingent features stipulate that if we were to be downgraded or lose our investment grade credit rating (based on our senior unsecured debt rating), we would be required to provide additional collateral. This incremental collateral requirement allows for the offsetting of derivative instruments that are assets with the same counterparty, where the contractual right of offset exists under applicable master netting agreements. In the absence of expressly agreed-to provisions that specify the collateral that must be provided, collateral requested will be a function of the facts and circumstances of the situation at the time of the demand. In this case, we believe an amount of several months of future payments (i.e., capacity payments) rather than a calculation of fair value is the best estimate for the contingent collateral obligation, which has been factored into the disclosure below.

The aggregate fair value of all derivative instruments with credit-risk related contingent features in a liability position that are not fully collateralized (excluding transactions on the exchanges that are fully collateralized) is detailed in the table below:

Credit-Risk Related Contingent Features	As of December 31,	
	2021	2020
Gross fair value of derivative contracts containing this feature <sup>(a)</sup>	\$ (3,872)	\$ (834)
Offsetting fair value of in-the-money contracts under master netting arrangements <sup>(b)</sup>	2,424	537
Net fair value of derivative contracts containing this feature <sup>(c)</sup>	\$ (1,448)	\$ (297)

(a) Amount represents the gross fair value of out-of-the-money derivative contracts containing credit-risk-related contingent features ignoring the effects of master netting agreements.

- (b) Amount represents the offsetting fair value of in-the-money derivative contracts under legally enforceable master netting agreements with the same counterparty, which reduces the amount of any liability for which we could potentially be required to post collateral.
- (c) Amount represents the net fair value of out-of-the-money derivative contracts containing credit-risk related contingent features after considering the mitigating effects of offsetting positions under master netting arrangements and reflects the actual net liability upon which any potential contingent collateral obligations would be based.

As of December 31, 2021 and 2020, we posted or held the following amounts of cash collateral and letters of credit on derivative contracts with external counterparties, after giving consideration to offsetting derivative and non-derivative positions under master netting agreements.

	As of December 31,			
	2021		2020	
Cash collateral posted	\$	713	\$	511
Letters of credit posted		755		226
Cash collateral held		182		110
Letters of credit held		124		40
Additional collateral required in the event of a credit downgrade below investment grade		2,113		1,432

We entered into supply forward contracts with certain utilities with one-sided collateral postings only from us. If market prices fall below the benchmark price levels in these contracts, the utilities are not required to post collateral. However, when market prices rise above the benchmark price levels, counterparty suppliers, including us, are required to post collateral once certain unsecured credit limits are exceeded.

## 17. Debt and Credit Agreements

### Short-Term Borrowings

We meet our short-term liquidity requirements primarily through the issuance of commercial paper. We may use our credit facility for general corporate purposes, including meeting short-term funding requirements and the issuance of letters of credit.

### Commercial Paper

The following table reflects our commercial paper program supported by the revolving credit agreements and bilateral credit agreements as of December 31, 2021 and 2020:

	Maximum Program Size at December 31,		Outstanding Commercial Paper at December 31,		Average Interest Rate on Commercial Paper Borrowings at December 31,	
	2021 <sup>(a)(b)</sup>	2020 <sup>(a)(b)</sup>	2021	2020	2021	2020
\$	5,300	\$ 5,300	\$ 702	\$ 340	0.66 %	0.27 %

(a) Excludes \$1,200 million and \$1,500 million in bilateral credit facilities as of December 31, 2021 and 2020, respectively, and \$131 million and \$144 million in credit facilities for project finance as of December 31, 2021 and 2020, respectively. These credit facilities do not back our commercial paper program.

(b) As of December 31, 2021, excludes \$44 million of credit facility agreements arranged at minority and community banks. These facilities expire on October 7, 2022 and are solely utilized to issue letters of credit. As of December 31, 2020, excludes \$38 million of credit facility agreements arranged at minority and community banks.

In order to maintain our commercial paper program in the amounts indicated above, we must have a credit facility in place, at least equal to the amount of our commercial paper program. We do not issue commercial paper in an aggregate amount exceeding the then available capacity under our credit facility.

As of December 31, 2021, we had the following aggregate bank commitments, credit facility borrowings and available capacity under our respective credit facilities:

Facility Type	Aggregate Bank Commitment <sup>(b)</sup>	Facility Draws	Outstanding Letters of Credit	Available Capacity as of December 31, 2021	
				Actual	To Support Additional Commercial Paper
Syndicated Revolver <sup>(a)</sup>	\$ 5,300	\$ —	\$ 1,230	\$ 4,070	\$ 3,368
Bilaterals	1,200	—	1,029	171	—
Project Finance	131	—	116	15	—

(a) Our syndicated revolving credit facility was replaced by the \$3.5 billion 5-year revolving credit agreement entered into on February 1, 2022 in connection with our separation.

(b) Excludes \$44 million of credit facility agreements arranged at minority and community banks. These facilities expire on October 7, 2022 and are solely utilized to issue letters of credit. As of December 31, 2021, letters of credit issued under these facilities totaled \$5 million.

#### Impact of Separation from Exelon

In connection with our separation from Exelon, we entered into two new credit agreements that replaced our \$5.3 billion syndicated revolving credit facility. On February 1, 2022, we entered into a new credit agreement establishing a \$3.5 billion five-year revolving credit facility at a variable interest rate of SOFR plus 1.275% and on February 9, 2022 we entered into a \$1 billion five-year liquidity facility with the primary purpose of supporting our letter of credit issuances. Many of our bilateral credit agreements remain in effect. See below for additional details.

#### Bilateral Credit Agreements

The following table reflects the bilateral credit agreements at December 31, 2021:

Date Initiated	Latest Amendment Date	Maturity Date <sup>(a)</sup>	Amount
January 11, 2013 <sup>(b)(c)</sup>	March 1, 2021	March 1, 2023	\$ 100
January 5, 2016 <sup>(b)</sup>	April 2, 2021	April 5, 2023	150
February 21, 2019 <sup>(b)(c)</sup>	March 31, 2021	March 31, 2022	100
October 25, 2019 <sup>(b)</sup>	N/A	N/A	200
November 20, 2019 <sup>(b)</sup>	N/A	N/A	300
November 21, 2019 <sup>(b)</sup>	N/A	N/A	150
November 21, 2019 <sup>(b)</sup>	November 21, 2021	November 21, 2022	100
May 15, 2020 <sup>(b)(d)</sup>	N/A	N/A	100

(a) Credit facilities that do not contain a maturity date are specific to the agreements set within each contract. In some instances, credit facilities are automatically renewed based on the contingency standards set within the specific agreement.

(b) Bilateral credit agreements solely support the issuance of letters of credit and do not back our commercial paper program.

(c) The bilateral credit agreement was terminated on January 31, 2022.

(d) On February 9, 2022, the bilateral credit agreement increased to \$200 million.

Borrowings under our revolving credit agreement bear interest at a rate based upon either the prime rate or a LIBOR-based rate, plus an adder based upon our credit rating. The adders for the prime based borrowings and LIBOR-based borrowings are 27.5 basis points and 127.5 basis points, respectively.

If we lose our investment grade rating, the maximum adders for prime rate borrowings and LIBOR-based rate borrowings would be 65 basis points and 165 basis points, respectively. The credit agreements also require the borrower to pay a facility fee based upon the aggregate commitments. The fee varies depending upon the respective credit ratings of the borrower.



**Short-Term Loan Agreements**

On March 19, 2020, we entered into a term loan agreement for \$200 million. The loan agreement was renewed on March 17, 2021 and will expire on March 16, 2022. Pursuant to the loan agreement, loans made thereunder bear interest at a variable rate equal to LIBOR plus 0.875% and all indebtedness thereunder is unsecured. The loan agreement is reflected in Short-term borrowings in the Consolidated Balance Sheet. In connection with the separation, we repaid the term loan on January 26, 2022. See Note 24 — Separation from Exelon for additional information.

On March 31, 2020, we entered into a term loan agreement for \$300 million. The loan agreement was renewed on March 30, 2021 and will expire on March 29, 2022. Pursuant to the loan agreement, loans made thereunder bear interest at a variable rate equal to LIBOR plus 0.70% and all indebtedness thereunder is unsecured. The loan agreement is reflected in Short-term borrowings in the Consolidated Balance Sheet.

On August 6, 2021, we entered into a 364-day term loan agreement for \$880 million to fund the purchase of EDF's equity interest in CENG. Pursuant to the loan agreement, loans made thereunder bear interest at a variable rate of LIBOR plus 0.875% until March 31, 2022 and a rate of LIBOR plus 1% thereafter and all indebtedness thereunder is unsecured. The loan agreement is reflected in Short-term borrowings in the Consolidated Balance Sheet. The loan agreement was amended on January 24, 2022 to change the maturity date to June 30, 2022 from August 5, 2022. See Note 2 — Mergers, Acquisitions, and Dispositions for additional information.

**Long-Term Debt**

The following table presents the outstanding long-term debt as of December 31, 2021 and 2020:

	Rates		Maturity Date	December 31,	
				2021	2020
<b>Long-term debt</b>					
Senior unsecured notes	3.25 % -	7.60 %	2022 - 2042	\$ 4,219	\$ 4,219
Notes payable and other	2.10 % -	4.85 %	2022 - 2028	103	111
Nonrecourse debt:					
Fixed rates	2.29 % -	6.00 %	2031 - 2037	909	977
Variable rates	2.98 % -	3.50 %	2026 - 2027	870	765
<b>Total long-term debt</b>				<b>6,101</b>	<b>6,072</b>
Unamortized debt discount and premium, net				(7)	(5)
Unamortized debt issuance costs				(42)	(46)
Fair value adjustment				62	66
Long-term debt due within one year				(1,220)	(197)
<b>Long-term debt</b>				<b>\$ 4,894</b>	<b>\$ 5,890</b>

Long-term debt maturities in the periods 2022 through 2026 and thereafter are as follows:

2022	\$	1,220
2023		1
2024		1
2025		901
2026		114
Thereafter		3,864
<b>Total</b>	<b>\$</b>	<b>6,101</b>

**Long-Term Debt from Affiliates**

In connection with the debt obligations assumed by Exelon as part of the 2012 merger, Exelon and our subsidiaries assumed intercompany loan agreements that mirror the terms and amounts of the third-party debt obligations of Exelon, resulting in intercompany notes payable to Exelon Corporate. As of December 31, 2021 and 2020, we had \$319 million and \$324 million, respectively, recorded to intercompany notes payable to Exelon Corporate. In connection with the separation, on January 31, 2022, we paid cash to Exelon Corporate in the amount of \$258 million to settle the intercompany loan. See Note 24 — Separation from Exelon for additional information.

**Debt Covenants**

As of December 31, 2021, we are in compliance with debt covenants.

**Nonrecourse Debt**

We have also issued nonrecourse debt, for which approximately \$2 billion of generating assets have been pledged as collateral as of December 31, 2021. Borrowings under these agreements are secured by the assets and equity of each respective project. The lenders do not have recourse against us in the event of a default. If a specific project financing entity does not maintain compliance with its specific nonrecourse debt covenants, there could be a requirement to accelerate repayment of the associated debt or other borrowings earlier than the stated maturity dates. In these instances, if such repayment was not satisfied, the lenders or security holders would generally have rights to foreclose against the project-specific assets and related collateral. The potential requirement to satisfy the associated debt or other borrowings earlier than otherwise anticipated could lead to impairments due to a higher likelihood of disposing of the respective project-specific assets significantly before the end of their useful lives.

**Antelope Valley Solar Ranch One.** In December 2011, the DOE Loan Programs Office issued a guarantee for up to \$646 million for a nonrecourse loan from the Federal Financing Bank to support the financing of the construction of the Antelope Valley facility. The project became fully operational in 2014. The loan will mature on January 5, 2037. Interest rates on the loan were fixed upon each advance at a spread of 37.5 basis points above U.S. Treasuries of comparable maturity. The advances were completed as of December 31, 2015 and the outstanding loan balance will bear interest at an average blended interest rate of 2.82%. As of December 31, 2021 and 2020, approximately \$435 million and \$460 million were outstanding, respectively. In addition, we have issued letters of credit to support the equity investment in the project, with \$37 million outstanding as of December 31, 2021. In December 2017, our interests in Antelope Valley were contributed to and are pledged as collateral for the CR financing structures referenced below.

**Continental Wind, LLC.** In September 2013, Continental Wind, our indirect subsidiary, completed the issuance and sale of \$613 million senior secured notes. Continental Wind owns and operates a portfolio of wind farms in Idaho, Kansas, Michigan, Oregon, New Mexico and Texas with a total net capacity of 667 MW. The net proceeds were distributed to us for general business purposes. The notes are scheduled to mature on February 28, 2033. The notes bear interest at a fixed rate of 6.00% with interest payable semi-annually. As of December 31, 2021 and December 31, 2020, approximately \$380 million and \$415 million were outstanding, respectively.

In addition, Continental Wind has a \$122 million letter of credit facility and \$4 million working capital revolver facility. Continental Wind has issued letters of credit to satisfy certain of its credit support and security obligations. As of December 31, 2021, the Continental Wind letter of credit facility had \$115 million in letters of credit outstanding related to the project.

In 2017, our interests in Continental Wind were contributed to CRP. Refer to Note 21 - Variable Interest Entities for additional information on CRP.

**Renewable Power Generation.** In March 2016, RPG, our indirect subsidiary, issued \$150 million aggregate principal amount of nonrecourse senior secured notes. The net proceeds were distributed to us for paydown of long term debt obligations at Sacramento PV Energy and Constellation Solar Horizons and for general business purposes. The loan is scheduled to mature on March 31, 2035. The term loan bears interest at a fixed rate of 4.11% payable semi-annually. As of December 31, 2021 and December 31, 2020, approximately \$90 million and \$95 million were outstanding, respectively. In 2017, our interests in RPG were contributed to CRP. Refer to Note 21 - Variable Interest Entities for additional information on CRP.

**SolGen, LLC.** In September 2016, SolGen, an indirect subsidiary, issued \$150 million aggregate principal amount of nonrecourse senior secured notes. The net proceeds were distributed to us for general business purposes. On December 8, 2020, we entered into agreement with an affiliate of Brookfield Renewable, for the sale of a significant portion of our solar business. The sale was completed on March 31, 2021 in which the buyer assumed the \$125 million outstanding debt. See Note 2 — Mergers, Acquisitions, and Dispositions for additional information on the sale agreement.

**Constellation Renewables.** In November 2017, CR, our indirect subsidiary, entered into an \$850 million nonrecourse senior secured term loan credit facility agreement with a maturity date of November 28, 2024. In addition to the financing, CR entered into interest rate swaps with an initial notional amount of \$636 million at an interest rate of 2.32% to manage a portion of the interest rate exposure in connection with the financing.

In December 2020, CR entered into a financing agreement for a \$750 million nonrecourse senior secured term loan credit facility, scheduled to mature on December 15, 2027. The term loan bears interest at a variable rate equal to LIBOR plus 2.50%, subject to a 1% LIBOR floor with interest payable quarterly. In addition to the financing, CR entered into interest rate swaps with an initial notional amount of \$516 million at an interest rate of 1.05% to manage a portion of the interest rate exposure in connection with the financing.

The proceeds were used to repay the November 2017 nonrecourse senior secured term loan credit facility of \$850 million, of which \$709 million was outstanding as of the retirement date in December of 2020, and to settle the November 2017 interest rate swap. Our interests in CRP and Antelope Valley remain contributed to and pledged as collateral for this financing. As of December 31, 2021 and December 31, 2020, \$735 million and \$750 million was outstanding, respectively. See Note 21 — Variable Interest Entities for additional information on CRP and Note 16 — Derivative Financial Instruments for additional information on interest rate swaps.

**West Medway II, LLC.** On May 13, 2021, West Medway II, LLC (West Medway II), our indirect subsidiary, entered into a financing agreement for a \$150 million nonrecourse senior secured term loan credit facility with a maturity date of March 31, 2026. The term loan bears interest at an average blended interest rate of LIBOR plus 3%, paid quarterly. In addition to the financing, West Medway II, entered into interest rate swaps with an initial notional amount of \$113 million at an interest rate of 0.61%, paid quarterly, to manage a portion of the interest rate exposure in connection with the financing. We used the net proceeds for general corporate purposes. Our interests in West Medway II, were pledged as collateral for this financing. As of December 31, 2021, approximately \$135 million was outstanding. See Note 16 — Derivative Financial Instruments for additional information on interest rate swaps.

#### 18. Fair Value of Financial Assets and Liabilities

We measure and classify fair value measurements in accordance with the hierarchy as defined by GAAP. The hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three levels as follows:

- Level 1 — quoted prices (unadjusted) in active markets for identical assets or liabilities that we have the ability to liquidate as of the reporting date.
- Level 2 — inputs other than quoted prices included within Level 1 that are directly observable for the asset or liability or indirectly observable through corroboration with observable market data.
- Level 3 — unobservable inputs, such as internally developed pricing models or third-party valuations for the asset or liability due to little or no market activity for the asset or liability.

**Fair Value of Financial Liabilities Recorded at Amortized Cost**

The following tables present the carrying amounts and fair values of the short-term liabilities, long-term debt, and the SNF obligation as of December 31, 2021 and 2020. We have no financial liabilities classified as Level 1.

The carrying amounts of the short-term liabilities as presented in the Consolidated Balance Sheets are representative of their fair value (Level 2) because of the short-term nature of these instruments.

	December 31, 2021				December 31, 2020			
	Carrying Amount	Fair Value			Carrying Amount	Fair Value		
		Level 2	Level 3	Total		Level 2	Level 3	Total
Long-Term Debt, including amounts due within one year	\$ 6,114	\$ 5,749	\$ 1,093	\$ 6,842	\$ 6,087	\$ 5,648	\$ 1,208	\$ 6,856
SNF Obligation	1,210	1,060	—	1,060	1,208	909	—	909

We use the following methods and assumptions to estimate fair value of financial liabilities recorded at carrying cost:

Type	Level	Valuation
<b>Long-term Debt, including amounts due within one year</b>		
Taxable Debt Securities	2	The fair value is determined by a valuation model that is based on a conventional discounted cash flow methodology and utilizes assumptions of current market pricing curves. We obtain credit spreads based on trades of our existing debt securities as well as other issuers in the utility sector with similar credit ratings. The yields are then converted into discount rates of various tenors that are used for discounting the respective cash flows of the same tenor for each bond or note.
Variable Rate Financing Debt	2	Debt rates are reset on a regular basis and the carrying value approximates fair value.
Government Backed Fixed Rate Project Financing Debt	3	The fair value is similar to the process for taxable debt securities. Due to the lack of market trading data on similar debt, the discount rates are derived based on the original loan interest rate spread to the applicable U.S. Treasury rate as well as a current market curve derived from government-backed securities.
Non-Government Backed Fixed Rate Nonrecourse Debt	3	Fair value is based on market and quoted prices for its own and other nonrecourse debt with similar risk profiles. Given the low trading volume in the nonrecourse debt market, the price quotes used to determine fair value will reflect certain qualitative factors, such as market conditions, investor demand, new developments that might significantly impact the project cash flows or off-taker credit, and other circumstances related to the project.
<b>SNF Obligation</b>		
SNF Obligation	2	The carrying amount is derived from a contract with the DOE to provide for disposal of SNF from certain of our nuclear generating stations. See Note 19 — Commitments and Contingencies for further details. When determining the fair value of the obligation, the future carrying amount of the SNF obligation is calculated by compounding the current book value of the SNF obligation at the 13-week U.S. Treasury rate. The compounded obligation amount is discounted back to present value using our discount rate, which is calculated using the same methodology as described above for the taxable debt securities, and an estimated maturity date of 2035.

***Recurring Fair Value Measurements***

The following tables present assets and liabilities measured and recorded at fair value in the Consolidated Balance Sheets on a recurring basis and their level within the fair value hierarchy as of December 31, 2021 and 2020:

Notes to Consolidated Financial Statements  
(Dollars in millions, unless otherwise noted)

Note 18 — Fair Value of Financial Assets and Liabilities

	As of December 31, 2021					As of December 31, 2020				
	Level 1	Level 2	Level 3	Not subject to leveling	Total	Level 1	Level 2	Level 3	Not subject to leveling	Total
<b>Assets</b>										
Cash equivalents <sup>(a)</sup>	\$ 113	\$ —	\$ —	\$ —	\$ 113	\$ 124	\$ —	\$ —	\$ —	\$ 124
<b>NDT fund investments</b>										
Cash equivalents <sup>(b)</sup>	465	116	—	—	581	210	95	—	—	305
Equities	4,564	1,805	—	1,645	8,014	3,886	2,077	—	1,562	7,525
<b>Fixed income</b>										
Corporate debt <sup>(c)</sup>	—	1,145	286	—	1,431	—	1,485	285	—	1,770
U.S. Treasury and agencies	2,193	30	—	—	2,223	1,871	126	—	—	1,997
Foreign governments	—	60	—	—	60	—	56	—	—	56
State and municipal debt	—	26	—	—	26	—	101	—	—	101
Other	29	23	—	1,449	1,501	—	41	—	961	1,002
Fixed income subtotal	2,222	1,284	286	1,449	5,241	1,871	1,809	285	961	4,926
Private credit	—	—	178	624	802	—	—	212	629	841
Private equity	—	—	—	673	673	—	—	—	504	504
Real estate	—	—	—	864	864	—	—	—	679	679
NDT fund investments subtotal <sup>(d)(e)</sup>	7,251	3,205	464	5,255	16,175	5,967	3,981	497	4,335	14,780
<b>Rabbi trust investments</b>										
Cash equivalents	3	—	—	—	3	4	—	—	—	4
Mutual funds	36	—	—	—	36	29	—	—	—	29
Life insurance contracts	—	33	—	—	33	—	28	—	—	28
Rabbi trust investments subtotal	39	33	—	—	72	33	28	—	—	61
Investments in equities <sup>(f)</sup>	43	—	—	—	43	195	—	—	—	195
<b>Commodity derivative assets</b>										
Economic hedges	3,017	7,223	3,899	—	14,139	745	1,914	1,599	—	4,258
Proprietary trading	—	19	8	—	27	—	17	27	—	44
Effect of netting and allocation of collateral <sup>(g)(h)</sup>	(2,108)	(6,177)	(2,769)	—	(11,054)	(607)	(1,597)	(905)	—	(3,109)
Commodity derivative assets subtotal	909	1,065	1,138	—	3,112	138	334	721	—	1,193
DPP consideration	—	365	—	—	365	—	639	—	—	639
<b>Total assets</b>	<b>8,355</b>	<b>4,668</b>	<b>1,602</b>	<b>5,255</b>	<b>19,880</b>	<b>6,457</b>	<b>4,982</b>	<b>1,218</b>	<b>4,335</b>	<b>16,992</b>
<b>Liabilities</b>										
<b>Commodity derivative liabilities</b>										
Economic hedges	(2,201)	(6,870)	(3,965)	—	(13,036)	(682)	(1,928)	(1,354)	—	(3,964)
Proprietary trading	—	(18)	(2)	—	(20)	—	(21)	(4)	—	(25)
Effect of netting and allocation of collateral <sup>(g)(h)</sup>	2,189	6,642	2,735	—	11,566	540	1,918	1,067	—	3,525
Commodity derivative liabilities subtotal	(12)	(246)	(1,232)	—	(1,490)	(142)	(31)	(291)	—	(464)
Deferred compensation obligation	—	(43)	—	—	(43)	—	(42)	—	—	(42)
<b>Total liabilities</b>	<b>(12)</b>	<b>(289)</b>	<b>(1,232)</b>	<b>—</b>	<b>(1,533)</b>	<b>(142)</b>	<b>(73)</b>	<b>(291)</b>	<b>—</b>	<b>(506)</b>
<b>Total net assets</b>	<b>\$ 8,343</b>	<b>\$ 4,379</b>	<b>\$ 370</b>	<b>\$ 5,255</b>	<b>\$ 18,347</b>	<b>\$ 6,315</b>	<b>\$ 4,909</b>	<b>\$ 927</b>	<b>\$ 4,335</b>	<b>\$ 16,486</b>

- (a) We exclude cash of \$417 million and \$171 million as of December 31, 2021 and 2020, respectively, and restricted cash of \$46 million and \$20 million as of December 31, 2021 and 2020, respectively.
- (b) Includes \$116 million of cash received from outstanding repurchase agreements as of both December 31, 2021 and 2020, and is offset by an obligation to repay upon settlement of the agreement as discussed in (e) below.
- (c) Includes investments in equities sold short of \$(55) million and \$(62) million as of December 31, 2021 and 2020, respectively, held in an investment vehicle primarily to hedge the equity option component of convertible debt.
- (d) Includes net derivative liabilities of \$1 million and net derivative assets of \$2 million, which have total notional amounts of \$687 million and \$1,043 million as of December 31, 2021 and 2020, respectively. The notional principal amounts for these instruments provide one measure of the transaction volume outstanding as of the periods ended and do not represent the amount of our exposure to credit or market loss.
- (e) Excludes net liabilities of \$111 million and \$181 million as of December 31, 2021 and 2020, respectively, which include certain derivative assets that have notional amounts of \$182 million and \$104 million as of December 31, 2021 and 2020, respectively. These items consist of receivables related to pending securities sales, interest and dividend receivables, repurchase agreement obligations, and payables related to pending securities purchases. The repurchase agreements are generally short-term in nature with durations generally of 30 days or less.
- (f) Includes equity investments which were previously designated as equity investments without readily determinable fair values but are now publicly traded and therefore have readily determinable fair values. The first investment became publicly traded in the fourth quarter of 2020. The fair value of these investments is recorded in Other current assets in the Consolidated Balance Sheets based on the quoted market prices of the stocks as of the respective balance sheet date. Unrealized (losses)/gains of \$(160) million and \$186 million were recorded in Other, net in the Consolidated Statement of Operations and Comprehensive Income for the years ended December 31, 2021 and 2020, respectively.
- (g) Collateral posted/(received) from counterparties, net of collateral paid to counterparties, totaled \$81 million, \$465 million, and \$(34) million allocated to Level 1, Level 2, and Level 3 mark-to-market derivatives, respectively, as of December 31, 2021. Collateral posted/(received) from counterparties, net of collateral paid to counterparties, totaled \$(67) million, \$321 million, and \$162 million allocated to Level 1, Level 2, and Level 3 mark-to-market derivatives, respectively, as of December 31, 2020.
- (h) Includes \$897 million held and \$209 million posted of variation margin with the exchanges as of December 31, 2021 and 2020, respectively.

As of December 31, 2021, we have outstanding commitments to invest in private credit, private equity, and real estate investments of \$306 million, \$171 million, and \$459 million, respectively. These commitments will be funded by our existing NDT funds.

We hold investments without readily determinable fair values with carrying amounts of \$33 million and \$55 million as of December 31, 2021 and 2020, respectively. Changes in fair value, cumulative adjustments, and impairments were not material for the years ended December 31, 2021 and 2020.

**Reconciliation of Level 3 Assets and Liabilities**

The following tables present the fair value reconciliation of Level 3 assets and liabilities measured at fair value on a recurring basis during the years ended December 31, 2021 and 2020:

**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 18 — Fair Value of Financial Assets and Liabilities

	For the Year Ended December 31, 2021		
	NDT Fund Investments	Mark-to-Market Derivatives	Total
Balance as of January 1, 2021	\$ 497	\$ 430	\$ 927
Total realized / unrealized gains (losses)			
Included in net income	5	(812) <sup>(a)</sup>	(807)
Included in noncurrent payables to affiliates	19	—	19
Change in collateral	—	(196)	(196)
Purchases, sales, issuances and settlements			
Purchases	4	162	166
Sales	—	(10)	(10)
Settlements	(61)	—	(61)
Transfers into Level 3	—	19 <sup>(b)</sup>	19
Transfers out of Level 3	—	313 <sup>(b)</sup>	313
Balance as of December 31, 2021	\$ 464	\$ (94)	\$ 370
The amount of total gains (losses) included in income attributed to the change in unrealized gains (losses) related to assets and liabilities as of December 31, 2021	\$ 5	\$ (1,222)	\$ (1,217)
	For the Year Ended December 31, 2020		
	NDT Fund Investments	Mark-to-Market Derivatives	Total
Balance as of January 1, 2020	\$ 511	\$ 817	\$ 1,328
Total realized / unrealized gains (losses)			
Included in net income	2	(414) <sup>(a)</sup>	(412)
Included in noncurrent payables to affiliates	21	—	21
Change in collateral	—	(53)	(53)
Purchases, sales, issuances and settlements			
Purchases	8	143	151
Sales	—	(27)	(27)
Settlements	(45)	—	(45)
Transfers into Level 3	—	(12) <sup>(b)</sup>	(12)
Transfers out of Level 3	—	(24) <sup>(b)</sup>	(24)
Balance as of December 31, 2020	\$ 497	\$ 430	\$ 927
The amount of total gains included in income attributed to the change in unrealized gains (losses) related to assets and liabilities as of December 31, 2020	\$ 2	\$ 6	\$ 8

(a) Includes an addition of \$410 million for realized losses and a reduction of \$420 million for realized gains due to the settlement of derivative contracts for the years ended December 31, 2021 and 2020, respectively.

(b) Transfers into and out of Level 3 generally occur when the contract tenor becomes less and more observable, respectively, primarily due to changes in market liquidity or assumptions for certain commodity contracts.

The following table presents the income statement classification of the total realized and unrealized gains (losses) included in income for Level 3 assets and liabilities measured at fair value on a recurring basis during the years ended December 31, 2021 and 2020:



**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 18 — Fair Value of Financial Assets and Liabilities

	Operating Revenues	Purchased Power and Fuel	Other, net
Total (losses) gains included in net income for the year ended December 31, 2021	\$ (1,343)	\$ 531	\$ 5
Total unrealized (losses) gains for the year ended December 31, 2021	(1,577)	355	5
Total (losses) gains included in net income for the year ended December 31, 2020	\$ (404)	\$ (10)	\$ 2
Total unrealized (losses) gains for the year ended December 31, 2020	(31)	37	2

**Valuation Techniques Used to Determine Fair Value**

**Cash Equivalents.** Investments with original maturities of three months or less when purchased, including mutual and money market funds, are considered cash equivalents. The fair values are based on observable market prices and, therefore, are included in the recurring fair value measurements hierarchy as Level 1.

**NDT Fund Investments.** The trust fund investments have been established to satisfy our nuclear decommissioning obligations as required by the NRC. The NDT funds hold debt and equity securities directly and indirectly through commingled funds and mutual funds, which are included in equities and fixed income. Our NDT fund investments policies outline investment guidelines for the trusts and limit the trust funds' exposures to investments in highly illiquid markets and other alternative investments, including private credit, private equity, and real estate. Investments with maturities of three months or less when purchased, including certain short-term fixed income securities are considered cash equivalents and included in the recurring fair value measurements hierarchy as Level 1 or Level 2.

**Equities.** These investments consist of individually held equity securities, equity mutual funds, and equity commingled funds in domestic and foreign markets. With respect to individually held equity securities, the trustees obtain prices from pricing services, whose prices are generally obtained from direct feeds from market exchanges, which we are able to independently corroborate. Equity securities held individually, including real estate investment trusts, rights, and warrants, are primarily traded on exchanges that contain only actively traded securities due to the volume trading requirements imposed by these exchanges. The equity securities that are held directly by the trust funds are valued based on quoted prices in active markets and categorized as Level 1. Certain equity securities have been categorized as Level 2 because they are based on evaluated prices that reflect observable market information, such as actual trade information or similar securities. Certain private placement equity securities are categorized as Level 3 because they are not publicly traded and are priced using significant unobservable inputs.

Equity commingled funds and mutual funds are maintained by investment companies, and fund investments are held in accordance with a stated set of fund objectives. The values of some of these funds are publicly quoted. For mutual funds which are publicly quoted, the funds are valued based on quoted prices in active markets and have been categorized as Level 1. For equity commingled funds and mutual funds which are not publicly quoted, the fund administrators value the funds using the NAV per fund share, derived from the quoted prices in active markets on the underlying securities and are not classified within the fair value hierarchy. These investments can typically be redeemed monthly or more frequently, with 30 or less days of notice and without further restrictions.

**Fixed income.** For fixed income securities, which consist primarily of corporate debt securities, U.S. government securities, foreign government securities, municipal bonds, asset and mortgage-backed securities, commingled funds, mutual funds, and derivative instruments, the trustees obtain multiple prices from pricing vendors whenever possible, which enables cross-provider validations in addition to checks for unusual daily movements. A primary price source is identified based on asset type, class, or issue for each security. With respect to individually held fixed income securities, the trustees monitor prices supplied by pricing services and may use a supplemental price source or change the primary price source of a given security if the portfolio managers challenge an assigned price and the trustees determine that another price source is considered to be preferable. We have obtained an understanding of how these prices are derived, including the nature and observability of the inputs used in deriving such prices. Additionally, we selectively corroborate the fair values of securities by comparison to other market-based price sources. Investments in U.S. Treasury securities have been categorized

as Level 1 because they trade in highly-liquid and transparent markets. Certain private placement fixed income securities have been categorized as Level 3 because they are priced using certain significant unobservable inputs and are typically illiquid. The remaining fixed income securities, including certain other fixed income investments, are based on evaluated prices that reflect observable market information, such as actual trade information of similar securities, adjusted for observable differences and are categorized as Level 2.

Other fixed income investments primarily consist of fixed income commingled funds and mutual funds, which are maintained by investment companies and hold fund investments in accordance with a stated set of fund objectives. The values of some of these funds are publicly quoted. For mutual funds which are publicly quoted, the funds are valued based on quoted prices in active markets and have been categorized as Level 1. For fixed income commingled funds and mutual funds which are not publicly quoted, the fund administrators value the funds using the NAV per fund share, derived from the quoted prices in active markets of the underlying securities and are not classified within the fair value hierarchy. These investments typically can be redeemed monthly or more frequently, with 30 or less days of notice and without further restrictions.

*Derivative instruments.* These instruments, consisting primarily of futures and swaps to manage risk, are recorded at fair value. Over-the-counter derivatives are valued daily, based on quoted prices in active markets and trade in open markets, and have been categorized as Level 1. Derivative instruments other than over-the-counter derivatives are valued based on external price data of comparable securities and have been categorized as Level 2.

*Private credit.* Private credit investments primarily consist of investments in private debt strategies. These investments are generally less liquid assets with an underlying term of 3 to 5 years and are intended to be held to maturity. The fair value of these investments is determined by the fund manager or administrator using a combination of valuation models including cost models, market models, and income models and typically cannot be redeemed until maturity of the term loan. Private credit investments held directly by us are categorized as Level 3 because they are based largely on inputs that are unobservable and utilize complex valuation models. For managed private credit funds, the fair value is determined using a combination of valuation models including cost models, market models, and income models and typically cannot be redeemed until maturity of the term loan. Managed private credit fund investments are not classified within the fair value hierarchy because their fair value is determined using NAV or its equivalent as a practical expedient.

*Private equity.* These investments include those in limited partnerships that invest in operating companies that are not publicly traded on a stock exchange such as leveraged buyouts, growth capital, venture capital, distressed investments, and investments in natural resources. These investments typically cannot be redeemed and are generally liquidated over a period of 8 to 10 years from the initial investment date, which is based on our understanding of the investment funds. Private equity valuations are reported by the fund manager and are based on the valuation of the underlying investments, which include unobservable inputs such as cost, operating results, discounted future cash flows, and market based comparable data. These valuation inputs are unobservable. The fair value of private equity investments is determined using NAV or its equivalent as a practical expedient, and therefore, these investments are not classified within the fair value hierarchy.

*Real estate.* These investments are funds with a direct investment in pools of real estate properties. These funds are reported by the fund manager and are generally based on independent appraisals of the underlying investments from sources with professional qualifications, typically using a combination of market based comparable data and discounted cash flows. These valuation inputs are unobservable. Certain real estate investments cannot be redeemed and are generally liquidated over a period of 8 to 10 years from the initial investment date, which is based on our understanding of the investments funds. The remaining liquid real estate investments are generally redeemable from the investment vehicle quarterly, with 30 to 90 days of notice. The fair value of real estate investments is determined using NAV or its equivalent as a practical expedient, and therefore, these investments are not classified within the fair value hierarchy.

We evaluated our NDT portfolios for the existence of significant concentrations of credit risk as of December 31, 2021. Types of concentrations that were evaluated include, but are not limited to, investment concentrations in a single entity, type of industry, foreign country, and individual fund. As of December 31, 2021, there were no significant concentrations (generally defined as greater than 10 percent) of risk in the NDT assets.

See Note 10 — Asset Retirement Obligations for additional information on the NDT fund investments.

**Rabbi Trust Investments.** The Rabbi trusts were established to hold assets related to deferred compensation plans existing for certain active and retired members of executive management and directors. The Rabbi trusts' assets are included in investments in the Consolidated Balance Sheets and consist primarily of money market funds, mutual funds, and life insurance policies. Money market funds and mutual funds are publicly quoted and have been categorized as Level 1 given the clear observability of the prices. The life insurance policies are valued using the cash surrender value of the policies, net of loans against those policies, which is provided by a third-party. Certain life insurance policies, which consist primarily of mutual funds that are priced based on observable market data, have been categorized as Level 2 because the life insurance policies can be liquidated at the reporting date for the value of the underlying assets.

**Deferred Compensation Obligations.** Our deferred compensation plans allow participants to defer certain cash compensation into a notional investment account. We include such plans in other current and noncurrent liabilities in the Consolidated Balance Sheets. The value of our deferred compensation obligations is based on the market value of the participants' notional investment accounts. The underlying notional investments are comprised primarily of equities, mutual funds, commingled funds, and fixed income securities which are based on directly and indirectly observable market prices. Since the deferred compensation obligations themselves are not exchanged in an active market, they are categorized as Level 2 in the fair value hierarchy.

The value of certain employment agreement obligations (which are included with the Deferred Compensation Obligation in the table above) are based on a known and certain stream of payments to be made over time and are categorized as Level 2 within the fair value hierarchy.

**Investments in Equities.** We hold certain investments in equity securities with readily determinable fair values in addition to those held within the NDT funds. These equity securities are valued based on quoted prices in active markets and are categorized as Level 1.

**Deferred Purchase Price Consideration.** We have DPP consideration for the sale of certain receivables of retail electricity. This amount is valued based on the sales price of the receivables net of allowance for credit losses based on accounts receivable aging historical experience coupled with specific identification through a credit monitoring process, which considers current conditions and forward-looking information such as industry trends, macroeconomic factors, changes in the regulatory environment, external credit ratings, publicly available news, payment status, payment history, and the exercise of collateral calls. Since the DPP consideration is based on the sales price of the receivables, it is categorized as Level 2 in the fair value hierarchy. See Note 6 — Accounts Receivable for additional information on the sale of certain receivables.

**Mark-to-Market Derivatives.** Derivative contracts are traded in both exchange-based and non-exchange-based markets. Exchange-based derivatives that are valued using unadjusted quoted prices in active markets are categorized in Level 1 in the fair value hierarchy. Certain derivatives' pricing is verified using indicative price quotations available through brokers or over-the-counter, on-line exchanges and are categorized in Level 2. These price quotations reflect the average of the bid-ask, mid-point prices and are obtained from sources that we believe provide the most liquid market for the commodity. The price quotations are reviewed and corroborated to ensure the prices are observable and representative of an orderly transaction between market participants. This includes consideration of actual transaction volumes, market delivery points, bid-ask spreads, and contract duration. The remainder of derivative contracts are valued using the Black model, an industry standard option valuation model. The Black model takes into account inputs such as contract terms, including maturity, and market parameters, including assumptions of the future prices of energy, interest rates, volatility, credit worthiness, and credit spread. For derivatives that trade in liquid markets, such as generic forwards, swaps, and options, model inputs are generally observable. Such instruments are categorized in Level 2. Our derivatives are predominantly at liquid trading points. For derivatives that trade in less liquid markets with limited pricing information, model inputs generally would include both observable and unobservable inputs. These valuations may include an estimated basis adjustment from an illiquid trading point to a liquid trading point for which active price quotations are available. Such instruments are categorized in Level 3.

For valuations that include both observable and unobservable inputs, if the unobservable input is determined to be significant to the overall inputs, the entire valuation is categorized in Level 3. This includes derivatives valued using indicative price quotations whose contract tenure extends into unobservable periods. In instances where observable data is unavailable, consideration is given to the assumptions that market participants would use in valuing the asset or liability. This includes assumptions about market risks such as liquidity, volatility, and contract duration. Such instruments are categorized in Level 3 as the model inputs generally are not observable. Forward

price curves for the power market utilized by the front office to manage the portfolio, are reviewed and verified by the middle office, and used for financial reporting by the back office. We consider credit and nonperformance risk in the valuation of derivative contracts categorized in Level 2 and 3, including both historical and current market data, in our assessment of credit and nonperformance risk by counterparty. Due to master netting agreements and collateral posting requirements, the impacts of credit and nonperformance risk were not material to the financial statements.

Disclosed below is detail surrounding our significant Level 3 valuations. The calculated fair value includes marketability discounts for margining provisions and other attributes. The Level 3 balance generally consists of forward sales and purchases of power and natural gas and certain transmission congestion contracts. We utilize various inputs and factors including market data and assumptions that market participants would use in pricing assets or liabilities as well as assumptions about the risks inherent in the inputs to the valuation technique. The inputs and factors include forward commodity prices, commodity price volatility, contractual volumes, delivery location, interest rates, credit quality of counterparties, and credit enhancements.

For commodity derivatives, the primary input to the valuation models is the forward commodity price curve for each instrument. Forward commodity price curves are derived by risk management for liquid locations and by the traders and portfolio managers for illiquid locations. All locations are reviewed and verified by risk management considering published exchange transaction prices, executed bilateral transactions, broker quotes, and other observable or public data sources. The relevant forward commodity curve used to value each of the derivatives depends on a number of factors, including commodity type, delivery location, and delivery period. Price volatility varies by commodity and location. When appropriate, we discount future cash flows using risk free interest rates with adjustments to reflect the credit quality of each counterparty for assets and our own credit quality for liabilities. The level of observability of a forward commodity price varies generally due to the delivery location and delivery period. Certain delivery locations including PJM West Hub (for power) and Henry Hub (for natural gas) are more liquid and prices are observable for up to three years in the future. The observability period of volatility is generally shorter than the underlying power curve used in option valuations. The forward curve for a less liquid location is estimated by using the forward curve from the liquid location and applying a spread to represent the cost to transport the commodity to the delivery location. This spread does not typically represent a majority of the instrument's market price. As a result, the change in fair value is closely tied to liquid market movements and not a change in the applied spread. The change in fair value associated with a change in the spread is generally immaterial. An average spread calculated across all Level 3 power and gas delivery locations is approximately \$3.33 and \$0.53 for power and natural gas, respectively. Many of the commodity derivatives are short term in nature and thus a majority of the fair value may be based on observable inputs even though the contract as a whole must be classified as Level 3.

See Note 16 — Derivative Financial Instruments for additional information on mark-to-market derivatives.

The following table presents the significant inputs to the forward curve used to value these positions:

Type of trade	Fair Value as of December 31, 2021	Fair Value as of December 31, 2020	Valuation Technique	Unobservable Input	2021 Range & Arithmetic Average			2020 Range & Arithmetic Average				
Mark-to-market derivatives— Economic hedges <sup>(a)(b)</sup>	\$ (66)	\$ 245	Discounted Cash Flow	Forward power price	\$8.86	-	\$481	\$55	\$2.25	-	\$163	\$30
				Forward gas price	\$1.69	-	\$17	\$3.50	\$1.57	-	\$7.88	\$2.59
			Option Model	Volatility percentage	24%	-	284%	56%	11%	-	237%	32%

(a) The valuation techniques, unobservable inputs, ranges, and arithmetic averages are the same for the asset and liability positions.

(b) The fair values do not include cash collateral (received) posted on level three positions of \$(34) million and \$162 million as of December 31, 2021 and December 31, 2020, respectively.

The inputs listed above, which are as of the balance sheet date, would have a direct impact on the fair values of the above instruments if they were adjusted. The significant unobservable inputs used in the fair value measurement of our commodity derivatives are forward commodity prices and for options is price volatility.

Increases (decreases) in the forward commodity price in isolation would result in significantly higher (lower) fair values for long positions (contracts that give us the obligation or option to purchase a commodity), with offsetting impacts to short positions (contracts that give us the obligation or right to sell a commodity). Increases (decreases) in volatility would increase (decrease) the value for the holder of the option (writer of the option). Generally, a change in the estimate of forward commodity prices is unrelated to a change in the estimate of volatility of prices. An increase to the reserves listed above would decrease the fair value of the positions. An increase to the heat rate or renewable factors would increase the fair value accordingly. Generally, interrelationships exist between market prices of natural gas and power. As such, an increase in natural gas pricing would potentially have a similar impact on forward power markets.

### 19. Commitments and Contingencies

**Commercial Commitments.** Commercial commitments as of December 31, 2021, representing commitments potentially triggered by future events, were as follows:

	Total	Expiration within					
		2022	2023	2024	2025	2026	2027 and beyond
Letters of credit	\$ 2,380	\$ 2,279	\$ 101	\$ —	\$ —	\$ —	\$ —
Surety bonds <sup>(a)</sup>	899	882	17	—	—	—	—
<b>Total commercial commitments</b>	<b>\$ 3,279</b>	<b>\$ 3,161</b>	<b>\$ 118</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ —</b>

(a) Surety bonds—Guarantees issued related to contract and commercial agreements, excluding bid bonds.

### Nuclear Insurance

We are subject to liability, property damage and other risks associated with major incidents at any of our nuclear stations. We have mitigated our financial exposure to these risks through insurance and other industry risk-sharing provisions.

The Price-Anderson Act was enacted to ensure the availability of funds for public liability claims arising from an incident at any of the U.S. licensed nuclear facilities and to limit the liability of nuclear reactor owners for such claims from any single incident. As of December 31, 2021, the current liability limit per incident is \$13.5 billion and is subject to change to account for the effects of inflation and changes in the number of licensed reactors at least once every five years with the last adjustment effective November 1, 2018. In accordance with the Price-Anderson Act, we maintain financial protection at levels equal to the amount of liability insurance available from private sources through the purchase of private nuclear energy liability insurance for public liability claims that could arise in the event of an incident. Effective January 1, 2017, the required amount of nuclear energy liability insurance purchased is \$450 million for each operating site. Claims exceeding that amount are covered through mandatory participation in a financial protection pool, as required by the Price Anderson-Act, which provides the additional \$13.1 billion per incident in funds available for public liability claims. Participation in this secondary financial protection pool requires the operator of each reactor to fund its proportionate share of costs for any single incident that exceeds the primary layer of financial protection. Our share of this secondary layer would be approximately \$2.8 billion, however any amounts payable under this secondary layer would be capped at \$413 million per year.

In addition, the U.S. Congress could impose revenue-raising measures on the nuclear industry to pay public liability claims exceeding the \$13.5 billion limit for a single incident.

As part of the execution of the NOSA on April 1, 2014, we executed an Indemnity Agreement pursuant to which we agreed to indemnify EDF and its affiliates against third-party claims that may arise from any future nuclear incident (as defined in the Price-Anderson Act) in connection with the CENG nuclear plants or their operations. See Note 21 — Variable Interest Entities for additional information on our operations relating to CENG.

We are required each year to report to the NRC the current levels and sources of property insurance that demonstrates we possess sufficient financial resources to stabilize and decontaminate a reactor and reactor station site in the event of an accident. The property insurance maintained for each facility is currently provided

through insurance policies purchased from NEIL, an industry mutual insurance company of which we are a member.

NEIL may declare distributions to its members as a result of favorable operating experience. In recent years, NEIL has made distributions to its members. Our portion of the annual distribution declared by NEIL is estimated to be \$113 million for 2021, and was \$75 million and \$136 million for 2020 and 2019, respectively. The distributions were recorded as a reduction to Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income.

Premiums paid to NEIL by its members are also subject to a potential assessment for adverse loss experience in the form of a retrospective premium obligation. NEIL has never assessed this retrospective premium since its formation in 1973, and we cannot predict the level of future assessments, if any. The current maximum aggregate annual retrospective premium obligation for us is approximately \$229 million. NEIL requires its members to maintain an investment grade credit rating or to ensure collectability of their annual retrospective premium obligation by providing a financial guarantee, letter of credit, deposit premium, or some other means of assurance.

NEIL provides "all risk" property damage, decontamination and premature decommissioning insurance for each station for losses resulting from damage to its nuclear plants, either due to accidents or acts of terrorism. If the decision is made to decommission the facility, a portion of the insurance proceeds will be allocated to a fund, which we are required by the NRC to maintain, to provide for decommissioning the facility. In the event of an insured loss, we are unable to predict the timing of the availability of insurance proceeds to us and the amount of such proceeds that would be available. In the event that one or more acts of terrorism cause accidental property damage within a twelve-month period from the first accidental property damage under one or more policies for all insured plants, the maximum recovery by us will be an aggregate of \$3.2 billion plus such additional amounts as the insurer may recover for all such losses from reinsurance, indemnity and any other source, applicable to such losses.

For our insured losses, we are self-insured to the extent that losses are within the policy deductible or exceed the amount of insurance maintained. Uninsured losses and other expenses, to the extent not recoverable from insurers or the nuclear industry, could also be borne by us. Any such losses could have a material adverse effect on our financial statements.

**Spent Nuclear Fuel Obligation**

Under the NWPA, the DOE is responsible for the development of a geologic repository for and the disposal of SNF and high-level radioactive waste. As required by the NWPA, we are a party to contracts with the DOE (Standard Contracts) to provide for disposal of SNF from our nuclear generating stations. In accordance with the NWPA and the Standard Contracts, we had previously paid the DOE one mill (\$0.001) per kWh of net nuclear generation for the cost of SNF disposal. Due to the lack of a viable disposal program, the DOE reduced the SNF disposal fee to zero in May 2014. Until a new fee structure is in effect, we will not accrue any further costs related to SNF disposal fees. This fee may be adjusted prospectively to ensure full cost recovery.

We currently assume the DOE will begin accepting SNF in 2035 and use that date for purposes of estimating the nuclear decommissioning AROs. The SNF acceptance date assumption is based on management's estimate of the amount of time required for DOE to select a site location and develop the necessary infrastructure for long-term SNF storage.

The NWPA and the Standard Contracts required the DOE to begin taking possession of SNF generated by nuclear generating units no later than January 31, 1998. The DOE, however, failed to meet that deadline and its performance has been, and is expected to remain, delayed significantly. In August 2004, we and the DOJ, in close consultation with the DOE, reached a settlement under which the government agreed to reimburse us, subject to certain damage limitations based on the extent of the government's breach, for costs associated with storage of SNF at our nuclear stations pending the DOE's fulfillment of its obligations. Calvert Cliffs, Ginna and Nine Mile Point each have separate settlement agreements in place with the DOE which were extended during 2020 to provide for the reimbursement of SNF storage costs through December 31, 2022. FitzPatrick also has a separate settlement agreement in place with the DOE that was established in 2021 to provide for reimbursement of SNF storage costs through December 31, 2022. We submit annual reimbursement requests to the DOE for

costs associated with the storage of SNF. In all cases, reimbursement requests are made only after costs are incurred and only for costs resulting from DOE delays in accepting the SNF.

Under the settlement agreements, we received total cumulative cash reimbursements of \$1,492 million through December 31, 2021 for costs incurred. After considering the amounts due to co-owners of certain nuclear stations and to the former owner of Oyster Creek, we received net cumulative cash reimbursements of \$1,294 million. As of December 31, 2021 and 2020, the amount of SNF storage costs for which reimbursement has been or will be requested from the DOE under the DOE settlement agreements is as follows:

	December 31, 2021		December 31, 2020
DOE receivable - current <sup>(a)</sup>	\$ 241	\$	129
DOE receivable - noncurrent <sup>(b)</sup>	85		70
Amounts owed to co-owners <sup>(c)</sup>	(35)		(23)

(a) Recorded in Other accounts receivable.

(b) Recorded in Deferred debits and other assets, other.

(c) Recorded in Other accounts receivable. Represents amounts owed to the co-owners of Peach Bottom, Quad Cities, and Nine Mile Point Unit 2 generating facilities.

The Standard Contracts with the DOE also required the payment to the DOE of a one-time fee applicable to nuclear generation through April 6, 1983. The below table outlines the SNF liability recorded as of December 31, 2021 and 2020:

	December 31, 2021		December 31, 2020
Former ComEd units <sup>(a)</sup>	\$ 1,083	\$	1,082
Fitzpatrick <sup>(b)</sup>	127		126
<b>Total SNF Obligation</b>	<b>\$ 1,210</b>	<b>\$</b>	<b>1,208</b>

(a) ComEd previously elected to defer payment of the one-time fee of \$277 million for its units, with interest to the date of payment, until just prior to the first delivery of SNF to the DOE. The unfunded liabilities for SNF disposal costs, including the one-time fee, were transferred to us as part of Exelon's 2001 corporate restructuring.

(b) A prior owner of FitzPatrick elected to defer payment of the one-time fee of \$34 million, with interest to the date of payment, for the FitzPatrick unit. As part of the FitzPatrick acquisition on March 31, 2017, we assumed a SNF liability for the DOE one-time fee obligation with interest related to FitzPatrick along with an offsetting asset, included in Other deferred debits and other assets, for the contractual right to reimbursement from NYPA, a prior owner of FitzPatrick, for amounts paid for the FitzPatrick DOE one-time fee obligation.

Interest for our SNF liabilities accrues at the 13-week Treasury Rate. The 13-week Treasury Rate in effect for calculation of the interest accrual at December 31, 2021 was 0.051% for the deferred amount transferred from ComEd and 0.041% for the deferred FitzPatrick amount.

The following table summarizes sites for which we do not have an outstanding SNF Obligation:

Description	Sites
Fees have been paid	Former PECO units, Clinton and Calvert Cliffs
Outstanding SNF Obligation remains with former owners	Nine Mile Point, Ginna and TMI

#### Environmental Remediation Matters

**General.** Our operations have in the past, and may in the future, require substantial expenditures to comply with environmental laws. Additionally, under Federal and state environmental laws, we are generally liable for the costs of remediating environmental contamination of property now or formerly owned by us and of property contaminated by hazardous substances generated by us. We own or lease a number of real estate parcels, including parcels on which our operations or the operations of others may have resulted in contamination by substances that are considered hazardous under environmental laws. In addition, we are currently involved in a number of proceedings relating to sites where hazardous substances have been deposited and may be subject to additional proceedings in the future. Unless otherwise disclosed, we cannot reasonably estimate whether we will incur significant liabilities for additional investigation and remediation costs at these or additional sites

identified by us, environmental agencies or others. Additional costs could have a material, unfavorable impact on our financial statements.

As of December 31, 2021 and 2020, we had accrued undiscounted amounts of \$120 million and \$121 million, respectively, for environmental liabilities in Other current liabilities and Other deferred credits and other liabilities in the Consolidated Balance Sheets.

**Cotter Corporation.** The EPA has advised Cotter Corporation (Cotter), a former ComEd subsidiary, that it is potentially liable in connection with radiological contamination at a site known as the West Lake Landfill in Missouri. In 2000, ComEd sold Cotter to an unaffiliated third-party. As part of the sale, ComEd agreed to indemnify Cotter for any liability arising in connection with the West Lake Landfill. In connection with Exelon's 2001 corporate restructuring, this responsibility to indemnify Cotter was transferred to us. Including Cotter, there are three PRPs participating in the West Lake Landfill remediation proceeding. Our investigation has identified a number of other parties who also may be PRPs and could be liable to contribute to the final remedy. Further investigation is ongoing.

In September 2018, the EPA issued its Record of Decision Amendment (RODA) for the selection of a final remedy. The RODA modified the remedy previously selected by EPA in its 2008 Record of Decision (ROD). While the ROD required only that the radiological materials and other wastes at the site be capped, the 2018 RODA requires partial excavation of the radiological materials in addition to the previously selected capping remedy. The RODA also allows for variation in depths of excavation depending on radiological concentrations. The EPA and the PRPs have entered into a Consent Agreement to perform the Remedial Design, which is expected to be completed in late 2024. In March 2019, the PRPs received Special Notice Letters from the EPA to perform the Remedial Action work. On October 8, 2019, Cotter (our indemnitee) provided a non-binding good faith offer to conduct, or finance, a portion of the remedy, subject to certain conditions. The total estimated cost of the remedy, taking into account the current EPA technical requirements and the total costs expected to be incurred collectively by the PRPs in fully executing the remedy, is approximately \$290 million, including cost escalation on an undiscounted basis, which would be allocated among the final group of PRPs. We have determined that a loss associated with the EPA's partial excavation and enhanced landfill cover remedy is probable and have recorded a liability, included in the total amount as discussed above, that reflects management's best estimate of Cotter's allocable share of the ultimate cost. Given the joint and several nature of this liability, the magnitude of our ultimate liability will depend on the actual costs incurred to implement the required remedy as well as on the nature and terms of any cost-sharing arrangements with the final group of PRPs. Therefore, it is reasonably possible that the ultimate cost and Cotter's associated allocable share could differ significantly once these uncertainties are resolved, which could have a material impact on our financial statements.

One of the other PRPs has indicated it will be making a contribution claim against Cotter for costs that it has incurred to prevent a subsurface fire from spreading to those areas of the West Lake Landfill where radiological materials are believed to have been disposed. At this time, we do not possess sufficient information to assess this claim and therefore are unable to estimate a range of loss, if any. As such, no liability has been recorded for the potential contribution claim. It is reasonably possible, however, that resolution of this matter could have a material, unfavorable impact on our financial statements.

In January 2018, the PRPs were advised by the EPA that it will begin an additional investigation and evaluation of groundwater conditions at the West Lake Landfill. In September 2018, the PRPs agreed to an Administrative Settlement Agreement and Order on Consent for the performance by the PRPs of the groundwater Remedial Investigation Feasibility Study (RI/FS). The purpose of this RI/FS is to define the nature and extent of any groundwater contamination from the West Lake Landfill site and evaluate remedial alternatives. We estimate the undiscounted cost for the groundwater RI/FS to be approximately \$40 million. We determined a loss associated with the RI/FS is probable and have recorded a liability, included in the total amount as discussed above, that reflects management's best estimate of Cotter's allocable share of the cost among the PRPs. At this time we cannot predict the likelihood, or the extent to which, if any, remediation activities may be required and therefore cannot estimate a reasonably possible range of loss for response costs beyond those associated with the RI/FS component. It is reasonably possible, however, that resolution of this matter could have a material, unfavorable impact on our financial statements.

In August 2011, Cotter was notified by the DOJ that Cotter is considered a PRP with respect to the government's clean-up costs for contamination attributable to low level radioactive residues at a former storage and reprocessing facility named Latty Avenue near St. Louis, Missouri. The Latty Avenue site is included in ComEd's



(now our) indemnification responsibilities discussed above as part of the sale of Cotter. The radioactive residues had been generated initially in connection with the processing of uranium ores as part of the U.S. Government's Manhattan Project. Cotter purchased the residues in 1969 for initial processing at the Latty Avenue facility for the subsequent extraction of uranium and metals. In 1976, the NRC found that the Latty Avenue site had radiation levels exceeding NRC criteria for decontamination of land areas. Latty Avenue was investigated and remediated by the United States Army Corps of Engineers pursuant to funding under FUSRAP (Formerly Utilized Sites Remedial Action Program). Pursuant to a series of annual agreements since 2011, the DOJ and the PRPs have tolled the statute of limitations until February 28, 2022 so that settlement discussions can proceed. On August 3, 2020, the DOJ advised Cotter and the other PRPs that it is seeking approximately \$90 million from all the PRPs and has directed that the PRPs must submit a good faith joint proposed settlement offer. In December 2021, a good faith offer was submitted to the government and negotiations are expected to commence in the first quarter of 2022. We have determined that a loss associated with this matter is probable under our indemnification agreement with Cotter and have recorded an estimated liability, included in the total amount as discussed above.

**Benning Road Site.** In September 2010, PHI received a letter from EPA identifying the Benning Road site as one of six land-based sites potentially contributing to contamination of the lower Anacostia River. A portion of the site was formerly the location of a Pepco Energy Services electric generating facility, which was deactivated in June 2012. The remaining portion of the site consists of a Pepco transmission and distribution service center that remains in operation. In December 2011, the U.S. District Court for the District of Columbia approved a Consent Decree entered into by Pepco and Pepco Energy Services with the DOEE, which requires Pepco and Pepco Energy Services to conduct a RI/FS for the Benning Road site and an approximately 10 to 15-acre portion of the adjacent Anacostia River.

Since 2013, Pepco and Pepco Energy Services (now us, pursuant to Exelon's 2016 acquisition of PHI) have been performing RI work and have submitted multiple draft RI reports to the DOEE. In September 2019, we and Pepco issued a draft "final" RI report which DOEE approved on February 3, 2020. We and Pepco are developing a FS to evaluate possible remedial alternatives for submission to DOEE. The Court has established a schedule for completion of the FS, and approval by the DOEE, by September 16, 2022. After completion and approval of the FS, DOEE will prepare a Proposed Plan for public comment and then issue a ROD identifying any further response actions determined to be necessary. We have determined that a loss associated with this matter is probable and have accrued an estimated liability, included in the total amount as discussed above.

Pursuant to the terms of the Separation agreement, all future liabilities associated with this matter were transferred to Exelon on February 1, 2022, except for the continuing obligation to fund 5% for the completion of the remedial investigation and feasibility study and any other requirements of the 2011 Consent Decree.

#### Litigation and Regulatory Matters

**Asbestos Personal Injury Claims.** We maintain a reserve for claims associated with asbestos-related personal injury actions at certain facilities that are currently owned by us or were previously owned by ComEd and PECO. The estimated liabilities are recorded on an undiscounted basis and exclude the estimated legal costs associated with handling these matters, which could be material.

At December 31, 2021 and 2020, we recorded estimated liabilities of approximately \$81 million and \$89 million, respectively, in total for asbestos-related bodily injury claims. As of December 31, 2021, approximately \$17 million of this amount related to 211 open claims presented to us, while the remaining \$64 million is for estimated future asbestos-related bodily injury claims anticipated to arise through 2055, based on actuarial assumptions and analyses, which are updated on an annual basis. On a quarterly basis, we monitor actual experience against the number of forecasted claims to be received and expected claim payments and evaluate whether adjustments to the estimated liabilities are necessary.

**Impacts of the February 2021 Extreme Cold Weather Event and Texas-based Generating Assets Outages.** Beginning on February 15, 2021, our Texas-based generating assets within the ERCOT market, specifically Colorado Bend II, Wolf Hollow II, and Handley, experienced outages as a result of extreme cold weather conditions. In addition, those weather conditions drove increased demand for service, dramatically increased wholesale power prices, and also increased gas prices in certain regions. See Note 3 — Regulatory Matters for additional information.

Various lawsuits have been filed against us since March 2021 related to these events, including:

- On March 5, 2021, we, along with more than 160 power generators and transmission and distribution companies, were sued by approximately 160 individually named plaintiffs, purportedly on behalf of all Texans who allegedly suffered loss of life or sustained personal injury, property damage or other losses as a result of the weather events. The plaintiffs allege that the defendants failed to properly prepare for the cold weather and failed to properly conduct their operations, seeking compensatory as well as punitive damages. On April 26, 2021, another multi-plaintiff lawsuit was filed on behalf of approximately 90 plaintiffs against more than 300 defendants, including us, involving similar allegations of liability and claims of personal injury and property damage. Since March 2021, approximately 60 additional lawsuits, naming multiple defendants including us, were filed by individual or multiple plaintiffs in different Texas counties, all arising out of the February weather events. These additional lawsuits allege wrongful death, property damage, or other losses. Co-defendants in these lawsuits include ERCOT, transmission and distribution utilities and other generators. On December 28, 2021, approximately 130 insurance companies which insured Texas homeowners and businesses filed a subrogation lawsuit against multiple defendants alleging that defendants were at fault for the energy failure that resulted from the winter storm, causing significant property damage to the insureds. Additionally, as of January 28, 2022, we have been added to approximately 80 additional wrongful death, personal injury, and property damage lawsuits through the Multi-District-Litigation (MDL) pending in Texas state court. The MDL now includes all of the above-described Texas state court matters. We dispute liability and deny that we are responsible for any of plaintiffs' alleged claims and are vigorously contesting them. No loss contingencies have been reflected in the consolidated financial statements with respect to these matters, as such contingencies are neither probable nor reasonably estimable at this time.
- On March 22, 2021, an LDC filed a lawsuit in Missouri federal court against us for breach of contract and unjust enrichment, seeking damages of approximately \$40 million. The plaintiff claims that we failed to deliver gas to our customers in February of 2021, causing the plaintiff to incur damages by forcing it to purchase gas for our customers and by our refusal to pay the resulting penalties. On March 26, 2021, we filed a complaint with the MPSC against the LDC to void the OFO penalties, or alternatively to grant a waiver or variance from the tariff requirements, to prohibit the LDC from billing or otherwise attempting to collect from us or any Missouri customer any portion of the penalties claimed by the LDC until the resolution of the complaint, and to prohibit the LDC from taking any retaliatory measure, including termination of service. On September 1, 2021, the MPSC consolidated our complaint with two other similar complaints from other companies. On January 4, 2022, the court denied our motion to dismiss, but in the alternative granted its motion to stay pending MPSC resolution of our complaint. The MPSC has scheduled an evidentiary hearing for the three consolidated complaint cases in April 2022. Based on the penalty provisions within the tariff that was in effect at the relevant time, we have recorded a liability of approximately \$40 million as of December 31, 2021.

**General.** We are involved in various other litigation matters that are being defended and handled in the ordinary course of business. The assessment of whether a loss is probable or reasonably possible, and whether the loss or a range of loss is estimable, often involves a series of complex judgments about future events. We maintain accruals for such losses that are probable of being incurred and subject to reasonable estimation. Management is sometimes unable to estimate an amount or range of reasonably possible loss, particularly where (1) the damages sought are indeterminate, (2) the proceedings are in the early stages, or (3) the matters involve novel or unsettled legal theories. In such cases, there is considerable uncertainty regarding the timing or ultimate resolution of such matters, including a possible eventual loss.

#### 20. Stock-Based Compensation Plans

Our employees were granted stock-based awards through the Exelon LTIP as of December 31, 2021, which primarily includes performance share awards, restricted stock units, and stock options. We also grant cash awards. Performance share awards are typically settled 50% in common stock and 50% in cash at the end of a three-year performance period, subject to certain ownership thresholds that, if met, may result in cash settlement of the entire award. The following table does not include expense related to cash awards granted as they are not considered stock-based compensation plans under the applicable authoritative guidance.

The following table presents the stock-based compensation expense included in the Consolidated Statements of Operations and Comprehensive Income:

	Year Ended December 31,		
	2021	2020	2019
Total stock-based compensation expense included in operating and maintenance expense	\$ 47	\$ 27	\$ 37
Income tax benefit	(12)	(7)	(10)
Total after-tax stock-based compensation expense	\$ 35	\$ 20	\$ 27

**Impact of Separation from Exelon**

Effective February 1, 2022, we established our own LTIP and began granting cash and stock-based awards that primarily include performance share awards and restricted stock units. The existing, unvested cash and stock-based awards issued through the Exelon LTIP were modified in connection with the separation to align with our performance metrics and maintain an equivalent value immediately before and after separation.

**21. Variable Interest Entities**

At December 31, 2021 and 2020, we consolidated several VIEs or VIE groups for which we are the primary beneficiary (see *Consolidated VIEs* below) and had significant interests in several other VIEs for which we do not have the power to direct the entities' activities and, accordingly, we were not the primary beneficiary (see *Unconsolidated VIEs* below). Consolidated and unconsolidated VIEs are aggregated to the extent that the entities have similar risk profiles.

**Consolidated VIEs**

The table below shows the carrying amounts and classification of the consolidated VIEs' assets and liabilities included in the consolidated financial statements as of December 31, 2021 and 2020. The assets, except as noted in the footnotes to the table below, can only be used to settle obligations of the VIEs. The liabilities, except as noted in the footnotes to the table below, are such that creditors, or beneficiaries, do not have recourse to our general credit.

**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 21 — Variable Interest Entities

	December 31, 2021	December 31, 2020
Cash and cash equivalents	\$ 35	\$ 98
Restricted cash and cash equivalents	48	44
Accounts receivable		
Customer	24	148
Other	6	36
Inventories, net		
Materials and supplies	14	244
Assets held for sale <sup>(a)</sup>	—	101
Other current assets	405	691
Total current assets	532	1,362
Property, plant and equipment, net	2,027	5,803
Nuclear decommissioning trust funds	—	3,007
Other noncurrent assets	215	291
Total noncurrent assets	2,242	9,101
<b>Total assets<sup>(b)</sup></b>	<b>\$ 2,774</b>	<b>\$ 10,463</b>
Long-term debt due within one year	\$ 70	\$ 68
Accounts payable	10	81
Accrued expenses	21	70
Liabilities held for sale <sup>(a)</sup>	—	16
Other current liabilities	1	9
Total current liabilities	102	244
Long-term debt	822	889
Asset retirement obligations	151	2,318
Other noncurrent liabilities	3	129
Total noncurrent liabilities	976	3,336
<b>Total liabilities<sup>(c)</sup></b>	<b>\$ 1,078</b>	<b>\$ 3,580</b>

(a) We entered into an agreement for the sale of a significant portion of our solar business. As a result of this transaction, in the fourth quarter of 2020, we reclassified the consolidated VIEs' solar assets and liabilities as held for sale. Refer to Note 2 — Mergers, Acquisitions, and Dispositions for additional information on the sale of the solar business.

(b) Our balances include unrestricted assets for current unamortized energy contract assets of \$23 million and \$22 million, disclosed within other current assets in the table above, noncurrent unamortized energy contract assets of \$202 million and \$249 million, disclosed within other noncurrent assets in the table above, Assets held for sale of \$0 million and \$9 million, and other unrestricted assets of \$0 million and \$1 million, as of December 31, 2021 and 2020, respectively.

(c) Our balances include liabilities with recourse of \$1 million and \$8 million as of December 31, 2021 and 2020, respectively.

As of December 31, 2021 and 2020, our consolidated VIEs included the following:

Consolidated VIE or VIE groups:	Reason entity is a VIE:	Reason we are the primary beneficiary:
CENG - A joint venture between us and EDF. We had a 50.01% equity ownership in CENG as of December 31, 2020 and acquired EDF's 49.99% equity interest on August 6, 2021 resulting in CENG no longer being classified as a consolidated VIE beginning in the third quarter of 2021. See additional discussion below.	Disproportionate relationship between equity interest and operational control as a result of the NOSA described further below.	We conduct the operational activities.
CRP - A collection of wind and solar project entities. We have a 51% equity ownership in CRP. See additional discussion below.	Similar structure to a limited partnership and the limited partners do not have kick out rights with respect to the general partner.	We conduct the operational activities.
Bluestem Wind Energy Holdings, LLC - A Tax Equity structure which is consolidated by CRP. We have a noncontrolling interest.	Similar structure to a limited partnership and the limited partners do not have kick out rights with respect to the general partner.	We conduct the operational activities.
Antelope Valley - A solar generating facility, which is 100% owned by us. Antelope Valley sells all of its output to PG&E through a PPA.	The PPA contract absorbs variability through a performance guarantee.	We conduct all activities.
Equity investment in distributed energy company - We have a 31% equity ownership. This distributed energy company has an interest in an unconsolidated VIE. (See Unconsolidated VIEs disclosure below).	Similar structure to a limited partnership and the limited partners do not have kick out rights with respect to the general partner.	We conduct the operational activities.
We fully impaired this investment in the third quarter of 2019. Refer to Note 12 — Asset Impairments for additional information.		
NER - A bankruptcy remote, special purpose entity which is 100% owned by us, which purchases certain of our customer accounts receivable arising from the sale of retail electricity.	Equity capitalization is insufficient to support its operations.	We conduct all activities.
NER's assets will be available first and foremost to satisfy the claims of the creditors of NER. Refer to Note 6 —Accounts Receivable for additional information on the sale of receivables.		

**CENG** - On April 1, 2014, we, CENG, and subsidiaries of CENG executed the NOSA pursuant to which we conduct all activities associated with the operations of the CENG fleet and provide corporate and administrative services to CENG and the CENG fleet for the remaining life of the CENG nuclear plants as if they were a part of our nuclear fleet, subject to the CENG member rights of EDF.

On November 20, 2019, we received notice of EDF's intention to exercise the put option to sell us its equity interest in CENG and the put automatically exercised on January 19, 2020. On August 6, 2021, we entered into a settlement agreement with EDF pursuant to which we purchased EDF's equity interest in CENG and resulted in CENG no longer being classified as a consolidated VIE beginning in the third quarter of 2021. Refer to Note 2 — Mergers, Acquisitions, and Dispositions for additional information.

We provide the following support to CENG:

- We executed an Indemnity Agreement pursuant to which we agreed to indemnify EDF against third-party claims that may arise from any future nuclear incident (as defined in the Price-Anderson Act) in connection with the CENG nuclear plants or their operations. Exelon guarantees our obligations under this Indemnity Agreement and will continue to do so post-separation, however, any calls on this guarantee would require us to reimburse Exelon under the terms of the Separation Agreement. See Note 19 — Commitments and Contingencies and Note 24 — Separation from Exelon for more details.
- Exelon has executed an agreement to provide up to \$245 million to support the operations of CENG as well as a \$165 million guarantee of CENG's cash pooling agreement with its subsidiaries. Both the support agreement and guarantee terminated upon separation and we executed new support agreements for the benefit of each CENG subsidiary plant owner.

Prior to August 6, 2021, we and EDF shared in the \$688 million of contingent payment obligations for the payment of contingent retrospective premium adjustments for the nuclear liability insurance. Following the execution of the settlement agreement, EDF no longer shares in the obligation.

**CRP** - CRP is a collection of wind and solar project entities and some of these project entities are VIEs that are consolidated by CRP. While we or CRP own 100% of the solar entities and 100% of the majority of the wind entities, it has been determined that the wholly owned solar and wind entities are VIEs because the entities' customers absorb price variability from the entities through fixed price power and/or REC purchase agreements. Additionally, for the wind entities that have minority interests, it has been determined that these entities are VIEs because the governance rights of some investors are not proportional to their financial rights. We are the primary beneficiary of these solar and wind entities that qualify as VIEs because we control operations and direct all activities of the facilities. There is limited recourse to us related to certain solar and wind entities.

In 2017, our interests in CRP were contributed to and are pledged for the CR non-recourse debt project financing structure. Refer to Note 17 — Debt and Credit Agreements for additional information.

#### **Unconsolidated VIEs**

Our variable interests in unconsolidated VIEs generally include equity investments and energy purchase and sale contracts. For the equity investments, the carrying amount of the investments is reflected in the Consolidated Balance Sheets in Investments. For the energy purchase and sale contracts (commercial agreements), the carrying amount of assets and liabilities in the Consolidated Balance Sheets that relate to our involvement with the VIEs are predominantly related to working capital accounts and generally represent the amounts owed by, or owed to, us for the deliveries associated with the current billing cycles under the commercial agreements.

As of December 31, 2021 and 2020, we had significant unconsolidated variable interests in several VIEs for which we were not the primary beneficiary. These interests include certain equity method investments and certain commercial agreements.

**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

The following table presents summary information about our significant unconsolidated VIE entities:

	December 31, 2021			December 31, 2020		
	Commercial Agreement VIEs	Equity Investment VIEs	Total	Commercial Agreement VIEs	Equity Investment VIEs	Total
Total assets <sup>(a)</sup>	\$ 772	\$ 372	\$ 1,144	\$ 777	\$ 401	\$ 1,178
Total liabilities <sup>(a)</sup>	80	216	296	61	223	284
Our ownership interest in VIE <sup>(a)</sup>	—	139	139	—	157	157
Other ownership interests in VIE <sup>(a)</sup>	692	17	709	716	21	737

(a) These items represent amounts on the unconsolidated VIE balance sheets, not in the Consolidated Balance Sheets. These items are included to provide information regarding the relative size of the unconsolidated VIEs. We do not have any exposure to loss as we do not have a carrying amount in the equity investment VIEs as of December 31, 2021 and 2020.

As of December 31, 2021 and 2020, the unconsolidated VIEs consist of:

Unconsolidated VIE groups:	Reason entity is a VIE:	Reason we are not the primary beneficiary:
Equity investments in distributed energy companies - 1) We have a 90% equity ownership in a distributed energy company. 2) We, via a consolidated VIE, have a 90% equity ownership in another distributed energy company (See Consolidated VIEs disclosure above).	Similar structures to a limited partnership and the limited partners do not have kick out rights with respect to the general partner.	We do not conduct the operational activities.
We fully impaired this investment in the third quarter of 2019. Refer to Note 12 — Asset Impairments for additional information.		
Energy Purchase and Sale agreements - We have several energy purchase and sale agreements with generating facilities.	PPA contracts that absorb variability through fixed pricing.	We do not conduct the operational activities.

## 22. Supplemental Financial Information

### Supplemental Statement of Operations Information

The following tables provide additional information about material items recorded in the Consolidated Statements of Operations and Comprehensive Income.

	Taxes other than income taxes		
	For the Years Ended December 31,		
	2021	2020	2019
Gross receipts <sup>(a)</sup>	\$ 99	\$ 99	\$ 112
Property	268	265	274
Payroll	109	113	115

(a) Represent gross receipts taxes related to our retail operations. The offsetting collection of gross receipts taxes from customers is recorded in revenues in the Consolidated Statements of Operations and Comprehensive Income.

	Other, net		
	For the Years Ended December 31,		
	2021	2020	2019
<b>Decommissioning-related activities:</b>			
Net realized income on NDT funds <sup>(a)</sup>			
Regulatory Agreement Units	\$ 817	\$ 185	\$ 297
Non-Regulatory Agreement Units	449	160	363
Net unrealized gains on NDT funds			
Regulatory Agreement Units	351	724	795
Non-Regulatory Agreement Units	209	391	411
Regulatory offset to NDT fund-related activities <sup>(b)</sup>	(917)	(729)	(876)
<b>Decommissioning-related activities</b>	<b>909</b>	<b>731</b>	<b>990</b>
Net unrealized (losses) gains from equity investments <sup>(c)</sup>	(160)	186	—

(a) Realized income includes interest, dividends and realized gains and losses on sales of NDT fund investments.

(b) Includes the elimination of decommissioning-related activities for the Regulatory Agreement Units except for decommissioning-related impacts that were not offset for the Byron units starting in the second quarter of 2021, including the elimination of income taxes related to all NDT fund activity for those units. With our September 15, 2021 reversal of the previous decision to retire Byron, we resumed contractual offset for Byron as of that date. See Note 10 — Asset Retirement Obligations for additional information regarding the accounting for nuclear decommissioning and the contractual offset suspension for the Byron units.

(c) Net unrealized (losses) gains from equity investments that became publicly traded in the fourth quarter of 2020 and the first half of 2021.

**Supplemental Cash Flow Information**

The following tables provide additional information about material items recorded in the Consolidated Statements of Cash Flows.

	Depreciation, amortization and accretion		
	For the Years Ended December 31,		
	2021	2020	2019
Property, plant, and equipment <sup>(a)</sup>	\$ 2,954	\$ 2,070	\$ 1,485
Amortization of intangible assets, net <sup>(a)</sup>	49	53	50
Amortization of energy contract assets and liabilities <sup>(b)</sup>	31	30	21
Nuclear fuel <sup>(c)</sup>	992	983	1,016
ARO accretion <sup>(d)</sup>	514	500	491
<b>Total depreciation, amortization, and accretion</b>	<b>\$ 4,540</b>	<b>\$ 3,636</b>	<b>\$ 3,063</b>

(a) Included in Depreciation and amortization in the Consolidated Statements of Operations and Comprehensive Income.

(b) Included in Operating revenues or Purchased power and fuel expense in the Consolidated Statements of Operations and Comprehensive Income.

(c) Included in Purchased power and fuel expense in the Consolidated Statements of Operations and Comprehensive Income.

(d) Included in Operating and maintenance expense in the Consolidated Statements of Operations and Comprehensive Income.



**Notes to Consolidated Financial Statements**  
(Dollars in millions, unless otherwise noted)

Note 22 — Supplemental Financial Information

	Cash paid (refunded) during the year:					
	For the Years Ended December 31,					
	2021		2020		2019	
Interest (net of amount capitalized)	\$	275	\$	331	\$	373
Income taxes (net of refunds)		426		70		(44)

	Other non-cash operating activities:					
	For the Years Ended December 31,					
	2021		2020		2019	
Pension and non-pension postretirement benefit costs	\$	123	\$	115	\$	135
Allowance for credit losses		32		17		31
Other decommissioning-related activity <sup>(a)</sup>		(946)		(659)		(506)
Energy-related options <sup>(b)</sup>		125		104		22
Severance costs		(73)		90		—
Provision for excess and obsolete inventory		(13)		128		—
Amortization of operating ROU asset		119		155		172

- (a) Includes the elimination of decommissioning-related activities for the Regulatory Agreement Units except for decommissioning-related impacts that were not offset for the Byron units starting in the second quarter of 2021, including the elimination of operating revenues, ARO accretion, ARC amortization, investment income, and income taxes related to all NDT fund activity for these units. With our September 15, 2021 reversal of the previous decision to retire Byron, we resumed contractual offset for Byron as of that date. See Note 10 — Asset Retirement Obligations for additional information regarding the accounting for nuclear decommissioning and for additional information on the contractual offset suspension for the Byron units.
- (b) Includes option premiums reclassified to realized at the settlement of the underlying contracts and recorded to results of operations.

The following table provides a reconciliation of cash, restricted cash, and cash equivalents reported in the Consolidated Balance Sheets that sum to the total of the same amounts in the Consolidated Statements of Cash Flows.

	December 31, 2021	December 31, 2020	December 31, 2019	December 31, 2018
Cash and cash equivalents	\$ 504	\$ 226	\$ 303	\$ 750
Restricted cash and cash equivalents	72	89	146	153
Cash, restricted cash, and cash equivalents - Held for Sale	—	12	—	—
Total cash, restricted cash, and cash equivalents	\$ 576	\$ 327	\$ 449	\$ 903

**Supplemental Balance Sheet Information**

The following tables provide additional information about material items recorded in the Consolidated Balance Sheets.

	Investments	
	December 31, 2021	December 31, 2020
Equity method investments:		
Other equity method investments	\$ 62	\$ 65
Other investments:		
Employee benefit trusts and investments <sup>(a)</sup>	72	61
Equity investments without readily determinable fair values	33	55
Other available for sale debt security investments	7	3
<b>Total investments</b>	<b>\$ 174</b>	<b>\$ 184</b>

(a) Debt and equity security investments are recorded at fair market value.

	Accrued expenses	
	December 31, 2021	December 31, 2020
Compensation-related accruals <sup>(a)</sup>	\$ 356	\$ 426

(a) Primarily includes accrued payroll, bonuses and other incentives, vacation, and benefits.

**23. Related Party Transactions**

Prior to completion of the separation on February 1, 2022, we engaged in transactions with affiliates of Exelon in the normal course of business, these affiliate transactions are summarized in the tables below. After February 1, 2022, all transactions with Exelon or its affiliates are no longer related party transactions.

**Operating revenues from affiliates**

The following table presents our Operating revenues from affiliates:

	For the Years Ended December 31,		
	2021	2020	2019
ComEd <sup>(a)</sup>	\$ 376	\$ 330	\$ 369
PECO <sup>(b)</sup>	196	190	158
BGE <sup>(c)</sup>	236	315	289
PHI	366	367	353
Pepco <sup>(d)</sup>	270	279	264
DPL <sup>(e)</sup>	79	75	70
ACE <sup>(f)</sup>	17	13	19
Other	14	9	3
<b>Total operating revenues from affiliates</b>	<b>\$ 1,188</b>	<b>\$ 1,211</b>	<b>\$ 1,172</b>

(a) We have an ICC-approved RFP contract with ComEd to provide a portion of ComEd's electricity supply requirements. We also sell RECs and ZECs to ComEd.

(b) We provide electric supply to PECO under contracts executed through PECO's competitive procurement process. In addition, we have a ten-year agreement with PECO to sell solar AECs.

(c) We provide a portion of BGE's energy requirements under its MDPSC-approved market-based SOS and gas commodity programs.

- (d) We provide electric supply to Pepco under contracts executed through Pepco's competitive procurement process approved by the MDPSC and DCPSC.
- (e) We provide a portion of DPL's energy requirements under its MDPSC and DEPC approved market-based SOS commodity programs.
- (f) We provide electric supply to ACE under contracts executed through ACE's competitive procurement process.

**Service Company Costs for Corporate Support**

We received a variety of corporate support services from Exelon. Through its business services subsidiary, BSC, Exelon provided support services at cost, including legal, human resources, financial, information technology, and supply management services. The costs of BSC are directly charged or allocated to us. Certain of these services will continue after the separation and are covered by the Transition Services Agreement. See Note 24 — Separation from Exelon for additional information.

The following table presents the service company costs allocated to us:

Operating and maintenance from affiliates			Capitalized costs		
For the Years Ended December 31,			For the Years Ended December 31,		
2021	2020	2019	2021	2020	2019
\$ 588	\$ 552	\$ 570	\$ 129	\$ 54	\$ 66

**Current Receivables from/Payables to affiliates**

The following tables present Current receivables from affiliates and Current payables to affiliates:

	December 31, 2021		December 31, 2020	
	Receivables from affiliates:	Payables to affiliates:	Receivables from affiliates:	Payables to affiliates:
ComEd	\$ 84	\$ 13	\$ 78	\$ 13
PECO	30	—	17	—
BGE	4	—	11	—
Pepco	20	—	13	—
DPL	4	—	3	—
ACE	7	—	6	—
BSC	—	102	—	72
Other	11	16	25	22
Total	\$ 160	\$ 131	\$ 153	\$ 107

**Noncurrent Payables to affiliates**

We have Noncurrent payables to ComEd and PECO as a result of the nuclear decommissioning contractual construct whereby, to the extent NDT funds are greater than the underlying ARO at the end of decommissioning, such amounts are due back to ComEd and PECO, as applicable, for payment to their respective customers. See Note 10 — Asset Retirement Obligations for additional information.

The following table presents our noncurrent payables to ComEd and PECO which are recorded as noncurrent payables to affiliates:

	As of December 31,	
	2021	2020
ComEd	\$ 2,760	\$ 2,541
PECO	597	475

**24. Separation from Exelon**

On February 21, 2021, Exelon's Board of Directors approved a plan to separate the competitive generation and customer-facing businesses of Constellation into a stand-alone publicly traded company ("the separation"). On February 25, 2021, Exelon filed applications with FERC, NYPSC, and NRC seeking approvals for the separation. A private letter ruling from the IRS confirming the tax-free treatment of the separation was received on September 23, 2021. Exelon received approval from FERC on August 24, 2021, and the NRC on November 16, 2021.

On December 16, 2021 the NYPSC authorized the separation and accepted the terms of a Joint Proposal dated November 23, 2021, by and between Exelon, Constellation, the Staff of the New York State Department of Public Service, the New York State Office of the Attorney General, the Alliance for a Green Economy, and LIPA. The terms of the Joint Proposal, which became binding upon closing of the separation, included, among other items, specific provisions for the future retirement of our three nuclear power plant sites in New York, a \$15 million contribution to the NDT for NMP Unit 2, and various financial assurance provisions for each unit through the completion of site restoration. See Note 10 — Asset Retirement Obligations for additional information.

In order to govern the ongoing relationships between us after the separation, and to facilitate an orderly transition, we entered into several agreements with Exelon, including the following:

- Separation Agreement – sets forth the principal actions to be taken in connection with the separation, including the transfer of assets and assumption of liabilities and establishes certain rights and obligations between us following the distribution
- Transition Services Agreement (TSA) – governs all matters relating to the provision of services between us on a transitional basis, in addition to providing us with certain services for an expected period of two-years, provided that certain services may be longer than the term and services may be extended with approval from both parties. The services include support for information technology, accounting, finance, human resources, security, and various other administrative and operational services
- Employee Matters Agreement (EMA) – addresses certain employment, compensation and benefits matters, including the allocation of employees between us and the allocation and treatment of certain assets and liabilities relating to our employees and former employees
- Tax Matters Agreement - governs the respective rights, responsibilities, and obligations between us with respect to all tax matters (excluding employee related taxes covered under EMA), in addition to certain restrictions which generally prohibit us from taking or failing to take any action in the two-year period following the distribution that would prevent the distribution from qualifying as tax-free for U.S. federal income tax purposes, including limitations on our ability to pursue certain equity issuances, strategic transactions, repurchases or other transactions

Pursuant to the Separation Agreement, we received a cash contribution of \$1.75 billion from Exelon on January 31, 2022, the proceeds of which were used to settle \$258 million of an intercompany loan from Exelon and \$200 million of short-term debt outstanding prior to separation, in addition to a \$192 million contribution to our pension plans. We also entered into two new five-year credit facility agreements providing \$4.5 billion of capacity. See Note 17 — Debt and Credit Agreements and Note 15 — Retirement Benefits for additional information on these separation related items.

On February 1, 2022, Exelon completed the separation through a pro-rata distribution of all of the outstanding shares of our common stock, no par value, for every three shares of Exelon common stock held on January 20, 2022, the record date of the distribution. We are now an independent, publicly traded company listed on the NASDAQ exchange under the symbol "CEG", and regular-way trading began on February 2, 2022. Exelon no longer retains any ownership interest in CEG Parent or Constellation.

Prior to completion of the separation, our financial statements include certain transactions with affiliates of Exelon, which are disclosed as related party transactions. After February 1, 2022, all transactions with Exelon or its affiliates are no longer related party transactions. See Note 23 — Related Party Transactions for additional information.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

**All Registrants - Disclosure Controls and Procedures**

During the fourth quarter of 2021, our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures related to the recording, processing, summarizing, and reporting of information in periodic reports that we file with the SEC. These disclosure controls and procedures have been designed to ensure that (a) information, including information related to our consolidated subsidiaries, that is required to be included in filings under the Securities Exchange Act of 1934, is accumulated and made known to our management, including our principal executive officer and principal financial officer, by other employees as appropriate to allow timely decisions regarding required disclosure, and (b) this information is recorded, processed, summarized, evaluated, and reported, as applicable, within the time periods specified in the SEC's rules and forms. Due to the inherent limitations of control systems, not all misstatements may be detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Additionally, controls could be circumvented by the individual acts of some persons or by collusion of two or more people.

Accordingly, as of December 31, 2021, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective to accomplish their objectives.

**Constellation - Changes in Internal Control Over Financial Reporting**

There have been no changes in internal control over financial reporting that occurred during the fourth quarter of 2021 that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

**CEG Parent - Internal Control Over Financial Reporting**

This annual report does not include a report of management's assessment regarding internal control over financial reporting or an attestation report of our registered public accounting firm due to a transition period established by rules of the SEC for newly public companies.

**Constellation - Internal Control Over Financial Reporting**

Management is required to assess and report on the effectiveness of its internal control over financial reporting as of December 31, 2021. As a result of that assessment, management determined that there were no material weaknesses as of December 31, 2021 and, therefore, concluded that Constellation's internal control over financial reporting was effective. Management's Report on Internal Control Over Financial Reporting is included in ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

**ITEM 9B. OTHER INFORMATION**

None.

**ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS**

Not Applicable

**PART III**

Constellation Energy Generation, LLC meets the conditions set forth in General Instruction I(1)(a) and (b) of Form 10-K for a reduced disclosure format. Accordingly, all items in this section relating to Constellation are not presented.

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS, AND CORPORATE GOVERNANCE****Information about our Executive Officers as of February 25, 2022**

<u>Name</u>	<u>Age</u>	<u>Position</u>	<u>Period</u>
Dominguez, Joseph	59	President and Chief Executive Officer	2022 - Present
		President and Chief Executive Officer, Exelon Generation Company, LLC	2021 - 2022
		Chief Executive Officer, ComEd	2018 - 2021
		Executive Vice President, Governmental and Regulatory Affairs and Public Policy, Exelon	2012 - 2018
Eggers, Daniel	46	Executive Vice President and Chief Financial Officer	2022 - Present
		Executive Vice President and Chief Financial Officer, Exelon Generation Company, LLC	2021 - 2022
		Senior Vice President of Corporate Finance, Exelon	2018 - 2021
Barrón, Kathleen	51	Senior Vice President of Investor Relations, Exelon	2016 - 2018
		Executive Vice President and Chief Strategy Officer	2022 - Present
		Executive Vice President and Chief Strategy Officer, Exelon Generation Company, LLC	2021 - 2022
Hanson, Bryan C.	56	Executive Vice President of Government and Regulatory Affairs, Exelon	2018 - 2021
		Senior Vice President, Competitive Market Policy, Exelon	2012 - 2018
		Executive Vice President and Chief Generation Officer	2022 - Present
Koehler, Michael R.	55	Executive Vice President and Chief Generation Officer, Exelon Generation Company, LLC	2020 - 2022
		President and Chief Nuclear Officer, Exelon Nuclear; Senior Vice President, Exelon Generation Company, LLC	2015 - 2020
		Executive Vice President and Chief Administration Officer	2022 - Present
McHugh, James	50	Executive Vice President and Chief Administration Officer, Exelon Generation Company, LLC	2021 - 2022
		Senior Vice President and Chief Information and Chief Digital Officer, Exelon	2016 - 2021
		Executive Vice President and Chief Commercial Officer	2022 - Present
Dardis, David	49	Executive Vice President and Chief Commercial Officer, Exelon Generation Company, LLC	2021 - 2022
		Senior Vice President and General Counsel, Exelon Generation Company, LLC	2020 - 2021
		Senior Vice President and General Counsel, competitive retail and commodities business, Exelon	2016 - 2020
Bauer, Matthew	45	Senior Vice President and General Counsel, competitive retail and commodities business, Exelon	2016 - 2020
		Senior Vice President and Controller	2022 - Present
		Vice President and Controller, Exelon Generation Company, LLC	2016 - 2022

**Information about our Board of Directors as of February 25, 2022**

Name	Age	Committee Appointment
Joseph Dominguez	59	N/A
Yves de Balmann	75	Compensation (Chair), Corporate Governance
Laurie Brlas	64	Audit and Risk (Chair)
Rhonda Ferguson	52	Audit and Risk, Nuclear Oversight
Bradley Halverson	61	Compensation, Corporate Governance
Charles Harrington	63	Corporate Governance, Nuclear Oversight
Julie Holzrichter	54	Audit and Risk, Compensation
Ashish Khandpur	54	Compensation, Corporate Governance
Robert Lawless	75	Corporate Governance (Chair)
John Richardson	61	Audit and Risk, Nuclear Oversight (Chair)

*Yves de Balmann* has served on our Board since January 2022. He has extensive experience in corporate finance, including the derivatives and capital markets as well as industry experience as a former director of Exelon from 2012 to 2022 as well as Constellation Energy Group prior to its merger with Exelon in 2012. His deep knowledge of strategic planning, compensation, governance, and investor insights will provide significant value to the Company Board. Mr. de Balmann currently serves as Executive Partner at Bridge Growth Partners, a private equity firm focusing on technology and financial services companies, and previously served as Co-Chairman of Bregal Investments LP, a private equity investing firm, from 2002 to 2012. He is also currently on the Board of Directors of ESI Group, a virtual prototyping software company.

*Laurie Brlas* has served on our Board since January 2022, and previously served on the Exelon Board from 2018 to 2022. She has proven leadership skills derived from her significant experience as an executive leader at global, capital-intensive companies, and operations and finance experience in the natural resources industry in addition to her background in financial and governance matters that will bring valuable insights to the Company Board. Ms. Brlas served as Executive Vice President and Chief Financial Officer of Newmont Mining Corporation, a global mining company, from 2013 to 2016. Prior to that, she served in multiple senior positions between 2006 and 2013, ultimately as Executive Vice President and President, Global Operations, with Cleveland-Cliffs, Inc., a company specializing in the mining, beneficiation and pelletizing of iron ore. Ms. Brlas currently serves on the Boards of Directors of Albemarle Corporation (since 2017), Graphic Packaging Holding Company (since 2019) and Autoliv, Inc. (since 2020). She previously served on the Boards of Directors of Calpine Corporation (2016 to 2018) and Perrigo Company plc (2003 to 2019).

*Rhonda Ferguson* has served on our board since January 2022. She joined Allstate Corporation in 2020 and serves as its Executive Vice President, Chief Legal Officer, General Counsel and Secretary. Prior to joining Allstate, she served as Executive Vice President, Chief Legal Officer and Secretary for Union Pacific Corporation from 2016 to 2020, and as Vice President, Secretary and Chief Ethics Officer of First Energy Corp. from 2007 to 2016. Ms. Ferguson serves on the boards for the RAND Institute for Civil Justice and Girls Inc. of Chicago. She has proven leadership skills derived from her significant experience as an executive leader at large, highly regulated companies, and her background in legal, regulatory, compliance and governance matters will bring valuable insights to the Board.

*Bradley Halverson* has served on our Board since January 2022. He is the former Group President and Chief Financial Officer of Caterpillar Inc., the world's leading manufacturer of construction and mining equipment, diesel and gas engines, turbines and locomotives. Prior to serving as Group President and CFO from 2013 to 2018, he held a series of positions with increasing responsibility during his 30-year tenure with the Fortune 100 company, including vice president, Financial Services; corporate controller, Global Finance & Strategic Services; and corporate business development manager, Corporate Services, among others since joining the company in 1988. Mr. Halverson currently serves on the boards of Sysco Corporation, Lear Corporation and Satellogic Inc. In addition, he serves on the board of Easter Seals Central Illinois, Inc. He previously served as a director for Custom Truck One Source from 2018-2021. Mr. Halverson's deep expertise in accounting, financial reporting and

corporate finance, and his leadership experience in the areas of executive leadership and management, corporate strategy development, mergers and acquisitions, risk management, information technology systems oversight and international business will provide the Board with critical perspectives on strategic, financial and other public company issues.

*Charles Harrington* has served on our Board since January 2022. He is the chairman and former CEO of Parsons Corporation, a technology services company in the global defense, intelligence and critical infrastructure markets. He served as Chairman and CEO of the company from 2008 to 2021, following previous roles within the company, including Executive Vice President, CFO and Treasurer; President, Commercial Technology Group; and president, Communications Technology Group, from 1999 to 2002, among others. In addition to serving as chairman of Parsons, Mr. Harrington serves on the boards of J.G. Boswell Company and California Polytechnic State University San Luis Obispo Foundation. He previously served on the board of The AES Corporation from 2013 to 2020. Mr. Harrington's extensive leadership experience in operations, finance and business development will provide significant value to the Board.

*Julie Holzrichter* has served on our Board since January 2022. She currently serves as chief operating officer of CME Group, the world's leading derivatives marketplace. Prior to being appointed to her current role in 2014, she held various roles of increasing responsibility, including senior managing director of Global Operations; managing director, Global Operations; and director, Operations, among others, having led the integration of global operations for a number of multi-billion-dollar mergers and acquisitions throughout her tenure. Ms. Holzrichter serves on the board of the National Futures Association and is a member of the Futures Industry Association, ChicagoFirst and the CME Group Women's Initiative Network. Her extensive experience leading the operations of CME Group's market operations, global command center, trading floor operations, global market solutions and services, data centers and critical infrastructure, global security, business continuity and crisis management will provide valuable insight to the Board.

*Ashish Khandpur* has served on our Board since January 2022. He currently serves as President of the Transportation & Electronics business group for 3M Company, a Fortune 100 global corporation operating in the fields of transportation, electronics, worker safety, health care, consumer goods and industry. During his 26-year career with 3M, he has held a series of roles with increasing responsibility, including Executive Vice President, Transportation & Electronics; Executive Vice President, Electronics & Energy; and Senior Vice President, Research & Development and Chief Technology Officer, among other roles. Mr. Khandpur's extensive engineering background and deep experience in global operations and research and development will provide an invaluable perspective to the Board.

*Robert Lawless* has served on our Board since January 2022. He has deep executive leadership, strategic planning, and corporate governance experience, as well as industry experience as a former director of Exelon from 2012 to 2022 as well as Constellation Energy Group prior to its merger with Exelon in 2012 and will provide the Company Board with critical perspectives on governance and other public company issues. Mr. Lawless served in numerous senior level positions over a more than thirty-year career with McCormick & Company, Inc., a global food manufacturing company, including as President from 1996 to 2006, as Chief Executive Officer from 1997 to 2008, and as Chairman from 1997 until 2009.

*Admiral John Richardson* has served on our Board since January 2022 and previously served on the Exelon Board from 2019 to 2022. His experience leading the U.S. Navy as well as his expertise in nuclear oversight and operational excellence will bring invaluable knowledge to our Board. Admiral Richardson served in various senior positions during his thirty-seven-year career with the U.S. Navy, including as Chief of Naval Operations from 2015 to 2019, Director of Naval Reactors, commander of U.S. Submarine Forces, and Director of Strategy and Policy at the U.S. Joint Forces Command. He currently serves as a director of The Boeing Company (since 2019) and BWX Technologies, Inc. (since 2020). Admiral Richardson also currently serves as a director of Sparkognition Government Systems, a developer of A.I. solutions for multiple industries including energy, defense and finance, and of the Center for New American Security, a bipartisan think tank focused on national security, including issues around energy and geopolitics.

#### **Our Corporate Governance**

*Board Diversity.* Our Corporate Governance Committee is responsible for reviewing with the Board of Directors, on an annual basis, the appropriate characteristics, skills and experience required for the Board as a whole. In



evaluating and recommending the suitability of candidates (both new candidates and current members) for election, the following factors will be taken into account:

- personal and professional integrity, ethics and values;
- experience in corporate management, such as serving as an officer or former officer of a publicly held company;
- experience as a board member or executive officer of another publicly held company;
- strong finance experience;
- expertise and experience in substantive matters pertaining to our business;
- diversity of background and perspective, including with respect to age, gender, race, place of residence and specialized experience;
- experience relevant to our business industry and with relevant social policy concerns; and
- relevant academic expertise or other proficiency in an area of our business operations.

Currently, our board evaluates each individual in the context of the Board of Directors as a whole, with the objective of assembling a group that can best maximize the success of the business and represent shareholder interests through the exercise of sound judgment using its diversity of experience in these various areas.

#### **Committees of the Board of Directors**

Our Board of Directors has four standing committees, an Audit and Risk Committee, a Compensation Committee, a Corporate Governance Committee, and a Nuclear Oversight Committee, each of which will have the composition and responsibilities described below. The members of the Audit and Risk, Compensation, and the Corporate Governance Committees will satisfy the applicable independence standards of the SEC and the Nasdaq Stock Market rules. The charter of each standing committee is posted on our website, [www.ConstellationEnergy.com](http://www.ConstellationEnergy.com). Our Board may also establish other committees that it deems necessary or desirable from time to time. Committee memberships may be changed subject to the discretion of our Board.

#### **Audit and Risk Committee**

Our Audit and Risk Committee consists of four members and functions pursuant to a written charter adopted by the Board of Directors. The Audit and Risk Committee's responsibilities include, among other things:

- Assists the Board of Directors in the oversight and review of the quality and integrity of the Company's financial statements and internal controls over financial reporting
- Appoints, retains and oversees the independent auditor and evaluates its qualifications, performance, independence and fees
- Oversees the Company's internal audit function
- Reviews the processes by which the Company assesses and manages enterprise risk
- Oversees compliance with the Company's Code of Business Conduct, and the process for the receipt and responses to complaints regarding accounting, internal controls, ethics or audit matters

The responsibilities of our Audit and Risk Committee are more fully described in our Audit and Risk Committee charter. Our Board of Directors has determined that each of the committee's members satisfy the applicable independence and other requirements of the Nasdaq Stock Market and the SEC for audit committees and that Ms. Brlas, Chair of the Committee, qualifies as an "audit committee financial expert" as defined under applicable SEC rules and regulations.

#### **Compensation Committee**

Our Compensation Committee consists of four members and functions pursuant to a written charter adopted by the Board of Directors. The Compensation Committee's responsibilities include, among other things:

- Assists the Board of Directors in establishing performance criteria, evaluation, and compensation for the CEO
- Approves executive compensation program design for executive officers, other than the CEO
- Monitors and reviews leadership and succession information for executive roles
- Retains the Committee's independent compensation consultant
- Reviews Compensation Discussion and Analysis and prepares the Compensation Committee Report for proxy statements

The responsibilities of our Compensation Committee, and its procedures for the consideration and determination of executive compensation, are more fully described in our Compensation Committee charter. Our Board of Directors has determined that each of the committee's members satisfies the applicable independence and other requirements of The Nasdaq Stock Market, the SEC and the IRS for compensation committee members.

#### **Corporate Governance Committee**

Our Corporate Governance Committee consists of four members and functions pursuant to a written charter adopted by the Board of Directors. The Corporate Governance Committee's responsibilities include, among other things:

- Identifies and recommends qualified candidates for election by the Board of Directors and shareholders and oversees the Board and committee structure and compensation
- Recommends Corporate Governance Guidelines and advises on corporate governance issues including evaluation processes for the Board, its committees, and directors and the CEO
- Oversees the Company's environmental strategies, including climate change and sustainability policies
- Reviews the Company's director compensation program and retains an independent compensation consultant
- Has authority to retain an independent search firm to identify candidates for a director

The responsibilities of our Corporate Governance Committee and the process for identifying and evaluating director nominees (including nominees recommended by shareholders) are more fully described in our Corporate Governance Committee charter. Our Board of Directors has determined that each of the committee's members satisfy the applicable independence and other requirements of The Nasdaq Stock Market and the SEC for Corporate Governance Committee members.

#### **Nuclear Oversight Committee**

Our Nuclear Oversight Committee consists of three members and functions pursuant to a written charter adopted by the Board of Directors. The Nuclear Oversight Committee's responsibilities include, among other things:

- Oversees the safe and reliable operation of the Company's nuclear generating facilities with a principal focus on nuclear safety
- Oversees management and operations of the Company's nuclear generating facilities and the overall organizational effectiveness of nuclear generating station operations
- Oversees compliance with policies and procedures to manage and mitigate risks associated with the security and integrity of the Company's nuclear generation assets
- Reviews environmental, health and safety issues relating to nuclear generating facilities

The responsibilities of our Nuclear Oversight Committee are more fully described in our Nuclear Oversight Committee charter.

#### **Shareholder Nominations**

A shareholder who wishes to recommend a candidate (including a self-nomination) to be considered by the Corporate Governance Committee for nomination as a Director must submit the recommendation in writing to the Chair of the Corporate Governance Committee c/o the Corporate Secretary. The Corporate Governance Committee will consider all recommended candidates and self-nominees when making its recommendation to the full Board of Directors to nominate a slate of Directors for election.

In order to be considered for election, nominations must comply with the requirements of the SEC and the provisions of our bylaws. Under our bylaws, notice of the proposed nomination must be received by the Company not later than the ninetieth day, or earlier than the one hundred twentieth day, prior to the first anniversary of the date of the preceding year's annual meeting of shareholders. Although we will not hold an annual meeting of shareholders in 2022 due to the recent completion of the separation from Exelon, for purposes of determining the timeliness of nominations for our 2023 annual meeting of shareholders, the 2022 annual meeting of shareholders will be deemed to have been held on April 26, 2022. In addition, the notice must include information required under the bylaws, including: (a) information about the nominating shareholder, (b) information about the candidate that would be required to be included in a proxy statement under the rules of the SEC, (c) a representation as to whether the shareholder intends to deliver a proxy statement to the other shareholders of CEG Parent, and (d) the signed consent of the candidate to serve as a director, if elected. Under this procedure, any shareholder can nominate any number of candidates for director for election at the annual meeting, but the shareholder's nominees will not be included in our proxy statement or form of proxy for the meeting.

#### **Code of Conduct and Ethics**

In connection with the completion of the separation from Exelon, our Board of Directors, on January 31, 2022, adopted a code of conduct and ethics (the "Code of Ethics") that applies to all of our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer and persons performing similar functions. The Code of Ethics is available upon written request to our corporate secretary or on our website at [www.ConstellationEnergy.com](http://www.ConstellationEnergy.com). If we amend or grant any waiver from a provision of our Code of Ethics that applies to our executive officers, we will publicly disclose such amendment or waiver on our website and as required by applicable law. The information contained on, or accessible from, our website is not part of this annual report by reference or otherwise.

### **ITEM 11. EXECUTIVE AND DIRECTOR COMPENSATION**

#### **Compensation Discussion & Analysis**

As of December 31, 2021, CEG Parent and Constellation were wholly owned subsidiaries of Exelon Corporation and CEG Parent's compensation committee had not yet been formed. All decisions regarding 2021 compensation of Constellation's and its subsidiaries' named executive officers were made by the Compensation and Leadership Development Committee of the Exelon Board of Directors (referred to in this section as the "Exelon Compensation Committee") if the executive previously served as an executive officer of Exelon, or otherwise by Exelon management. Following the distribution on February 1, 2022, the executive compensation programs, policies and practices for CEG Parent's executive officers are subject to the review and approval of the Compensation Committee of CEG Parent's Board of Directors (the "Company Compensation Committee").

For purposes of this Compensation Discussion and Analysis and the following executive compensation tables, the individuals referred to as the "named executive officers" ("NEOs") are Constellation's principal executive officer, principal financial officer and the three most highly compensated executive officers of Constellation and its subsidiaries' based on 2021 compensation. The compensation discussed in this section refers to legacy Exelon compensation plans.

The individuals determined to be our NEOs based on 2021 compensation are listed below. This information reflects positions and compensation during 2021 while we were held by Exelon and does not reflect the individuals who may be identified as NEOs by us in the future.

Christopher Crane <sup>(a)</sup>	President and Chief Executive Officer, Exelon
Joseph Dominguez <sup>(b)</sup>	President and Chief Executive Officer, Constellation
Kenneth W. Cornew <sup>(a)</sup>	(Former) President and Chief Executive Officer, Constellation
Daniel Eggers <sup>(c)</sup>	Executive Vice President and Chief Financial Officer, Constellation
Bryan Wright	(Former) Senior Vice President and Chief Financial Officer, Constellation
Bryan Hanson	Executive Vice President, Chief Generation Officer, Constellation
James Mchugh	Executive Vice President, Chief Commercial Officer, Constellation
David Rhoades	Senior Vice President, President and Chief Nuclear Officer

- (a) Mr. Crane was named principal executive officer of Constellation effective October 21, 2020. Mr. Cornew served as Senior Executive Vice President and Chief Commercial Officer, Exelon; President and Chief Executive Officer, Constellation through his departure on March 31, 2021.
- (b) Mr. Dominguez was named as Executive Vice President and Chief Executive Officer of Constellation effective October 1, 2021.
- (c) Mr. Eggers was named as Executive Vice President and Chief Financial Officer of Constellation effective October 1, 2021.

All NEOs have compensation that is structured in part like Exelon's executive officers, based in part on overall Exelon goals as well as goals of Constellation and its subsidiaries. The Company NEOs participated in compensation programs designed to align their interests with the Company's customers and other stakeholders.

For both the CEO and NEOs, a significant portion of their compensation is tied to the achievement of short-term and long-term financial and operational goals and is paid in the form of Exelon equity with all components except for salary being "at-risk."

CEO		All NEOs	
Base Salary	10.5 %	Base Salary	20.3 %
Annual Incentive Plan (AIP)	14.2 %	Annual Incentive Plan (AIP)	17.5 %
Long-Term Incentive Plan (LTIP)	75.3 %	Long-Term Incentive Plan (LTIP)	55.0 %
Pay at Risk (AIP + LTIP)	89.5 %	Pay at Risk (AIP + LTIP)	72.5 %

### Executive Compensation Program Philosophy and Objectives

The goal of the executive compensation program is to retain and reward leaders who create long-term value by delivering on objectives that support strategic business objectives. Each element of total direct compensation is based on market data, the executive's competencies and skills, scope of responsibilities, experience and performance, retention, succession planning and organizational structure of the business.

## 2021 Compensation Program Structure

The 2021 compensation program is summarized below. Primary compensation elements include fixed and variable components.

Pay Element	Form	Shareholder Alignment
Salary	Cash	a) Fixed income at competitive, market-based levels attracts and retains top talent.
Annual Incentive Plans ("AIP")	Cash	b) Motivates executives to achieve key annual financial and operational goals that reflect commitment to superior operations and supporting our customers and communities
Long-Term Incentive Plan ("LTIP")	Performance Shares (67% of LTIP)	c) Drives executive focus on long-term goals supporting utility growth, financial results, and capital stewardship d) Rewards relative achievement of financial goals and stock price compared to utility peers ("UTY") over three-year period e) Aligns the interests of executives with stockholders by capping payouts if absolute TSR is negative for the prior 36-month period
	Restricted Stock (33% of LTIP)	f) Balances LTI portfolio providing executive with market competitive time-based award.

## 2021 Base Salaries

Base salaries for 2021 were determined by the Exelon Compensation Committee for Messrs. Crane, Cornew and Hanson. The Exelon Compensation Committee also set the base salary for Messrs. Dominguez and Eggers following their promotion in October 2021. When evaluating whether to make any adjustments, the Exelon Compensation Committee considers a number of factors including the outcome of the annual merit review, results of the annual market assessment of executive compensation provided by the Exelon Compensation Committee's independent compensation consultant, the need to retain experienced executives, individual performance, scope of responsibility, leadership skills and values, current compensation, internal equity, and legacy matters.

Base salaries for the remaining Constellation and subsidiary NEOs are set by the Exelon CEO. Base salaries may be adjusted (1) as part of the annual merit review or (2) based on a promotion or significant change in job scope. The Exelon CEO considers the results of the annual market assessment in addition to the following factors when contemplating a merit review: individual performance, scope of responsibility, leadership skills and values, current compensation, internal equity, and legacy matters.

In January 2021 as part of its annual merit review, the Exelon Compensation Committee recommended Mr. Crane's base salary be increased by 1% based on the annual market assessment conducted by the independent compensation consultant, Meridian Compensation Partners, LLC. At the same time, the Exelon Compensation Committee approved a 3.6% increase in base salary for Mr. Hanson and 1% increase for Mr. McHugh. Mr. Crane approved a 1% increase in base salary for Mr. Wright. All other executives were held flat. Merit increases were effective March 1, 2021.

## 2021 Annual Incentive Plan (AIP) Overview and Goal Setting

AIP metrics are linked to business goals and strategic focus areas. The goal-setting process employs a multi-layer approach and analysis that incorporates a blend of objective and subjective business considerations and other analytical methods to ensure that the goals are sufficiently rigorous. Such considerations include:

*Recent History* - Goals generally reflect a logical progression of results from the recent past.

*Relative Performance* - Performance is evaluated against a relevant group of Constellation and its subsidiaries' peers.

*Strategic Aspirations* - Near- and intermediate-term goals follow a trend line consistent with long-term aspirations.

*Shareholder Expectations* - Goals are aligned with externally communicated financial guidance and shareholder expectations.

*Sustainable Sharing* - Earned awards reflect a balanced degree of shared benefits between shareholders and participants.

The following process was used to determine 2021 AIP awards for each NEO:

- 1) *Set AIP Target* - Expressed as percentage of base salary. Mr. Crane's annual incentive target was 145% and for the other NEOs, the annual incentive targets ranged from 50%-100%.
- 2) *Determine Performance Factor* - Based on various financial and operating metrics.
- 3) *Determine Individual Performance Multiplier (IPM)* – IPM measures individual performance and ranged from 50% to 110% (target of 100%). Wright and Rhoades were the only executives eligible for an IPM up to a maximum of 110%. There were no IPMs for the other NEOs. The IPMs were approved by Mr. Crane.
- 4) *Apply Final Multiplier* – Multiply the target award by the performance factor and then multiply the outcome by the IPM. Awards could range from 0% to 200% of target (target of 100%).

The following tables detail the 2021 threshold, target, and distinguished, i.e., maximum, performance goals, and the results achieved for the AIP. The Exelon Compensation Committee selected the performance metrics below as they align with the long-term business strategy. Actual results reflected below are assessed based on the operational and financial key performance indicators as assigned to each business unit.

**CEO and Direct Reports AIP Scorecard**

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Weighted Performance
Exelon Adjusted (non-GAAP) Operating EPS <sup>(a)(b)</sup>	\$ 2.58	\$ 2.87	\$ 3.44	\$ 2.94	106.7 %	74.7 %
CAIDI	90	84	79	81	160.0 %	12.0 %
SAIFI	0.80	0.69	0.54	0.60	160.0 %	12.0 %
Fleetwide Capacity Factor	92.6 %	94.6 %	95.8 %	94.7 %	113.2 %	8.5 %
Dispatch Match	94.8 %	97.5 %	99.4 %	72.4 %	— %	— %
					<b>Payout:</b>	<b>107.2 %</b>

**ComEd Senior AIP Scorecard**

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Weighted Performance
Exelon Adjusted (non-GAAP) Operating EPS <sup>(a)(b)</sup>	\$ 2.58	\$ 2.87	\$ 3.44	\$ 2.94	106.7 %	26.7 %
ComEd Adjusted (non-GAAP) Operating Earnings (\$M) <sup>(b)</sup>	\$ 652	\$ 724	\$ 833	\$ 754	128.0 %	32.0 %
Total ComEd Operating and Maintenance Expense (\$M) <sup>(b)</sup>	\$ 1,083	\$ 1,031	\$ 928	\$ 957	171.6 %	34.3 %
Value Based Engagements	80.0 %	90.0 %	100.0 %	100.0 %	200.0 %	5.0 %
Safety Best Practices	3	4	5	5	200.0 %	5.0 %
SAIFI	0.80	0.54	0.50	0.50	200.0 %	10.0 %
CAIDI	90	77	75	69	200.0 %	10.0 %
Service Level	81.5	90.0	92.1	89.2	200.0 %	10.0 %
Customer Satisfaction Index	7.64	8.09	8.20	8.18	181.8 %	9.1 %
EIMA Reliability Metrics Index	50.0 %	100.0 %	200.0 %	120.0 %	120.0 %	6.0 %
					<b>Payout:</b>	<b>148.1 %</b>
					<b>Board Limiter Application</b>	<b>120.0 %</b>

**Business Service Center AIP Scorecard**

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Weighted Performance
BSC Total Cost (\$M) <sup>(b)</sup>	\$ 1,246	\$ 1,187	\$ 1,068	\$ 1,111	164.2 %	164.2 %
					<b>Payout:</b>	<b>164.2 %</b>
					<b>Board Limiter Application</b>	<b>120.0 %</b>

### Constellation Corporate AIP Scorecard

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Board Limiter Application
Average of Nuclear, Power, and Constellation KPIs	50.0 %	100.0 %	200.0 %	<b>118.1 %</b>	118.1 %	YES
					<b>Payout:</b>	<b>100.0 %</b>

### Commercial Senior AIP Scorecard

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Weighted Performance
Exelon Adjusted (non-GAAP) Operating EPS <sup>(a)(b)</sup>	\$ 2.58	\$ 2.87	\$ 3.44	\$ <b>2.94</b>	106.7 %	53.3 %
Constellation Adjusted (non-GAAP) Operating Earnings (\$M) <sup>(b)</sup>	\$ 850	\$ 944	\$ 1,085	\$ <b>718</b>	— %	— %
Commercial Adjusted Gross Margin (\$M) <sup>(b)</sup>	\$ 5,204	\$ 5,782	\$ 6,650	\$ <b>5,567</b>	81.8 %	20.3 %
					<b>Payout:</b>	<b>73.6 %</b>

### Nuclear Senior AIP Scorecard

2021 Goals	Threshold	Target	Distinguished	2021 Actual Results	Unadjusted Payout as a % of Target	Weighted Performance
Exelon Adjusted (non-GAAP) Operating EPS <sup>(a)(b)</sup>	\$ 2.58	\$ 2.87	\$ 3.44	\$ <b>2.94</b>	106.7 %	53.3 %
Constellation Adjusted (non-GAAP) Operating Earnings (\$M) <sup>(b)</sup>	\$ 850	\$ 944	\$ 1,085	\$ <b>718</b>	— %	— %
Fleetwide Capacity Factor	92.6 %	94.6 %	95.8 %	<b>94.7 %</b>	113.2 %	28.3 %
					<b>Payout:</b>	<b>81.6 %</b>

(a) Exelon's 2021 Adjusted EPS was \$2.82. However, for purposes of determining the 2021 AIP payouts for Exelon executives, \$2.94 was used, which includes the impact of (\$0.12) attributed to equity investments.

(b) See definitions of Non-GAAP measures beginning on page 173.

### Definition of Non-GAAP Measures

Exelon reports its financial results in accordance with accounting principles generally accepted in the United States (GAAP) and supplements its reporting with certain non-GAAP financial measures, including adjusted (non-GAAP) operating earnings per share, earned ROE, and FFO/Debt to enhance investors' understanding of Exelon's performance. Our method of calculating adjusted (non-GAAP) operating earnings and operating ROE may not be comparable to other companies' presentations.

*Adjusted (non-GAAP) operating earnings* per share exclude certain costs, expenses, gains and losses and other specified items, including mark-to-market adjustments from economic hedging activities, unrealized gains and losses from nuclear decommissioning trust fund investments, certain costs associated with plant retirements and divestitures, costs related to cost management programs, and other items as set forth in the table below reconciling adjusted (non-GAAP) operating earnings from GAAP earnings, which is the most directly comparable GAAP measure. Management uses adjusted (non-GAAP) operating earnings as one of the primary indicators to evaluate performance, allocate resources, set incentive compensation targets and plan and forecast future periods. We believe the measure enhances an investor's overall understanding of period over period financial results and provides an indication of Exelon's baseline operating performance by excluding items that are considered by management to not be directly related to the ongoing operations of the business.



The table below reconciles reported GAAP Earnings per share to adjusted (non-GAAP) operating earnings per share for 2020 (amounts may not add due to rounding).

<b>2021 Exelon GAAP Earnings (Loss) Per Share</b>	<b>\$</b>	<b>1.74</b>
Adjustments:		
Mark-to-market impact of economic hedging activities		(0.43)
Unrealized gains related to nuclear decommissioning trust (NDT) funds		(0.14)
Asset impairments		0.41
Plant retirements and divestitures		0.88
COVID-19 Direct Costs		0.04
Separation Costs		0.09
Acquisition Related Costs		0.02
ERP System Implementation Costs		0.01
Cost Related to Suspension of Contractual Offset		0.15
Cost management program		0.01
Change in environmental liabilities		0.01
Asset retirement obligation		(0.04)
Income tax-related adjustments		0.05
Noncontrolling interests		0.02
<b>2021 Exelon Adjusted (non-GAAP) Operating Earnings (Loss) Per Share</b>	<b>\$</b>	<b>2.82</b>

*Earned ROE* is calculated using adjusted (non-GAAP) operating earnings, reflecting all lines of business for the utility businesses (electric distribution, gas distribution, transmission), divided by average shareholder's equity over the year. Management uses operating ROE as a measurement of the actual performance of the company's utility business.

*FFO/Debt* is a coverage ratio that compares funds from operations to total debt and is a key ratio analyzed by the credit rating agencies in determining Exelon's credit rating. An investment grade rating is critical as it increases the ability to participate in commercial business opportunities, lowers collateral requirements, creates reliable and cost-efficient access to capital markets and increases business and financial flexibility. The ratio is calculated following S&P's current methodology. The most directly comparable GAAP measure to FFO is GAAP Cash Flow from Operations and the most directly comparable GAAP measure to Debt is Long-Term Debt plus Short-Term Borrowings. Management uses FFO/Debt to evaluate financial risk by measuring the company's ability to service debt using cash from operations. We believe the measure enhances an investor's overall understanding of the creditworthiness of Exelon's operating companies.

*ComEd adjusted (non-GAAP) operating earnings* excludes certain costs, expenses, gains and losses and other specified items as determined appropriate by Exelon management when evaluating the performance metrics.

*Constellation adjusted (non-GAAP) operating earnings* excludes certain costs, expenses, gains and losses and other specified items, including mark-to-market adjustments, rate relief payments, and other items as determined appropriate by Exelon management when evaluating the performance metrics.

*Commercial Adjusted Gross Margin* is the total operating revenues less purchased power and fuel for the Commercial wholesale business and, for the Commercial retail services businesses, includes direct costs, and is net of any non-operating adjustments to either operating revenue or purchased power and fuel.

*Utility adjusted (non-GAAP) operating earnings* is the aggregate utility adjusted (non-GAAP) operating earnings, including Exelon HoldCo adjusted (non-GAAP) operating earnings.

*Total ComEd Operating and Maintenance Expense* excludes certain costs, expenses and other specified items as determined appropriate by Exelon management when evaluating the performance metrics.

*BSC Total Costs* represents Exelon Business Service Company costs, excluding certain costs, expenses and other specified items as determined appropriate by Exelon management when evaluating the performance metrics.

Due to the forward-looking nature of some forecasted non-GAAP measures, information to reconcile the forecasted adjusted (non-GAAP) measures to the most directly comparable GAAP measure may not be currently available; therefore, management is unable to reconcile these measures.

The following table shows how the formula was applied and the actual amounts awarded. The Exelon Compensation Committee applied negative discretion to limit the ComEd Senior and Business Service Center scorecards to 120% of target and the Constellation Corporate scorecard to target.

NEO	AIP Target	AIP Target	Formulaic Performance Factor <sup>(a)</sup>	Individual Performance Multiplier (IPM)	Actual Award
Crane	155.0 %	\$ 2,024,192	107.2 %	100.0 %	\$ 2,169,124
Dominguez	135.0 %	985,530	Blend <sup>(a)(b)</sup>	100.0 %	846,880
Wright	50.0 %	228,769	100.0 %	105.0 %	240,208
Eggers	90.0 %	463,450	Blend <sup>(b)(c)</sup>	100.0 %	478,698
Cornew	100.0 %	234,626	107.2 %	100.0 %	251,425
Hanson	85.0 %	616,250	107.2 %	100.0 %	660,374
McHugh	80.0 %	530,856	Blend <sup>(d)</sup>	100.0 %	422,298
Rhoades	80.0 %	547,750	81.6 %	110.0 %	491,841

(a) Mr. Dominguez actual award is prorated based on both the ComEd Senior and CEO and Directs scorecard performance based on time in each plan.

(b) The AIP targets disclosed above reflect the target as of December 31, 2021. Mr. Dominguez and Mr. Eggers awards are also based on a blend of targets and salaries based on time in each role.

(c) Mr. Eggers actual award was prorated based on both the Business Service Center and CEO and Directs scorecard performance based on time in each plan.

(d) Mr. McHugh actual award was prorated base on both the Commercial Senior and CEO and Directs scorecard performance based on time in each plan.

### Long-Term Incentive Plan (LTIP) Overview & Goal Setting Process

The Exelon Compensation Committee grants long-term equity incentive awards annually at its January or February meeting. When the total target equity incentive award is determined, the value is split between RSUs (33%) and performance shares (67%).

*Restricted Stock Units ("RSUs")*. RSUs granted to NEOs vest ratably over a three-year period. RSUs receive dividend equivalents that are reinvested as additional RSUs and remain subject to the same vesting conditions as the underlying RSUs. RSUs are not subject to any performance metrics.

*Performance Shares*. Performance shares granted to NEOs in January 2021 were converted according to the methodology outlined in the Employee Matters Agreement. Awards will be earned based on performance achieved for the scorecard approved by the Constellation Committee covering the two-year period ending on December 31, 2023. The performance metrics underlying the 2019-2021 and 2020-2022 performance share awards are listed below.

Performance share metrics	Why it is Important
<b>Utility Earned ROE<sup>(a)</sup> (33.3%)</b> Average utility ROE weighted by year-end rate base. Earned ROE is calculated using adjusted (non-GAAP) operating earnings, reflecting all lines of business for the utility businesses (electric distribution, gas distribution, transmission), divided by average shareholder's equity over the year.	Measure of value created by utility businesses. Aligned with our strategy to invest in our utilities where we can earn an appropriate return.
<b>Utility Net Income<sup>(a)</sup> (33.3%)</b> Aggregate utility adjusted (non-GAAP) operating earnings, including Exelon hold-co net operating income (loss)	Measures financial performance of the Utilities. Aligned with our strategy to grow our regulated utility business.
<b>Exelon FFO/Debt<sup>(a)</sup> (33.4%)</b> Funds from operations to total debt ratio. The ratio is calculated following S&P's current methodology. Management uses FFO/Debt to evaluate financial risk by measuring ability to service debt using cash from operations	Key ratio for determining our credit rating and thereby our access to capital. Aligned with our strategy to generate free cash and reduce debt.

(a) See definitions of Non-GAAP measures beginning on page 173.

*Setting Performance Share Targets.* Performance share targets are set based on external commitments and analysis of sensitivities. The target for the Exelon FFO/Debt metric is aligned with the expectations of credit rating agencies.

*Actual Targets Disclosed After Each Cycle.* Actual targets used in our performance share cycles are not disclosed until each cycle is completed to safeguard the confidentiality of our long-term outlook on projected performance. This policy supports the propriety of our long-standing disclosure practices to only issue annual performance guidance as part of our financial disclosure policies.

*Performance Share Awards Subject to TSR Modifier and Cap.* Performance share awards are subject to a total shareholder return ("TSR") modifier that compares Exelon's performance relative to the performance of the UTY total return index on a point by point basis. Performance share awards are also subject to a TSR cap that will limit payouts at target if TSR is negative for the prior 36-month period.

The Exelon Compensation Committee used the following process to determine performance share targets and awards:

- 1) *Establish Performance Share Award Target* - Targets are set in January/February of the first year of the performance cycle.
- 2) *Determine Performance Multiplier* - The Performance Multiplier is based on performance achieved over the three-year cycle. Performance can range from 0% to 150% of target (target of 100%).
- 3) *Determine TSR Modifier* - Calculated by subtracting the TSR of the UTY over the three-year performance period from Exelon's TSR for the same three-year period.
- 4) *Calculate Final Multiplier* - Calculated by multiplying the Performance Multiplier by (100% + TSR Modifier). This value is the Final Multiplier.
- 5) *Apply Final Multiplier & TSR Cap (if applicable)* - Apply the Final Multiplier to determine the number of shares issued. If Exelon's absolute TSR for the final 12-month of the performance period is negative, payout will be capped at 100%. Awards can range from 0% to 200% of target (target of 100%) after application of the TSR modifier.

#### 2019 – 2021 Performance and Performance Share Payout Determinations

The following table details the 2019 - 2021 threshold, target, and distinguished performance goals, and the results achieved. The performance multiplier for the 2019 - 2021 Performance Share awards was calculated to be **80.5%** of target, based on the following:

**Performance Share Scorecard**

	Metric Weighting	Threshold (50%)	75%	Target (100%)	125%	Distinguished (150%)	Actual Score	Actual Award v. Metric Weighting
Utility Earned ROE <sup>(a)(b)</sup>	33.3 %	8.4%		9.3%		10.0%	9.2%	31.4 %
Utility Net Income (\$M) <sup>(a)(b)</sup>	33.3 %	\$ 1,819		\$ 2,053		\$ 2,213	\$ 2,040	32.4 %
Exelon FFO/Debt <sup>(a)(b)</sup>	33.4 %	≥16.0% and <17.0%	≥17.0% and <18.0%	≥18.0% and <22.0%	≥22.0% and <24.0%	≥24.0%	16.5 %	16.7 %
<b>Committee Approved Performance:</b>								<b>80.5 %</b>

(a) See definitions of Non-GAAP measures beginning on page 173.

(b) The Utility Earned ROE and Utility Net Income use interpolation between threshold, target, and distinguished levels of performance whereas the FFO/Debt metric uses a "stair-step" approach with no interpolation between the performance levels.

**Payout Determinations.** The Exelon Compensation Committee approved a payout of 70.6%, based on 2019 - 2021 performance and the application of a TSR modifier of (12.3)% based on 2019 - 2021 TSR performance relative to the UTY total return.

The following table shows how the formula was applied and the actual amounts awarded.

NEO	Target Shares		Performance Factor	Actual Award
Crane	155,683	x	70.6 % =	109,928
Dominguez	15,993	x	70.6 % =	11,293
Wright	6,907	x	70.6 % =	4,877
Eggers	6,907	x	70.6 % =	4,877
Cornew	41,310	x	70.6 % =	29,169
Hanson	20,522	x	70.6 % =	14,491
McHugh	23,707	x	70.6 % =	16,740
Rhoades	14,861	x	70.6 % =	10,493

**Performance Awards Settled in Common Stock and/or Cash.** Pursuant to the terms of the long-term incentive program, all NEOs that have achieved 200% or more of their stock ownership targets receive performance share award payouts in cash. Due to the timing of the separation, the Exelon Compensation Committee approved 100% cash settlement for all participants.

**2021 Target Compensation for Named Executive Officers**

The table below lists the target value of the compensation elements for each NEO as of December 31, 2021.

NEO	Cash Compensation			Long-Term Incentives			Target Total Direct Compensation
	Base	AIP Target	Target Total Cash	RSUs (33% of LTIP)	Performance Shares (67% of LTIP)	Target Total LTIP	
Crane	\$ 1,305,930	155.0 %	\$ 3,330,122	\$ 3,630,000	\$ 7,370,000	\$ 11,000,000	\$ 14,330,122
Dominguez	1,050,000	135.0 %	2,467,500	2,485,725	5,046,775	7,532,500	10,000,000
Wright	457,538	50.0 %	686,307	161,040	326,960	488,000	1,174,307
Eggers	650,000	90.0 %	1,235,000	582,450	1,182,550	1,765,000	3,000,000
Cornew	—	— %	—	—	—	—	—
Hanson	725,000	85.0 %	1,341,250	726,000	1,474,000	2,200,000	3,541,250
McHugh	663,570	80.0 %	1,194,426	552,750	1,122,250	1,675,000	2,869,426
Rhoades	700,000	80.0 %	1,260,000	607,200	1,232,800	1,840,000	3,100,000

## Shareholder Engagement

The Exelon Compensation Committee regularly reviews executive compensation, taking into consideration input received through regular and ongoing engagement with investors. Feedback is typically solicited throughout the year in connection with the annual meeting of shareholders and the Exelon Compensation Committee's review of the executive compensation program. The Chairs of Exelon's Compensation and Corporate Governance Committees participated in select investor discussions in 2021. Feedback from all discussions was shared with the appropriate board committee and/or the full board. Shareholders in general expressed their approval of the ongoing executive compensation program and did not request any significant changes during our engagement conversations.

### 2021 Compensation Decisions – Setting Target Total Direct Compensation (“TDC”)

*Setting Target TDC for Mr. Crane:* The Exelon Compensation Committee is responsible for reviewing and recommending the Exelon CEO's target total direct compensation. The CEO's compensation is then approved by the independent members of the Exelon board. The Exelon Compensation Committee fulfills this responsibility by analyzing peer group compensation and performance data with its independent compensation consultant. The Committee also reviews the various elements of the CEO's compensation in the context of the target TDC, which includes base salary, annual and long-term incentive target opportunities.

*Setting Target TDC for Messrs. Hanson and McHugh:* The Exelon Compensation Committee is also responsible for approving the executive compensation for each of Exelon's executive officers by analyzing peer group compensation and performance data.

*Setting Target TDC for the other NEOs:* The Exelon CEO analyzes a variety of data to gauge market competitiveness, including peer group compensation and performance data provided by Exelon's independent compensation consultant. TDC can vary by named executive officer based on competencies and skills, scope of responsibilities, the executive's experience and performance, retention, succession planning and the organizational structure of the businesses (e.g., internal alignment and reporting relationships).

### Role of the Compensation Consultant

As referenced earlier, the Exelon Compensation Committee retains Meridian Compensation Partners, LLC (“Meridian”), an independent compensation consultant, to support its duties and responsibilities. Meridian provides advice and counsel on executive and director compensation matters and provides information and advice regarding market trends, competitive compensation programs, and strategies including as described below:

- Market data for each senior executive position, including evaluating Exelon's compensation strategy and reviewing and confirming the peer group used to prepare the market data,
- An independent assessment of management recommendations for changes in the compensation structure,

- Assisting management to ensure Constellation and its subsidiaries' executive compensation programs are designed and administered consistent with the Exelon Compensation Committee's requirements, and
- Ad hoc support on executive compensation matters and related governance trends.

### Peer Groups Used for Benchmarking 2021 Executive Compensation

Exelon uses a blended peer group for assessing our executive compensation program that consists of two sub-groups: energy services peers and general industry peers because (1) there are not enough energy services peers with size, scale and complexity comparable to Exelon to create a robust energy services-only peer group, and (2) Exelon's market for attracting talent includes general industry peers, with key executives hired from several Fortune 100 companies. When selecting general industry peers, we look for capital asset-intensive companies with size, scale and complexity similar to Exelon, and we also consider the extent to which they may be subject to the effects of volatile commodity prices similar to Exelon's sensitivity to commodity price volatility. Exelon evaluates its peer group on an annual basis in July and adjusts for changes with our energy and general industry peers when needed.

Exelon's revenues are at the 64th percentile of the following blended peer group comprising 21 companies:

1) *Energy Services (11 peer companies)*: American Electric Power Company, Inc.; Dominion Energy, Inc.; DTE Energy; Duke Energy Corporation; Edison International; Entergy Corporation; FirstEnergy Corporation; NextEra Energy, Inc.; Public Service Enterprise Group, Inc.; Semptra Energy; and The Southern Company.

2) *General Industry (10 peer companies)*: 3M Company; Deere & Company; Delta Air Lines; General Dynamics Corporation; Honeywell International, Inc.; International Paper Company; Lockheed Martin; Marathon Petroleum Company; Northrop Grumman Corporation; and Valero Energy Corporation.

Because there is a correlation between the size of an organization and its compensation levels, market data is statistically adjusted using a regression analysis. This commonly applied technique allows for a more precise estimate of the market value of Constellation and its subsidiaries given the size and scope of responsibility for Constellation and its subsidiaries' executive roles. Each element of NEO compensation is then compared to these size-adjusted medians of the peer group.

In preparation for the separation, a blended peer group consisting of a broad representation of energy and materials companies was used for benchmarking the assessment of 2022 compensation for named executive officers of the Company. Constellation will also evaluate its peer group on an annual basis in July and adjusts for changes with our energy and general industry peers when needed.

Constellation's revenues are at the 64th percentile of the following blended peer group comprising 15 companies:

1) *Energy Services and Independent Power Producers ("IPPs") (9 peer companies)*: American Electric Power Company, Inc.; Dominion Energy, Inc.; Duke Energy Corporation; Entergy Corporation; NextEra Energy, Inc.; NRG Energy, Inc.; The AES Corporation; Vistra Corp; and The Southern Company.

2) *General Industry (6 peer companies)*: DuPont de Nemours, Inc.; International Paper Company; Kinder Morgan, Inc.; Nucor Corporation; Occidental Petroleum Corporation; and WestRock Company.

### Looking Forward to 2022

#### Annual Incentive Plan

Based on overall company strategy, the 2022 plan design will be based 70% on a financial metric and 30% on operational metrics.

The plan design metric weightings include:

- 70% weighting on Adjusted EBITDA,
- 10% weighting on Fleetwide Capacity Factor as assessment of Nuclear operational performance,

- 10% weighting on Dispatch Match as assessment of Power operational performance, and
- 10% on Customer Satisfaction (which considers both Net Promoter Score, which measures C&I business customer loyalty, and Customer Satisfaction, which measures residential satisfaction from recent support experience).

#### **Long-term Incentive Plan**

The long-term incentive plan is aligned with the Constellation business strategy, the 2021 and 2022 PShare programs will be based on a 100% Free Cash Flow before Growth metric with a CFO/Debt negative modifier.

#### **Stock Ownership**

To strengthen the alignment of executive interests with those of Exelon's shareholders, officers of Constellation and its subsidiaries are required to own certain amounts of Exelon common stock five years following his or her employment or promotion to a new position (six-times base salary for Mr. Crane; two to three times base salary for the other NEOs). As of the annual measurement date of June 30, 2021, all NEOs had met their stock ownership guidelines. We expect to adopt a similar stock ownership policy for officers of the Company.

#### **Prohibition on Hedging and Pledging of Common Stock; Other Trading Requirements**

Exelon requires executive vice presidents and above who wish to sell Exelon common stock to do so only through the adoption of a stock trading plan meeting the requirements of SEC Rule 10b5-1(c). This requirement is designed to enable officers with the ability to diversify holdings in an orderly manner to meet personal financial plans. Our insider trading policy includes provisions that prohibit directors and employees (including officers) and certain of their related persons (including certain family members and entities which they own a significant interest) from engaging in short sales, put or call options, hedging transactions, pledging, or other derivative transactions involving Exelon stock. We expect to adopt a similar policy for officers of the Company.

#### **Clawback Policy**

The policy provides broad discretionary ability to clawback incentive compensation when deemed appropriate. Under the policy, the Exelon board has sole discretion to recoup incentive compensation if it determines that (a) the incentive compensation was based on the achievement of financial or other results that were subsequently restated or corrected, (b) the incentive plan participant engaged in fraud or intentional misconduct that caused or contributed to the need for restatement or correction, (c) a lower incentive plan award would have been made to the participant based on the restated or corrected results, and (d) recoupment is not precluded by applicable law or employment agreements.

The Exelon board or Exelon Compensation Committee may also seek to recoup incentive compensation paid or payable to current or former incentive plan participants if, in its sole discretion, the Exelon board or Exelon Compensation Committee determines that (a) the current or former incentive plan participant breached a restrictive covenant or engaged or participated in misconduct or intentional or reckless acts or omissions or serious neglect of responsibilities that caused or contributed to a significant financial loss or serious reputational harm to Exelon or its subsidiaries regardless of whether a financial statement restatement or correction of incentive plan results was required, and (b) recoupment is not precluded by applicable law or employment agreements.

We have adopted clawback policies that are similar to those maintained by Exelon.

#### **Risk Management Assessment of Compensation Policies and Practices**

The Exelon Compensation Committee reviews Exelon's compensation policies and practices as they relate to the risk management practices and risk-taking incentives. The Exelon Compensation Committee partners with Constellation's enterprise risk management group to assess and validate that the controls in place continued to mitigate incentive compensation risks.

### **Tax Consequences**

Under Section 162(m) of the Internal Revenue Code (the Code), generally NEO compensation over \$1 million for any year is not deductible for United States income tax purposes. The Compensation and Leadership Development Committee believes that it must maintain flexibility in its approach to executive compensation in order to structure a program that it considers to be the most effective in attracting, motivating and retaining the Company's key executives, and therefore, the deductibility of compensation is one of several factors considered when making executive compensation decisions.

### **Compensation Committee Report**

The Compensation committee has reviewed and discussed with management the Compensation Discussion and Analysis and, based on such review and discussion, the Committee recommended the Board approve the Compensation Discussion and Analysis be included in this Report.

### **The Compensation Committee**

**Name**

Yves C. de Balmann, Chair

Bradley Halverson

Julie Holzrichter

Ashish Khandpur



**Executive Compensation Tables**

**2021 Summary Compensation Table**

Name	Year	Salary	Bonus <sup>(a)</sup>	Stock Awards <sup>(b)</sup>	Non-Equity Incentive Plan Compensation <sup>(c)</sup>	Change in Pension Value and Nonqualified Deferred Compensation Earnings <sup>(d)</sup>	All Other Compensation <sup>(e)</sup>	Total
<b>Christopher Crane</b>								
President and Chief Executive Officer, Exelon	2021	\$ 1,303,595	\$ —	\$ 11,000,019	\$ 2,169,124	\$ 1,071,663	\$ 212,977	\$ 15,757,378
	2020	1,293,000	—	11,000,013	1,897,536	757,754	214,500	15,162,803
<b>Joseph Dominguez</b>								
President and Chief Executive Officer, Constellation	2021	752,504	—	1,130,048	846,880	181,413	441,432	3,352,277
<b>Kenneth Cornew</b>								
(Former) President and Chief Executive Officer, Constellation	2021	404,100	—	1,955,605	251,425	176,751	3,900,007	6,687,888
	2020	947,189	—	2,918,828	963,055	299,794	338,335	5,467,201
<b>Bryan Wright</b>								
(Former) Senior Vice President and Chief Financial Officer, Constellation	2021	456,720	11,438	488,034	228,769	149,770	25,315	1,360,046
	2020	450,936	64,723	488,016	294,455	123,461	25,975	1,447,566
<b>Daniel Eggers</b>								
Executive Vice President and Chief Financial Officer, Constellation	2021	561,051	—	550,024	478,698	82,699	48,901	1,721,373
<b>Bryan Hanson</b>								
Executive Vice President, Chief Generation Officer, Constellation	2021	720,486	—	2,220,056	660,374	560,922	74,320	4,216,158
	2020	686,418	—	1,450,054	594,728	885,522	59,602	3,676,324
<b>James McHugh</b>								
Executive Vice President, Chief Commercial Officer, Constellation	2021	662,384	—	2,564,644	422,298	27,257	45,655	3,722,238
	2020	653,981	29,121	1,675,059	582,417	26,209	60,738	3,027,525
<b>David Rhoades</b>								
Senior Vice President, President and Chief Nuclear Officer	2021	684,254	44,713	1,500,040	447,128	652,587	29,780	3,358,502

- (a) In recognition of their overall performance, certain NEOs received an individual performance multiplier (IPM) to their annual incentive payments or other special recognition awards. Messrs. Crane, Cornew, Hanson and McHugh were not eligible for an IPM.
- (b) The amounts shown in this column include the aggregate grant date fair value of restricted stock unit and performance share unit awards for the 2021-2023 performance period granted January 25, 2021 and October 29, 2021. The grant date fair values of the stock awards have been computed in accordance with FASB ASC Topic 718. Note, Mr. Cornew's award was reduced at the separation date to reflect a prorated award based on time in role during 2021. The 2020-2022 performance share award component of the stock award values depicted above are subject to performance conditions and the grant date fair value assumes the achievement of the target level of performance; however, values may be higher based on performance including the maximum total shareholder return multiplier as follows:

Name	Performance Share Award Value	
	At Target	At Maximum
Crane	\$ 7,370,020	\$ 14,740,040
Dominguez	757,108	1,514,216
Cornew	1,955,605	3,911,210
Wright	326,989	653,978
Eggers	368,518	737,036
Hanson	1,474,030	2,948,060
McHugh	1,122,288	2,244,576
Rhoades	1,005,026	2,010,052

(c) The amounts shown in this column for 2021 represent payments made pursuant to the Annual Incentive Plan.

(d) The amounts shown in this column represent the change in the accumulated pension benefit for the NEOs from December 31, 2020 to December 31, 2021. None of the NEOs had above market earnings in a non-qualified deferred compensation account in 2021.

(e) All Other Compensation: The following table describes the incremental cost of other benefits provided in 2021 that are shown in this column.

#### All Other Compensation

Name	Perquisites <sup>(a)</sup>	Reimbursement for Income Taxes <sup>(b)</sup>	Exelon Contributions to Savings Plans <sup>(c)</sup>	Exelon Paid Term Life Insurance Premiums <sup>(d)</sup>	Other <sup>(e)</sup>	Total
Crane	\$ 128,034	\$ —	\$ 39,113	\$ 45,830	\$ —	\$ 212,977
Dominguez	252,031	162,636	22,230	4,535	—	441,432
Cornew	26,301	56,653	7,137	3,752	3,806,164	3,900,007
Wright	12,290	—	8,700	4,325	—	25,315
Eggers	28,683	—	16,709	3,509	—	48,901
Hanson	42,651	6,536	21,019	4,114	—	74,320
McHugh	22,101	—	19,178	4,376	—	45,655
Rhoades	16,840	—	8,700	4,240	—	29,780

(a) Amounts reported for personal benefits provided to NEOs include: (1) transportation related benefits (including corporate aircraft, parking, spousal and family travel); and (2) other benefits (including personal financial planning, company gifts, and matching charitable contributions).

i. Amounts reported for the personal use of corporate aircraft are based on the aggregate incremental cost to Exelon and are calculated using the hourly incremental cost for flight services, including federal excise taxes, fuel charges, and domestic segment fees. Exelon's board-approved policy on corporate aircraft usage includes spousal/domestic partner and other family member usage when appropriate. Amounts reported in this column for Mr. Crane, Mr. Dominguez and Mr. Eggers include \$83,376, \$17,528, \$11,843 respectively for personal use of corporate aircraft. Amounts include \$14,183 for spousal travel for Mr. Hanson.

ii. Amounts include the value received by Mr. Dominguez for his relocation from Illinois to Pennsylvania as Chief Executive Officer of Constellation. The value of the benefit included is \$217,663 which includes closing, storage, and inspection costs. Benefits were provided for under the relocation program's standard terms.

iii. Limited personal financial planning benefits valued at \$16,840 for each executive are provided with usage values imputed as additional taxable income. Executive officers may request matching gifts to qualified charitable organizations in amounts up to \$10,000 and up to \$15,000 for Mr. Cornew under the Constellation Energy Group, Inc. legacy policy.

(b) Exelon provides reimbursements of tax obligations incurred when: employees are required to work outside their state of home residence and encounter double taxation in states and localities where tax credits are not permitted in home state tax filings; business-related spousal travel involves personal benefits and income is imputed to the employee and for required relocation and housing/living expenses incurred in compliance with regulatory requirements.

(c) The amounts represent the respective corporate matching contributions to the NEOs' accounts. Each of the NEOs participated in the 401(k) Plan and the Deferred Compensation Plan. Mr. Wright and Mr. Rhoades do not participate in the Deferred Compensation Plan.

(d) Exelon provides basic term life insurance, accidental death and disability insurance, and long-term disability insurance to all employees, including NEOs. The values shown in this column include the premiums paid during 2021 for additional term life insurance policies for the NEOs and for additional supplemental accidental death and dismemberment insurance and long-term disability over and above the basic coverage provided to all employees.

(e) For Mr. Cornew, the aggregate amount includes severance payments of \$3,806,164 distributed pursuant to the terms of the Senior Management Severance Plan, representing two times the sum of Mr. Cornew's then current base salary and target annual incentive for the year of termination.

**2021 Grants of Plan-Based Awards**

Name	Grant Date	Estimated Possible Payouts Under Non-Equity Incentive Plan Awards <sup>(a)</sup>			Estimated Possible Payouts Under Equity Incentive Plan Awards <sup>(b)</sup>			All other Stock Awards: Number of Shares or Units <sup>(c)</sup>	Grant Date Fair Value of Stock and Option Awards <sup>(d)</sup>
		Threshold	Plan	Maximum	Threshold	Target	Maximum		
Crane	1/25/2021	\$ 75,907	\$ 2,024,192	\$ 4,048,383					
	1/25/2021				28,341	170,012	340,024		\$ 7,370,020
Dominguez	10/1/2021	53,156	1,417,500	2,835,000				83,737	3,629,999
	1/25/2021				2,911	17,465	34,930		757,108
Cornew	1/25/2021	35,683	951,541	1,903,082				8,603	372,940
	1/25/2021				7,520	45,112	90,224		1,955,605
Wright	1/25/2021	57,192	228,769	457,538					
	1/25/2021				1,257	7,543	15,086		326,989
Eggers	10/1/2021	21,938	585,000	1,170,000				3,715	161,045
	1/25/2021				1,417	8,501	17,002		368,518
Hanson	1/25/2021	23,109	616,250	1,232,500				4,187	181,506
	1/25/2021				5,668	34,003	68,006		1,474,030
McHugh	1/25/2021	19,907	530,856	1,061,712				16,748	726,026
	1/25/2021				4,316	25,889	51,778		1,122,288
Rhoades	4/5/2021							12,751	552,756
	1/25/2021	70,000	560,000	1,120,000				20,000	889,600
	1/25/2021				3,865	23,184	46,368		1,005,026
	1/25/2021							11,419	495,014

- (a) All NEOs have annual incentive plan target opportunities based on a fixed percentage of base salaries. Under the terms of the AIP, threshold performance earns 50% of the respective target, while performance at plan earns 100% of the respective target and the maximum payout is capped at 200% of target.
- i. For Messrs. Crane, Dominguez, Cornew, Eggers, and Hanson and Mr. McHugh, the possible payout at threshold for AIP was calculated at 3.8% of target based on a threshold payout of 50% for the lowest weighted metric of 7.5%.
  - ii. For Mr. Wright, the possible payout at threshold for AIP was calculated at 25% of target based on a threshold payout of 50% and an individual performance multiplier of 50%.
  - iii. For Mr. Rhoades, the possible payout at threshold for AIP was calculated at 12.5% of target based on threshold payout of 50% for the lowest weighted metric and an individual performance multiplier of 25%.
    1. For additional information about the terms of these programs, see "Compensation Discussion and Analysis" above.
- (b) NEOs have a long-term performance share unit target opportunity that is a fixed number of performance share units commensurate with the officer's position. The possible payout at threshold for performance share unit awards was calculated at 16.7% of target. The possible maximum payout for performance share units was calculated at 150% of target, with an uncapped total shareholder return multiplier, capped at 200% of target. For additional information about the terms of these programs, see Compensation Discussion and Analysis and the footnotes to the Summary Compensation Table above.
- (c) This column shows restricted stock unit awards made during the year. The vesting dates of the awards are provided in tickmark (b) to the Outstanding Equity Table below.
- (d) This column shows the grant date fair value, calculated in accordance with FASB ASC Topic 718, of the performance share unit awards and restricted stock units granted to each NEO during 2020. Fair value of performance share unit awards granted on January 27, 2020 are based on an estimated payout of 100% of target.

**2021 Outstanding Equity Awards at Year End**

Name	Option Awards <sup>(a)</sup>				Stock Awards			
	Number of Securities Underlying Unexercised Options That Are Exercisable	Number of Securities Underlying Unexercised Options That Are Not Exercisable	Option Exercise or Base Price	Option Expiration Date	Number of Shares or Units of Stock That Have Not Yet Vested <sup>(b)</sup>	Market Value of Shares or Units of Stock That Have Not Yet Vested Based on 12/31 Closing Price \$57.76 <sup>(b)</sup>	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Yet Vested <sup>(c)</sup>	Equity Incentive Plan Awards: Market or Payout Value or Unearned Shares, Units or Other Rights That Have Not Yet Vested <sup>(c)</sup>
Crane	—	—	\$ —	—	279,511	\$ 16,144,555	651,850	\$ 37,650,856
Dominguez	—	—	—	—	68,717	3,969,094	66,964	3,867,841
Wright	—	—	—	—	12,403	716,397	28,920	1,670,419
Eggers	—	—	—	—	33,076	1,910,470	31,886	1,841,735
Cornew	—	—	—	—	29,169	1,684,801	104,990	6,064,222
Hanson	—	—	—	—	82,742	4,779,178	109,112	6,302,309
McHugh	—	—	—	—	63,028	3,640,497	99,262	5,733,373
Rhoades	—	—	—	—	72,643	4,195,860	86,332	4,986,536

- (a) Non-qualified stock options were previously granted to NEOs pursuant to the Company's long-term incentive plans. All grants are fully vested and expire on the tenth anniversary of the grant date.
- (b) The amount shown includes unvested restricted stock unit awards and the performance share award earned for the performance period beginning January 1, 2019 and ending December 31, 2021, which vested on January 28, 2022. The unvested restricted stock unit awards are composed of the final third of the award made in January 2019, which vested on January 6, 2022; two-thirds of the award made in January 2020, half of which vested on January 6, 2022 and half of which will vest on the date of the Constellation Compensation Committee's first regular meeting in 2023; and the full award granted on January 25, 2021, one-third of which vested on January 6, 2021 and one-third of which will vest on the date of each of the Constellation's Compensation Committee's first regular meetings in 2023 and 2024, respectively. All RSU awards accrue additional shares through automatic dividend reinvestment. For Mr. Dominguez, Eggers, Hanson, and Rhoades the amount shown includes grants of 10,000, 20,000, 40,000 and 40,000 restricted stock units awarded on January 29, 2018, which vest on January 6, 2022. For Mr. Dominguez, the amount also includes a 30,000 grant awarded on August 1, 2018, which will vest on August 1, 2022. For Mr. McHugh, the amount includes 20,000 restricted stock units awarded on April 5, 2021, which will vest on April 5, 2025. All shares are valued at \$57.76, the closing price on December 31, 2021.
- (c) The amount shown includes the target performance share awards granted on January 27, 2020 for the performance period ending December 31, 2022 and the target performance share awards granted on January 25, 2021 for the performance period ending December 31, 2023. These target awards have been increased to reflect the highest level of performance for the period, 200%. All shares are valued at \$57.76, the closing price on December 31, 2021.

**2021 Option Exercises and Stock Vested**

Name	Option Awards		Stock Awards <sup>(a)</sup>	
	Number of Shares Acquired on Exercise	Value Realized on Exercise	Number of Shares Acquired on Vesting	Value Realized on Vesting
Crane	285,000	\$ 4,068,888	198,406	\$ 8,600,892
Dominguez	16,000	233,214	21,709	941,104
Wright	—	—	9,374	406,365
Eggers	—	—	8,918	386,578
Cornew	70,000	393,280	56,065	2,430,438
Hanson	—	—	27,854	1,207,488
McHugh	—	—	32,635	1,414,729
Rhoades	—	—	20,171	874,399

- (a) Share amounts are composed of the following tranches of prior awards that vested on January 25, 2021: the performance share awards granted for the performance period of January 1, 2018 through December 31, 2020; the final third of the

RSU awards granted in January 2018, the second third of the RSU awards granted in February 2019 and the first third of the RSU awards granted in January 2020. All of these awards were valued at \$43.35 upon vesting.

## **Pension Benefits**

The plans below were sponsored by Exelon Corporation as of December 31, 2021, and that as of February 1, 2022 Constellation established mirror pension plans to maintain the same benefits described below for NEOs.

Exelon sponsors the Exelon Corporation Retirement Program, a defined benefit pension plan that includes the Service Annuity System (SAS), a traditional pension plan covering NEOs who commenced employment prior to January 1, 2001 and the Cash Balance Pension Plan ("CBPP"), an account-based plan covering eligible NEOs hired between January 1, 2001, and February 1, 2018, and certain NEOs who previously elected to transfer to the CBPP from the SAS. Exelon also sponsors the Pension Plan of Constellation Energy Group, Inc. ("CEG Pension Plan"), which covers certain legacy Constellation Energy Group, Inc. employees. It includes a traditional pension formula for employees hired before January 1, 2000, and a pension equity formula ("PEP") for employees hired thereafter or who elected to participate in that formula. The Retirement Program and CEG Pension Plan are intended to be tax-qualified under Section 401(a) of the Internal Revenue Code.

### ***Service Annuity System ("SAS")***

For NEOs participating in the SAS, the annuity benefit payable at normal retirement age is equal to the sum of 1.3% of the participant's earnings as of December 25, 1994, reduced by a portion of the participant's Social Security benefit as of that date, plus 1.6% of the participant's highest average annual pay, multiplied by the participant's years of credited service (up to a maximum of 40 years). Pension-eligible compensation for the SAS's Final Average Pay Formula includes base pay and annual incentive awards. Benefits under the SAS are vested after five years of service.

The "normal retirement age" under the SAS is 65. The plan also offers an early retirement benefit prior to age 65, which is payable if a participant retires after attainment of age 50 and completion of 10 years of service. The annual pension payable under the plan is determined as of the early retirement date, reduced by 2% for each year of payment before age 60 to age 58, then 3% for each year before age 58 to age 50. In addition, under the SAS, the early retirement benefit is supplemented prior to age 65 by a temporary payment equal to 80% of the participant's estimated monthly Social Security benefit. The supplemental benefit is partially offset by a reduction in the regular annuity benefit.

### ***Cash Balance Pension Plan ("CBPP")***

For NEOs who participate in the CBPP, a notional account is established for each participant, and the account balance grows as a result of annual benefit credits and annual investment credits. NEOs who transferred from the SAS to the CBPP also have a frozen transferred SAS benefit and received a "transition" credit based on age, service and compensation at the time of transfer. When the CBPP was initially established in 2001, it provided an annual benefit credit of 5.8% of an employee's base pay and annual incentive award for the year, and an annual investment credit based on the average of that year's S&P 500 stock index return and the 30-year Treasury rate for the month of November (subject to 4% minimum). The benefit credit percentages and investment credit rates have been subsequently modified periodically pursuant to U.S. Treasury Department guidance on cash balance plans. NEO participants in the CBPP currently receive an annual benefit credit ranging from 7.0% to 10.5% (depending on length of service) of base salary and annual incentive award, and an annual investment credit based on the third segment spot rate of interest on long-term investment grade corporate bonds for the month of November of the year credited (subject to a 4% minimum). Benefits vest after three years of service and are payable in an annuity or a lump sum at any time following termination of employment. Apart from the benefit credits and the vesting requirement, years of service are not relevant to a determination of accrued benefits under the CBPP.

In 2019, Exelon and its subsidiaries also provided a one-time Transition Benefit Credit to all CBPP participants in recognition of the transition to a fully fixed income investment credit rate. The amount of the credit ranged from 0% to 30.5% of 2018 annualized base pay, based on years of service as of December 31, 2007.

### ***Pension Plan of Constellation Energy Group, Inc. (CEG Pension Plan)***

For NEOs who participate in the PEP, a lump sum benefit amount is computed based on covered earnings multiplied by a total credit percentage. Covered earnings are equal to the average of the highest three of the last five twelve-month periods' base pay plus annual incentive awards. The total service credit percentage is equal to the sum of the credit percentages based on the following formula: 5% per year of service through age 39, 10% per year of service from age 40 to age 49, and 15% per year of service after age 49. No benefits are available under the PEP until a participant has at least three years of vesting service. Benefits payable under the PEP are paid as an annuity unless a participant elects a lump sum within 60 days after separation.

**Supplemental Management Retirement Plan ("SMRP") and Constellation Energy Group, Inc. Benefits Restoration Plan ("CEG BRP")**

All NEOs participate in either the SMRP or the CEG BRP. The SMRP and CEG BRP provides supplemental benefits to the benefits provided under the tax-qualified Retirement Program and CEG Pension Plan, respectively, for individuals whose annual compensation exceeds the limits imposed under the Internal Revenue Code. Under the terms of the SMRP and the CEG BRP, participants are provided the amount of benefits they would have received under the SAS, CBPP or PEP but for the application of the Internal Revenue Code limits.

Up to two years of service credits may be provided under the SMRP and the CEG BRP upon a qualifying termination of employment under severance or change in control agreements or awards that are intended to make up for lost pension benefits from another employer.

The amount of the change in the pension value for each of the NEOs is the amount included in the Summary Compensation Table above. The present value of each NEO's accumulated pension benefit is shown in the following tables. The present value for CBPP participants is the account balance.

**2021 Pension Benefits**

Name	Plan Name	Number of Years Credited Service	Present Value of Accumulated Benefit	Payments During Last Fiscal Year
Crane	SAS	23.26	\$ 1,679,097	\$ —
	SMRP <sup>(a)</sup>	33.26	20,422,595	—
Dominguez	CBPP	19.35	566,202	—
	SMRP	19.35	964,583	—
Cornew	CBPP	27.59	1,028,889	891,646
	SMRP	27.59	2,404,519	2,730,689
Wright	PEP	18.33	558,125	—
	CEG BRP	18.33	991,191	—
Eggers	CBPP	5.76	115,954	—
	SMRP	5.76	224,926	—
Hanson	SAS	33.30	2,478,250	—
	SMRP	33.30	6,719,224	—
McHugh	CBPP	18.79	340,737	—
	SMRP	18.79	367,949	—
Rhoades	SAS	32.55	2,428,880	—
	SMRP	32.55	5,411,360	—

(a) Based on discount rates prescribed by the SEC proxy disclosure guidelines, Mr. Crane's non-qualified Supplemental Management Retirement Plan (SMRP) present value is \$20,422,595. Based on lump sum conversion interest rates defined for immediate distributions under the non-qualified plan, the comparable lump sum amount applicable for service through December 31, 2021 is \$32,455,156. Note that, in any event, payments made upon termination may be delayed by six months in accordance with U.S. Treasury Department guidance.

**Deferred Compensation Programs**

**Exelon Corporation Deferred Compensation Plan**

The Exelon Corporation Deferred Compensation Plan is a non-qualified plan that permits the NEOs to defer certain cash compensation to facilitate tax and retirement planning. The Deferred Compensation Plan also permits Constellation and its subsidiaries to credit related matching contributions that would have been contributed to the Exelon Corporation Employee Savings Plan (the Exelon's tax-qualified 401(k) plan) but for the applicable limits under the Internal Revenue Code.

**Exelon Corporation Employee Savings Plan**

The Employee Savings Plan is intended to be tax-qualified under Sections 401(a) and 401(k) of the Internal Revenue Code. Exelon maintains the Employee Savings Plan to attract and retain qualified employees, including the NEOs, and encourage retirement savings, which under the Plan may be supplemented by Constellation and its subsidiaries' matching contributions. Constellation and its subsidiaries maintain the excess matching feature of the Deferred Compensation Plan to enable highly compensated employees to save for retirement to the extent they otherwise would have, were it not for the limits established by the IRS.

Once participants in the Employee Savings Plan reach their statutory contribution limit during the year, their elected payroll contributions and Constellation and its subsidiaries' matching contribution will be credited to their accounts in the Deferred Compensation Plans. The investment options under the Deferred Compensation Plan consist of a basket of investment fund benchmarks substantially the same as those funds available through the Employee Savings Plan. Deferred amounts represent unfunded, unsecured obligations of Constellation and its subsidiaries.

**2021 Nonqualified Deferred Compensation**

Name	Executive Contributions in 2021 <sup>(a)</sup>	Registrant Contributions in 2021 <sup>(b)</sup>	Aggregate Earnings in 2021 <sup>(c)</sup>	Aggregate Withdrawals/ Distributions	Aggregate Balance at 12/31/21 <sup>(d)</sup>
Crane	\$ 108,828	\$ 32,648	\$ 562,085	—	\$ 3,050,967
Dominguez	22,549	13,530	8,420	—	82,658
Cornew	—	—	156,163	—	995,173
Wright	—	—	—	—	—
Eggers	13,698	8,219	27,671	—	111,790
Hanson	36,250	13,594	20,649	—	266,604
McHugh	17,972	63,753	32,743	—	183,610
Rhoades	—	—	—	—	—

- (a) The full amount shown for executive contributions is included in the base salary figures for each NEO shown above in the Summary Compensation Table.
- (b) The full amount shown under registrant contributions is included in Constellation and its subsidiaries' contributions to savings plans for each NEO shown above in the All Other Compensation Table.
- (c) The amount shown under aggregate earnings reflects the NEOs' gain or loss based upon the individual allocation of his notional account balance into the basket of mutual fund benchmarks. These gains or losses do not represent current income to the NEO and have not been included in any of the compensation tables shown above.
- (d) For all NEOs the aggregate balance shown includes those amounts, both executive contributions and registrant contributions, that have been disclosed either as base salary as described in tickmark (a) or as Constellation and its subsidiaries' contributions under all other compensation as described in tickmark (b) for the current fiscal year ending December 31, 2021.

**Potential Payments upon Termination or Change in Control**

Each NEO is entitled to compensation in the event his or her employment terminates or upon a change in control. The Exelon Compensation Committee adopted changes to severance and change in control benefits effective in 2020, with the amount of benefits payable being contingent upon a variety of factors, including the circumstances under which employment terminates.

**Severance Benefits**

NEOs are entitled to certain payments and benefits in connection with a termination of employment other than for cause (which generally includes refusal to perform duties, willful or reckless acts or omissions, commission of a

felony, a material violation of the Code of Business Conduct, or any breach of a restrictive covenant) or disability or resignation for good reason (which generally includes certain reductions in salary, demotions or material reductions in the NEO's position or duties) as provided for in the Senior Management Severance Plan ("SMSP").

The "Severance Period" is 24 months after termination of employment for Messrs. Crane, Dominguez, Hanson and Mr. McHugh. The Severance Period for Mr. Wright is 18 months. The Severance Period for Messrs. Eggers and Rhoades is 15 months. Benefits under the Plan include the following items.

<b>Severance Pay</b>	Continued payment of base salary for the applicable Severance Period
<b>Annual Incentive</b>	Target annual incentive awards for the applicable Severance Period and a pro-rated annual incentive award for the year in which the termination of employment occurs.
<b>Equity Awards</b>	1. <i>RSUs</i> : Unvested awards are prorated based on date of termination and vest 2. <i>LTIP (including performance shares)</i> : Prorated portion vests based on actual performance; payable at the time provided for in the award terms 3. <i>Stock Options</i> : Outstanding awards are exercisable to the extent the award was exercisable on the date of termination and may be exercised until the earlier of 90 days from termination date or expiration date of award.
<b>SMRP Benefits</b>	Benefit equal to the amount payable under the SMRP determined as if the SMSP benefit were fully vested and the severance pay constituted covered compensation for purposes of the SMSP.
<b>Retirement Benefits</b>	If applicable, benefits equal to the actuarial equivalent present value of any non-vested accrued benefit under Exelon's qualified defined benefit retirement plan. All current NEOs are fully vested.
<b>Insurance, Health and Welfare Benefits</b>	Life, disability, accident, health and other welfare benefit coverage continues during the severance pay period on the same terms and conditions applicable to active employees, followed by retiree health coverage if applicable. <sup>(a)</sup>
<b>Financial Planning</b>	Outplacement and financial planning services for at least 12 months.

(a) Executives are eligible for retirement benefits, including retiree health coverage, if they are at least 55 years old and have completed at least 10 years of service.

Payments under the SMSP are subject to reduction by Exelon to the extent necessary to avoid imposition of excise taxes imposed by Section 4999 of the Internal Revenue Code on excess parachute payments or under similar state or local law.

#### Change in Control Benefits

NEOs are eligible for certain benefits upon certain involuntary terminations or a resignation for "good reason" (which generally includes certain reductions in compensation and benefits, reductions in position, duties or responsibilities, relocations or breaches by the company of the SMSP) in connection with a change in control of Exelon Corporation. Pursuant to the terms of his separation agreement, Mr. Cornew is not eligible for change in control benefits.

Under the SMSP, a "change in control" includes any of the following: (a) when any person or group acquires 20% of Exelon's then outstanding common stock or of voting securities; (b) the incumbent members of the Exelon board (or new members nominated by a majority of incumbent directors) cease to constitute at least a majority of the members of the Exelon board; (c) consummation of a reorganization, merger or consolidation, or sale or other disposition of at least 50% of Exelon's operating assets (excluding a transaction where Exelon shareholders retain at least 60% of the voting power); or (d) upon shareholder approval of a plan of complete liquidation or dissolution.

If the executive resigns for good reason or his or her employment is terminated by Exelon other than for cause or disability, during the period commencing 90 days before a change of control or during the 24-month period following a change in control, the executive is entitled to the benefits outlined below.



<b>Severance Pay</b>	The executive receives 2.99 times base salary (2.0 times for Mr. Wright and 1.5 times from Mr. Eggers and Mr. Rhoades) to be paid in substantially equal regular payroll installments.
<b>Annual Incentive</b>	Target annual incentive award for a period of 2.99 years (2.0 times for Mr. Wright and 1.5 times from Mr. Eggers and Mr. Rhoades) after termination of employment and a pro-rated annual incentive award for the year in which the termination of employment occurs.
<b>Equity Awards</b>	1. <i>RSUs</i> : Unvested awards vest 2. <i>LTIP (including performance shares)</i> : Prorated portion vests based on actual performance; payable at the time provided for in the award terms 3. <i>Stock Options</i> : Outstanding awards are immediately exercisable and may be exercised until the earlier of 5 years from termination date or expiration date of award.
<b>SMRP Benefits</b>	Benefit equal to the amount payable under the SMRP determined as if (1) the executive had 18 additional months (2.99 years for Mr. Crane, Mr. Dominguez, and Mr. Hanson; 2.0 times for Mr. Wright) of age and years of service and (2) the severance pay constituted covered compensation for purposes of the SMRP.
<b>Retirement Benefits</b>	Benefits equal to the actuarial equivalent present value of any non-vested accrued benefit under Exelon's qualified defined benefit retirement plan. All current NEOs are fully vested.
<b>Insurance, Health and Welfare Benefits</b>	Life, disability, accident, health and other welfare benefit coverage continues during the severance pay period on the same terms and conditions applicable to active employees, followed by retiree health coverage if applicable. <sup>(a)</sup>
<b>Financial Planning</b>	Outplacement and financial planning services for at least 12 months.

(a) Executives are eligible for retirement benefits, including retiree health coverage, if they are at least 55 years old and have completed at least 10 years of service.

### 2021 Estimated Value of Benefits to be Received Upon Retirement

The following table shows the estimated value of payments and other benefits to be conferred upon the NEOs, except Mr. Cornew, assuming they retired as of December 31, 2021. As of December 31, 2021, Mr. Eggers and Mr. McHugh had not reached the minimum age required to be eligible for retirement benefits. These payments and benefits are in addition to the present value of the accumulated benefits from each NEO's qualified and non-qualified pension plans shown in the tables within the Pension Benefit section and the aggregate balance due to each NEO that is shown in the tables within the Deferred Compensation section.

Name	Cash Payment <sup>(a)</sup>	Value of Unvested Equity Awards <sup>(b)</sup>	Total Value of All Payments and Benefits <sup>(c)</sup>
Crane	\$ 2,169,000	\$ 37,613,000	\$ 39,782,000
Dominguez	847,000	3,864,000	4,711,000
Cornew	—	—	—
Wright	240,000	1,669,000	1,909,000
Eggers	470,000	—	470,000
Hanson	660,000	5,969,000	6,629,000
McHugh	422,000	—	422,000
Rhoades	492,000	4,631,000	5,123,000

(a) Under the terms of the 2021 AIP, a pro-rated actual incentive award is payable upon retirement based on the number of days worked during the year of retirement. The amount above represents the executive's 2021 annual incentive payout after Company/business unit performance was determined.

(b) Includes the value of the executives' unvested performance share awards granted in 2019, 2020 and 2021 assuming target performance and the accelerated portion of the executives' RSU awards that, per applicable awards terms, would vest upon retirement. The value of the shares is based on Exelon's closing stock price on December 31, 2021 of \$57.76.

(c) Estimate of total payments and benefits based on a December 31, 2021 retirement date.

### 2021 Estimated Value of Benefits to be Received Upon Termination due to Death or Disability

The following table shows the estimated value of payments and other benefits to be conferred upon the NEOs, except Mr. Cornew, assuming employment is terminated due to death or disability as of December 31, 2021. These payments and benefits are in addition to the present value of the accumulated benefits from the NEOs' qualified and non-qualified pension plans shown in the tables within the Pension Benefit section and the aggregate balance due to each NEO that is shown in tables within the Deferred Compensation section.

Name	Cash Payment <sup>(a)</sup>	Value of Unvested Equity Awards <sup>(b)</sup>	Total Value of All Payments and Benefits <sup>(c)</sup>
Crane	\$ 2,169,000	\$ 37,613,000	\$ 39,782,000
Dominguez	847,000	6,175,000	7,022,000
Cornew	—	—	—
Wright	240,000	1,669,000	1,909,000
Eggers	470,000	2,949,000	3,419,000
Hanson	660,000	8,279,000	8,939,000
McHugh	422,000	6,910,000	7,332,000
Rhoades	492,000	6,942,000	7,434,000

- (a) Under the terms of the 2021 AIP, a pro-rated actual incentive award is payable upon death or disability based on the number of days worked during the year of termination. The amount above represents the executives' 2021 annual incentive payout after Company/business unit performance was determined.
- (b) Includes the value of the executives' unvested performance share awards granted in 2019, 2020, and 2021 assuming target performance and the accelerated portion of the executives' RSU awards that, per applicable awards terms, would vest upon death or disability. The value of the shares is based on Exelon's closing stock price on December 31, 2021 of \$57.76.
- (c) Estimate of total payments and benefits based on a December 31, 2021 termination due to death or disability.

### 2021 Estimated Value of Benefits to be Received Upon Involuntary Separation Not Related to a Change in Control

The following table shows the estimated value of payments and other benefits to be conferred upon the NEOs assuming they were terminated as of December 31, 2021 under the terms of the SMSP. These payments and benefits are in addition to the present value of the accumulated benefits from the NEOs' qualified and non-qualified pension plans shown in the tables within the Pension Benefit section and the aggregate balance due to each NEO that is shown in the tables within the Deferred Compensation section.

Name	Cash Payment <sup>(a)</sup>	Retirement Benefit Enhancement <sup>(b)</sup>	Value of Unvested Equity Awards <sup>(c)</sup>	Health and Welfare Benefit Continuation <sup>(d)</sup>	Perquisites and Other Benefits <sup>(e)</sup>	Total Value of All Payments and Benefits <sup>(f)</sup>
Crane	\$ 8,829,000	\$ 1,825,000	\$ 37,613,000	\$ 117,000	\$ 40,000	\$ 48,424,000
Dominguez	5,782,000	395,000	5,911,000	47,000	40,000	12,175,000
Cornew	—	—	—	—	—	—
Wright	1,269,000	142,000	1,669,000	26,000	40,000	3,146,000
Eggers	2,014,000	108,000	2,227,000	25,000	40,000	4,414,000
Hanson	3,343,000	1,612,000	8,234,000	41,000	40,000	13,270,000
McHugh	2,811,000	—	3,787,000	45,400	40,000	6,683,400
Rhoades	2,067,000	2,113,000	6,897,000	28,000	40,000	11,145,000

- (a) Represents the estimated cash severance benefit equal to the severance multiple times the sum of the executive's (i) current base salary and (ii) the annual incentive award at target, plus a pro-rated annual incentive award for the year in which termination occurs. The amount above represents the executives' 2021 annual incentive payout after Company/business unit performance was determined.
- (b) Represents the estimated retirement benefit enhancement that consists of a one-time lump sum payment based on the actuarial present value of a benefit under the non-qualified pension plan assuming that the severance pay period was

- taken into account for purposes of vesting, and the severance pay constituted covered compensation for purposes of the non-qualified pension plan.
- (c) Includes the value of the executives' unvested performance shares, which will vest upon termination at the actual level earned and awarded (it is assumed the 2019, 2020, and 2021 performance shares are earned at target) and the accelerated portion of the executives' RSUs that would vest upon an involuntary separation not related to a change in control. The value of the shares is based on Exelon's closing stock price on December 31, 2021 of \$57.76.
- (d) Estimated costs of healthcare, life insurance, and long-term disability coverage which continue during the severance period.
- (e) Estimated costs of outplacement and financial planning services for up to 12 months for all NEOs.
- (f) Estimate of total payments and benefits based on a December 31, 2021 termination date.

### 2021 Estimated Value of Benefits to be Received Upon a Qualifying Termination following a Change in Control

The following table shows the estimated value of payments and other benefits to be conferred upon the NEOs, except Mr. Cornew, assuming they were terminated upon a qualifying change in control as of December 31, 2021. These payments and benefits are in addition to the present value of accumulated benefits from the NEOs' qualified and non-qualified pension plans shown in the tables within the Pension Benefit section and the aggregate balance due to each NEO that is shown in tables within the Deferred Compensation section.

Name	Cash Payment <sup>(a)</sup>	Retirement Benefit Enhancement <sup>(b)</sup>	Value of Unvested Equity Awards <sup>(c)</sup>	Health and Welfare Benefit Continuation <sup>(d)</sup>	Perquisites and Other Benefits <sup>(e)</sup>	Potential Scaleback	Total Value of All Payments and Benefits <sup>(f)</sup>
Crane	\$ 12,126,000	\$ 2,854,000	\$ 37,613,000	\$ 175,000	\$ 40,000	\$ —	\$ 52,808,000
Dominguez	8,225,000	590,000	6,175,000	70,000	40,000	—	15,100,000
Cornew	—	—	—	—	—	—	—
Wright	1,613,000	266,000	1,669,000	35,000	40,000	—	3,623,000
Eggers	2,323,000	130,000	2,949,000	30,000	40,000	(380,000)	5,092,000
Hanson	4,670,000	2,640,000	8,279,000	61,000	40,000	—	15,690,000
McHugh	3,993,000	—	6,910,000	68,000	40,000	(323,000)	10,688,000
Rhoades	2,382,000	3,177,000	6,942,000	34,000	40,000	(1,023,000)	11,552,000

- (a) Represents the estimated cash severance benefit equal to the change in control severance multiple times the sum of the executive's (i) current base salary and (ii) the annual incentive award at target, plus a pro-rated annual incentive award for the year in which termination occurs. The amount above represents the executives' 2021 annual incentive payout after Company/business unit performance was determined.
- (b) Represents the estimated retirement benefit enhancement that consists of a one-time lump sum payment based on the actuarial present value of a benefit under the non-qualified pension plan assuming that the respective severance pay constituted covered compensation for purposes of the non-qualified pension plan.
- (c) Includes the value of the executives' unvested performance shares, which will vest upon termination at the actual level earned and awarded (it is assumed the 2019, 2020, and 2021 performance shares are earned at target) and the accelerated portion of the executives' RSUs that would vest upon a qualifying termination following a change in control. The value of the shares is based on Exelon's closing stock price on December 31, 2021 of \$57.76.
- (d) Estimated costs of healthcare, life insurance and long-term disability coverage which continue during the severance period.
- (e) Estimated costs of outplacement and financial planning services for up to 12 months for all NEOs.
- (f) Estimate of total payments and benefits based on a December 31, 2021 termination date.

### Director Compensation

The Company did not pay any compensation to directors in 2021 due to the fact that the separation from Exelon was not completed until February 1, 2022. Following the distribution, the Company's non-employee director compensation program is subject to the review and approval of the Company's board upon the recommendation of the Corporate Governance Committee. The director compensation program for the Company is designed to enable ongoing attraction and retention of highly qualified directors and to address the time, effort, expertise and accountability required of active board membership.

The non-employee director compensation program comprises cash and equity components. The following chart shows the initial annual retainers for non-employee directors as well as additional fees paid to the independent chair and committee chairs. Directors serving in multiple leadership roles will receive incremental compensation for each role.

Role	Cash		Deferred Stock Units		Total
All Directors (base retainer)	\$	125,000	\$	155,000	\$ 280,000
Independent Board Chair		200,000		—	200,000
Audit Committee Chair		25,000		—	25,000
Compensation Committee Chair		20,000		—	20,000
Governance Committee Chair		20,000		—	20,000
Nuclear Oversight Committee Chair <sup>(a)</sup>		20,000		—	20,000

(a) All members of the Nuclear Oversight Committee, including the chair, receive a \$20,000 retainer.

Directors do not receive additional compensation for attending regularly scheduled board or committee meetings. All board fees are paid quarterly in arrears. New directors joining the board receive a prorated fee for the quarter based on the date of their election.

Directors may elect to defer any portion of cash compensation into a non-qualified multi-fund deferred compensation plan. Under the plan, each director has an unfunded account where the dollar balance can be invested in one or more of several mutual funds. Fund balances are settled in cash and may be distributed in a lump sum or in annual installment payments upon a director reaching age 65, age 72, or upon departure from the board.

Deferred stock units earn dividend equivalents which are reinvested in the deferred stock accounts as additional stock units. The account balance of deferred stock units will be settled in shares of the Company common stock and may be distributed in a lump sum or in annual installments upon reaching age 65, age 72, or upon a director's departure from the board.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The following table shows the ownership of our common stock as of February 15, 2022 by each Director and each executive officer, and for all Directors and executive officers as a group.

<b>Directors and Named Executive Officers</b>	<b>Beneficial Ownership of Common Stock<sup>(a)(b)</sup></b>
Laurie Brlas	12,992
Yves de Balmann	92,949
Rhonda Ferguson	—
Bradley Halverson	—
Charles Harrington	—
Julie Holzrichter	—
Ashish Khandpur	—
Robert Lawless	111,448
John Richardson	9,463
Joseph Dominguez	121,532
Kathleen Barrón	51,740
Matthew Bauer	10,946
David Dardis	24,837
Daniel Eggers	30,341
Bryan Hanson	103,494
Michael Koehler	59,657
James McHugh	87,882
Directors & Executive Officers as a group (17 people)	717,281

- (a) Includes any shares as to which the individual has sole or shared voting or investment power, Directors' deferred stock units, officers' RSUs and deferred shares held in the Stock Deferral Plan, and Directors' and officers' phantom shares held in a non-qualified deferred compensation plan which will be settled in cash on a 1 for 1 basis upon retirement or termination.
- (b) Total share interest of Directors and executive officers, both individually and as a group, represents less than 1% of the outstanding shares of our common stock.

Shown in the table below are those owners who are believed by the Company to hold more than 5% of the outstanding common stock. This information is based on the most recent Schedule 13G (or Schedule 13G/A) filed with the SEC by the following investors with respect to their ownership of Exelon common stock as of December 31, 2021, and adjusted by the distribution ratio of one share of our common stock for every three shares of Exelon used in the separation transaction from Exelon:

- BlackRock, Inc. filed on February 3, 2022;
- Wellington Management Group LLP, Wellington Group Holdings LLP, Wellington Investment Advisors Holdings LLP, and Wellington Management Company LLP jointly filed on February 4, 2022;
- The Vanguard Group filed on February 9, 2022;
- Capital International Investors filed on February 11, 2022; and
- State Street Corporation filed on February 14, 2022

Name and Address of Beneficial Owner	Shares Beneficially Owned	Percentage of Class
<b>The Vanguard Group<sup>(a)</sup></b> 100 Vanguard Blvd., Malvern, PA 19355	28,165,735	8.65 %
<b>Wellington Management Group LLP<sup>(b)</sup></b> Wellington Group Holdings LLP Wellington Investment Advisors Holdings LLP c/o Wellington Management Company LLP 280 Congress Street, Boston, MA 02210	25,856,455	7.94 %
<b>BlackRock, Inc.<sup>(c)</sup></b> 55 East 52nd Street, New York, NY 10055	25,125,470	7.70 %
<b>Capital International Investors<sup>(d)</sup></b> 333 South Hope Street, 55th Fl, Los Angeles, CA 90071	20,222,555	6.20 %
<b>State Street Corporation<sup>(e)</sup></b> State Street Financial Center One Lincoln Street, Boston, MA 02111	20,057,276	6.16 %

- (a) The Vanguard Group disclosed in its Schedule 13G/A that it has shared voting power over 499,252 shares, sole dispositive power over 26,864,925 shares, and shared dispositive power over 1,300,811 shares, adjusted in each case after applying the distribution ratio of one share of our common stock for each three shares of Exelon common stock.
- (b) Wellington Management Group LLP, Wellington Group Holdings LLP, Wellington Investment Advisors Holdings LLP, and Wellington Management Company LLP disclosed in their Schedule 13G/A that they have shared voting power over 24,970,079 shares and shared dispositive power over 25,856,455 shares, adjusted in each case after applying the distribution ratio of one share of our common stock for each three shares of Exelon common stock.
- (c) BlackRock, Inc. disclosed in its Schedule 13G/A that it has sole power to vote or to direct the vote of 22,039,266 shares and sole power to dispose or direct the disposition of 25,720,619 shares, adjusted in each case after applying the distribution ratio of one share of our common stock for each three shares of Exelon common stock.
- (d) Capital International Investors disclosed in its Schedule 13G that it has sole voting power over 20,217,549 shares and sole dispositive power over 20,222,555 shares, adjusted in each case after applying the distribution ratio of one share of our common stock for each three shares of Exelon common stock.
- (e) State Street Corporation disclosed in its Schedule 13G that it has shared voting power over 15,899,278 shares and shared dispositive power over 20,043,308 shares, adjusted in each case after applying the distribution ratio of one share of our common stock for each three shares of Exelon common stock.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE**

**Related Person Transactions**

We have adopted a written policy on the review, approval or ratification of transactions with related persons, which is overseen by the Corporate Governance Committee and is available on our website. The policy provides that the Committee or the Committee chair will review any proposed, existing, or completed transactions in which the amount involved exceeds \$120,000 and in which any related person had, has, or will have a direct or indirect material interest. In general, related persons are directors and executive officers and their immediate family members, as well as stockholders beneficially owning 5% or more of our outstanding stock as defined in SEC rules. Our General Counsel reviews relevant information on transactions, arrangements, and relationships disclosed and makes a determination as to the existence of a related person transaction as defined by SEC rules and the policy. Related person transactions that are in, or not inconsistent with, the best interests of the Company are approved by the Corporate Governance Committee and reported to the Board. Related person transactions are disclosed in accordance with applicable SEC and other regulatory requirements.

There were no related person transactions identified for 2021.

**Director Independence**

Our Board of Directors has determined that all non-employee directors who serve on the Board are independent according to applicable law and the listing standards of The Nasdaq Stock Market, as incorporated into the Independence Standards for Directors in our Corporate Governance Principles. The Board also determined that the members of the Audit and Risk Committee, Compensation Committee, and Corporate Governance

Committee are independent within the meaning of applicable laws, Nasdaq governance requirements, and the Independence Standards for Directors.

#### ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Pursuant to the Audit and Risk Committee's pre-approval policy, the Committee pre-approves all audit and non-audit services to be provided by the independent auditor taking into account the nature, scope, and projected fees of each service as well any potential implications for auditor independence. The policy specifically sets forth services that the independent auditor is prohibited from performing by applicable law or regulation. Further, the Audit and Risk Committee may prohibit other services that in its view may compromise, or appear to compromise, the independence and objectivity of the independent auditor. Predictable and recurring audit and permitted non-audit services will be considered for pre-approval by the Audit and Risk Committee on an annual basis.

For any services not covered by these initial pre-approvals, the Audit and Risk Committee has delegated authority to the Committee Chair to pre-approve any audit or permitted non-audit service with fees in amounts less than \$500,000. Services with fees exceeding \$500,000 require full Committee pre-approval. The Audit and Risk Committee receives quarterly reports on the actual services provided by and fees incurred with the independent auditor. No services were provided pursuant to the de minimis exception to the pre-approval requirements contained in the SEC's rules.

Since we were a wholly owned subsidiary of Exelon as of December 31, 2021, for 2021 the Exelon Audit Committee reviewed the PricewaterhouseCoopers 2021 Audit Plan and proposed fees and concluded that the scope of audit was appropriate, and the proposed fees were reasonable. The following table presents the fees for professional services rendered by PricewaterhouseCoopers LLP for the audit of Constellation's annual financial statements for the years ended December 31, 2021 and December 31, 2020, and fees billed for other services provided during those periods. These fees include an allocation of amounts billed directly to Exelon. The fees include amounts related to the year indicated, which may differ from amounts billed.

(in thousands)	Year Ended December 31,	
	2021	2020
Audit fees <sup>(a)</sup>	\$ 10,788	\$ 12,236
Audit related fees <sup>(b)</sup>	1,080	925
Tax fees <sup>(c)</sup>	648	416
All other fees <sup>(d)</sup>	86	16
<b>Total</b>	<b>\$ 12,602</b>	<b>\$ 13,593</b>

(a) Audit fees include financial statement audits and reviews under statutory or regulatory requirements and services that generally only the auditor reasonably can provide, including SEC financial statement audits and reviews, review of documents filed with the SEC, issuance of comfort letters and consents for debt issuances and other attest services required by statute or regulation.

(b) Audit related fees consist of assurance and related services that are traditionally performed by the principal auditor and are reasonably related to the performance of the audit or review of the financial statements or other assurance services to comply with contractual requirements, financial accounting, or reporting and control consultations.

(c) Tax fees consist of tax compliance, planning and advice services, including tax return preparation, refund claims, tax payment planning, assistance with tax audits and appeals, advice related to mergers and acquisitions and transactions, or requests for rulings or technical advice from tax authorities.

(d) All other fees consist of system implementation quality assurance services and accounting research software license cost.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) The following documents are filed as a part of this report:

**Constellation Energy Generation, LLC and Subsidiary Companies**

(i) Financial Statements (Item 8):

Report of Independent Registered Public Accounting Firm dated February 25, 2022 of PricewaterhouseCoopers LLP (PCAOB ID 238)

Consolidated Statements of Operations and Comprehensive Income for the Years Ended December 31, 2021, 2020, and 2019

Consolidated Statements of Cash Flows for the Years Ended December 31, 2021, 2020, and 2019

Consolidated Balance Sheets at December 31, 2021 and 2020

Consolidated Statements of Changes in Equity for the Years Ended December 31, 2021, 2020, and 2019

Notes to Consolidated Financial Statements

(ii) Financial Statement Schedule:

Schedule II—Valuation and Qualifying Accounts for the Years Ended December 31, 2021, 2020, and 2019

Schedules not included are omitted because of the absence of conditions under which they are required or because the required information is provided in the consolidated financial statements, including the notes thereto



Constellation Energy Generation, LLC and Subsidiary Companies

Schedule II – Valuation and Qualifying Accounts

Column A	Column B	Column C		Column D	Column E
Description	Balance at Beginning of Period	Additions and adjustments		Deductions	Balance at End of Period
		Charged to Costs and Expenses	Charged to Other Accounts		
<b>(In millions)</b>					
<b>For the year ended December 31, 2021</b>					
Allowance for credit losses	\$ 32	\$ 34	\$ —	\$ 7 <sup>(a)</sup>	\$ 59
Deferred tax valuation allowance	23	—	(1)	—	22
Reserve for obsolete materials	265	(6)	(2)	7	250
<b>For the year ended December 31, 2020</b>					
Allowance for credit losses	\$ 81	\$ 12	\$ (56) <sup>(b)</sup>	\$ 5 <sup>(a)</sup>	\$ 32
Deferred tax valuation allowance	24	—	(1)	—	23
Reserve for obsolete materials	143	123 <sup>(c)</sup>	(1)	—	265
<b>For the year ended December 31, 2019</b>					
Allowance for credit losses	\$ 104	\$ 27	\$ (11)	\$ 39 <sup>(a)</sup>	\$ 81
Deferred tax valuation allowance	26	—	(2)	—	24
Reserve for obsolete materials	145	—	—	2	143

(a) Write-offs, net of recoveries of individual accounts receivable.

(b) Reflects the sale of customer accounts receivable in the second quarter of 2020. See Note 6—Accounts Receivable of the Notes to Consolidated Financial Statements for additional information.

(c) Primarily reflects expense resulting from materials and supplies inventory reserve adjustments as a result of the decision to early retire Byron, Dresden, and Mystic 8 and 9. See Note 7—Early Plant Retirements of the Notes to Consolidated Financial Statements for additional information.

**Exhibits required by Item 601 of Regulation S-K:**

Certain of the following exhibits are incorporated herein by reference under Rule 12b-32 of the Securities and Exchange Act of 1934, as amended. Certain other instruments which would otherwise be required to be listed below have not been so listed because such instruments do not authorize securities in an amount which exceeds 10% of the total assets of the applicable registrant and its subsidiaries on a consolidated basis and the relevant registrant agrees to furnish a copy of any such instrument to the Commission upon request.

<u>Exhibit No.</u>	<u>Description</u>
<a href="#">2-1</a>	<a href="#">Separation Agreement, dated January 31, 2022, between Exelon and Constellation (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 2.1)</a>
<a href="#">3-1</a>	<a href="#">Amended and Restated Articles of Incorporation of Constellation Energy Corporation, effective January 31, 2022 (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 3.1)</a>
<a href="#">3-2</a>	<a href="#">Amended and Restated Bylaws of Constellation Energy Corporation, effective January 31, 2022 (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 3.2)</a>
<a href="#">3-3</a>	<a href="#">Amended and Restated Certificate of Organization, as amended, of Constellation*</a>
<a href="#">3-4</a>	<a href="#">Amended and Restated Operating Agreement of Constellation*</a>
<a href="#">4-1</a>	<a href="#">Form of 4.25% Senior Note due 2022 issued by Constellation (File No. 333-85496, Form 8-K dated June 18, 2012, Exhibit 4.1)</a>
<a href="#">4-2</a>	<a href="#">Form of 5.60% Senior Note due 2042 issued by Constellation (File No. 333-85496, Form 8-K dated June 18, 2012, Exhibit 4.2)</a>
<a href="#">4-3</a>	<a href="#">Form of 6.000% Senior Notes due 2033 issued by Constellation (File No. 333-85496, Form 8-K dated September 30, 2013, Exhibit No. 4.1)</a>
<a href="#">4-4</a>	<a href="#">Indenture dated as of September 28, 2007 from Constellation to U.S. Bank National Association, as trustee (File No. 333-85496, Form 8-K dated September 28, 2007, Exhibit 4.1)</a>
<a href="#">4-5</a>	<a href="#">Form of 6.25% Constellation Senior Note due 2039 (File No. 333-85496, Form 8-K dated September 23, 2009, Exhibit 4.2)</a>
<a href="#">4-6</a>	<a href="#">Form of 4.00% Constellation Senior Note due 2020 (File No. 333-85496, Form 8-K dated September 30, 2010, Exhibit 4.1)</a>
<a href="#">4-7</a>	<a href="#">Form of 5.75% Constellation Senior Note due 2041 (File No. 333-85496, Form 8-K dated September 30, 2010, Exhibit 4.2)</a>
<a href="#">4-8</a>	<a href="#">Indenture, dated as of September 30, 2013, among Continental Wind, LLC, the guarantors party thereto and Wilmington Trust, National Association, as trustee (File No. 333-85496, Form 8-K dated September 30, 2013, Exhibit 4.1)</a>
<a href="#">4-9</a>	<a href="#">Form of Constellation 3.400% notes due 2022 (File No. 333-85496, Form 8-K dated March 10, 2017, Exhibit 4.2)</a>
<a href="#">4-10</a>	<a href="#">Form of Constellation 3.250% Senior Notes due 2025 (File No. 333-85496, Form 8-K dated May 15, 2020, Exhibit 4.1)</a>
<a href="#">4-11</a>	<a href="#">Indenture, dated as of February 9, 2022, between Constellation and Deutsche Bank Trust Company Americas, as trustee*</a>
<a href="#">4-12</a>	<a href="#">First Supplemental Indenture, dated as of February 9, 2022, between Constellation and Deutsche Bank Trust Company Americas, as trustee*</a>
<a href="#">4-13</a>	<a href="#">Form of Constellation 3.046% Senior Notes due 2027 (incorporated by reference to Exhibit 4.12 filed herewith)</a>
<a href="#">4-14</a>	<a href="#">Facility Agreement, dated as of February 9, 2022, among Constellation, Fells Point Funding Trust and Deutsche Bank Trust Company Americas, as trustee*</a>

<a href="#">4-15</a>	<a href="#">Letter of Credit Facility Agreement, dated February 9, 2022, among Constellation, Deutsche Bank Trust Company Americas, as administrative and collateral agent, and the various financial institutions from time to time parties thereto*</a>
<a href="#">4-16</a>	<a href="#">Amended and Restated Declaration of Trust of Fells Point Funding Trust, dated as of February 9, 2022*</a>
<a href="#">4-17</a>	<a href="#">Pledge and Control Agreement, dated as of February 9, 2022, among Fells Point Funding Trust, Constellation, Deutsche Bank Company Americas, as collateral agent and securities intermediary*</a>
<a href="#">10-1</a>	<a href="#">Transition Services Agreement, dated January 31, 2022, between Exelon and Constellation (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 10.1)</a>
<a href="#">10-2</a>	<a href="#">Tax Matters Agreement, dated January 31, 2022, between Exelon and Constellation (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 10.2)</a>
<a href="#">10-3</a>	<a href="#">Employee Matters Agreement, dated January 31, 2022, between Exelon and Constellation (File No. 001-41137, Form 8-K dated February 2, 2022, Exhibit 10.3)</a>
<a href="#">10-4</a>	<a href="#">Credit Agreement, dated as of November 28, 2017, as thereafter amended and conformed among Constellation Renewables, LLC, Constellation Renewables Holding, LLC, Morgan Stanley Senior Funding, Inc. as administrative agent, Wilmington Trust, National Association, as depository bank and collateral agent, and the lenders and other agents party thereto. (Certain portions of this exhibit have been omitted by redacting a portion of text, as indicated by asterisks in the text. This exhibit has been filed separately with the U.S. Securities and Exchange Commission pursuant to a request for confidential treatment.) (File No. 001-16169, Form 10-K dated February 9, 2018, Exhibit 10.94)</a>
<a href="#">10-5</a>	<a href="#">Receivables Purchase Agreement, dated as of April 8, 2020, among Constellation NewEnergy, Inc. as servicer, and NewEnergy Receivables LLC, as seller, MUFG Bank, LTD., as Agent, the Conduits party thereto, the Financial Institutions party thereto and the Purchaser Agents party thereto (File No. 001-16169, Form 8-K dated April 9, 2020, Exhibit 10.1)</a>
<a href="#">10-6</a>	<a href="#">Credit Agreement, among Constellation Renewables, LLC, the lenders party thereto, Jefferies Finance LLC, as administrative agent, and Wilmington Trust, National Association, as depository bank and collateral agent, dated December 15, 2020 (File No. 333-85496, Form 8-K dated December 15, 2020, Exhibit 1.1)</a>
<a href="#">10-7</a>	<a href="#">Amendment No. 2 to Receivables Purchase Agreement, dated as of March 29, 2021, among Constellation NewEnergy, Inc., as servicer, and NewEnergy Receivables LLC, as seller, MUFG Bank, LTD., as agent, the Conduits party thereto, the Financial Institutions party thereto and the Purchaser Agents party thereto (File No. 001-16169, Form 8-K, dated March 31, 2021, Exhibit 10.1)</a>
<a href="#">10-8</a>	<a href="#">Settlement Agreement, dated August 6, 2021, between Constellation and EDF Inc. (File No. 333-85496, Form 10-Q dated November 3, 2021, Exhibit 10.1)</a>
<a href="#">10-9</a>	<a href="#">364-Day Term Loan Credit Agreement, dated August 6, 2021, between Generation and Barclays Bank PLC (File No. 333-85496, Form 10-Q dated November 3, 2021, Exhibit 10.2)</a>
<a href="#">10-10</a>	<a href="#">\$3,500,000,000 Credit Agreement dated as of February 1, 2022, among Constellation, JPMorgan Chase Bank, N.A., as Administrative Agent, and various financial institutions, as lenders*</a>
<a href="#">10-11</a>	<a href="#">Constellation Energy Corporation Non-Employee Deferred Stock Unit Plan*</a>
<a href="#">10-12</a>	<a href="#">Constellation Energy Corporation Unfunded Deferred Compensation Plan for Directors*</a>
<a href="#">10-13</a>	<a href="#">Constellation Energy Group Deferred Compensation Plan for Non-Employee Directors*</a>
<a href="#">10-14</a>	<a href="#">Constellation Energy Corporation Senior Management Severance Plan*</a>
<a href="#">10-15</a>	<a href="#">Constellation Energy Corporation Deferred Compensation Plan*</a>
<a href="#">10-16</a>	<a href="#">Constellation Energy Corporation Supplemental Management Retirement Plan*</a>
<a href="#">10-17</a>	<a href="#">Constellation Energy Corporation PECO Supplemental Pension Benefit Plan*</a>

<a href="#">10-18</a>	<a href="#">Constellation Energy Group Nonguaranteed Deferred Compensation Plan*</a>
<a href="#">10-19</a>	<a href="#">Constellation Energy Group Benefits Restoration Plan*</a>
<a href="#">10-20</a>	<a href="#">Constellation Energy Corporation Supplemental Pension Plan*</a>
<a href="#">10-21</a>	<a href="#">Constellation Energy Corporation Long-Term Incentive Plan*</a>
<a href="#">10-22</a>	<a href="#">Constellation Energy Corporation Employee Stock Purchase Plan*</a>
<a href="#">10-23</a>	<a href="#">Form of Restricted Stock Unit Retention Award under the Constellation Energy Corporation Long-Term Incentive Plan*</a>
<a href="#">10-24</a>	<a href="#">Form of Restricted Stock Unit Award under the Constellation Energy Corporation Long-Term Incentive Plan*</a>
<a href="#">10-25</a>	<a href="#">Form of Performance Share Award under the Constellation Energy Corporation Long-Term Incentive Plan*</a>
<a href="#">10-26</a>	<a href="#">Form of Separation Agreement under the Constellation Energy Corporation Senior Management Severance Plan*</a>
	<a href="#"><u>Subsidiaries</u></a>
<a href="#">21-1</a>	<a href="#">Constellation Energy Corporation</a>
<a href="#">21-2</a>	<a href="#">Constellation Energy Generation, LLC</a>
	<a href="#"><u>Consent of Independent Registered Public Accountants</u></a>
<a href="#">23-1</a>	<a href="#">Constellation Energy Corporation</a>
	<a href="#"><u>Power of Attorney (Constellation Energy Corporation)</u></a>
<a href="#">24-1</a>	<a href="#">Laurie Brlas</a>
<a href="#">24-2</a>	<a href="#">Yves C. de Balmann</a>
<a href="#">24-3</a>	<a href="#">Rhonda Ferguson</a>
<a href="#">24-4</a>	<a href="#">Bradley Halverson</a>
<a href="#">24-5</a>	<a href="#">Charles Harrington</a>
<a href="#">24-6</a>	<a href="#">Julie Holzrichter</a>
<a href="#">24-7</a>	<a href="#">Ashish Khandpur</a>
<a href="#">24-8</a>	<a href="#">Robert Lawless</a>
<a href="#">24-9</a>	<a href="#">John Richardson</a>

Certifications Pursuant to Rule 13a-14(a) and 15d-14(a) of the Securities and Exchange Act of 1934 as to the Annual Report on Form 10-K for the year ended December 31, 2021 filed by the following officers for the following registrants:

<u>Exhibit No.</u>	<u>Description</u>
<a href="#">31-1</a>	<a href="#">Filed by Joseph Dominguez for Constellation Energy Corporation</a>
<a href="#">31-2</a>	<a href="#">Filed by Daniel L. Eggers for Constellation Energy Corporation</a>
<a href="#">31-3</a>	<a href="#">Filed by Joseph Dominguez for Constellation Energy Generation, LLC</a>
<a href="#">31-4</a>	<a href="#">Filed by Daniel L. Eggers for Constellation Energy Generation, LLC</a>

Certifications Pursuant to Section 1350 of Chapter 63 of Title 18 United States Code as to the Annual Report on Form 10-K for the year ended December 31, 2021 filed by the following officers for the following registrants:

<u>Exhibit No.</u>	<u>Description</u>
<a href="#">32-1</a>	<a href="#">Filed by Joseph Dominguez for Constellation Energy Corporation</a>
<a href="#">32-2</a>	<a href="#">Filed by Daniel L. Eggers for Constellation Energy Corporation</a>
<a href="#">32-3</a>	<a href="#">Filed by Joseph Dominguez for Constellation Energy Generation, LLC</a>
<a href="#">32-4</a>	<a href="#">Filed by Daniel L. Eggers for Constellation Energy Generation, LLC</a>

101.INS	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

\* Filed herewith.

**ITEM 16. FORM 10-K SUMMARY**

We may voluntarily include a summary of information required by Form 10-K under this Item 16. We have elected not to include such summary information.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Baltimore and State of Maryland on the 25th day of February, 2022.

CONSTELLATION ENERGY CORPORATION

By: /s/ JOSEPH DOMINGUEZ  
Name: Joseph Dominguez  
Title: President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the Registrant and in the capacities indicated on the 25th day of February, 2022.

<u>Signature</u>	<u>Title</u>
<u>/s/ JOSEPH DOMINGUEZ</u> Joseph Dominguez	President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ DANIEL L. EGGERS</u> Daniel L. Eggers	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
<u>/s/ MATTHEW N. BAUER</u> Matthew N. Bauer	Senior Vice President and Controller (Principal Accounting Officer)

This annual report has also been signed below by David Dardis, Attorney-in-Fact, on behalf of the following Directors on the date indicated:

Laurie Brlas  
Yves C. de Balmann  
Rhonda Ferguson  
Bradley Halverson  
Charles Harrington

Julie Holzrichter  
Ashish Khandpur  
Robert Lawless  
John Richardson

By: /s/ DAVID DARDIS  
Name: David Dardis

February 25, 2022

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Baltimore and State of Maryland on the 25th day of February, 2022.

CONSTELLATION ENERGY GENERATION, LLC

By: /s/ JOSEPH DOMINGUEZ  
**Name:** Joseph Dominguez  
**Title:** President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the Registrant and in the capacities indicated on the 25th day of February, 2022.

<u>Signature</u>	<u>Title</u>
<u>/s/ JOSEPH DOMINGUEZ</u> Joseph Dominguez	President and Chief Executive Officer (Principal Executive Officer)
<u>/s/ DANIEL L. EGGERS</u> Daniel L. Eggers	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
<u>/s/ MATTHEW N. BAUER</u> Matthew N. Bauer	Senior Vice President and Controller (Principal Accounting Officer)

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE

01/18/2022

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

EXELON GENERATION COMPANY, LLC

I, Leigh M. Chapman, Acting Secretary of the Commonwealth of Pennsylvania, do hereby certify that the foregoing and annexed is a true and correct copy of

Amendment filed on Jan 18, 2022 Effective Feb 1, 2022 - Pages (3)

which appear of record in this department.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written

*Leigh M. Chapman*

Acting Secretary of the Commonwealth

Certification Number: TSC220118172922-1


Verify this certificate online at <http://www.corporations.pa.gov/orders/verify>

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**PENNSYLVANIA DEPARTMENT OF STATE  
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

Certificate of Amendment - Domestic  
Limited Partnership/Limited Liability Company  
DSCB:15-8622/8822 (rev. 2/2017)



TCO220118ZN1929

Read all instructions prior to completing. This form may

Fee: \$70

Check one:  Limited Partnership (§ 8622)  Limited Liability Company (§ 8822)

In compliance with the requirements of the applicable provisions (relating to Amendment or Restatement of Certificate), the undersigned, desiring to amend or restate its Certificate of Limited Partnership/Certificate of Organization, hereby certifies that:

1. The name of the limited partnership/limited liability company is: Exelon Generation Company, LLC

2. The date of filing of the original Certificate of Limited Partnership/Certificate of Organization is:

12/27/2000  
Date (MM/DD/YYYY)

3. The current registered office address as on file with the Department of State. *Complete part (a) OR (b) – not both:*

(a) \_\_\_\_\_  
Number and street City State Zip County

(b) c/o: Corporate Creations Network Inc. Erie  
Name of Commercial Registered Office Provider County

4. *Check, and if appropriate complete, one of the following:*

The amendment adopted by the limited partnership/limited liability company, set forth in full, is as follows:

The name of the limited liability company is Constellation Energy Generation, LLC

The amendment adopted by the limited partnership/limited liability company is set forth in full in Exhibit A attached hereto and made a part hereof.

5. Effective date of amendment (*check, and if appropriate complete, one of the following*):

The amendment shall be effective upon filing this Certificate of Amendment in the Department of State.

The amendment shall be effective on: 02/01/2022 at \_\_\_\_\_  
Date (MM/DD/YYYY) Hour (if any)

**PA DEPT OF STATE**

**JAN 18 2022**

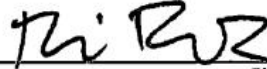
6. Check if the amendment restates the Certificate of Limited Partnership/Certificate of Organization:

- The restated Certificate of Limited Partnership/Certificate of Organization supersedes the original Certificate of Limited Partnership/Certificate of Organization and all previous amendments thereto.

IN TESTIMONY WHEREOF, the undersigned limited partnership/limited liability company has caused this Certificate of Amendment to be executed by a duly authorized person thereof this \_\_\_\_\_ day of  
January \_\_\_\_\_, 20 22 \_\_\_\_\_.

Exelon Generation Company, LLC

Name of Limited Partnership/Limited Liability Company



Signature

Assistant Secretary

Title



IN TESTIMONY WHEREOF, the organizer(s) has (have) signed this Certificate of Organization this 27th day of December, 2000

Jenifer Friel Newman  
(Signature)

Jenifer Friel Newman, Organizer/Authorized Person

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)



**THIRD AMENDED AND RESTATED OPERATING AGREEMENT  
OF  
CONSTELLATION ENERGY GENERATION, LLC**  
*(a Pennsylvania limited liability company)*

THIS THIRD AMENDED AND RESTATED OPERATING AGREEMENT OF CONSTELLATION ENERGY GENERATION, LLC (the “**Agreement**”) is executed as of February 1, 2022 by Constellation Energy Corporation (the “**Member**”). The Member, intending to be legally bound, hereby states the terms of its agreement as to the affairs of, and the conduct of the business of, a limited liability company (the “**Company**”) to be managed by the Member, as follows:

**PRELIMINARY STATEMENT**

The purpose of this Agreement is to set out fully the rights, obligations and duties of the Member and Officers of the Company.

WHEREAS, the Company was formed as a Pennsylvania limited liability company on December 27, 2000 pursuant to the provisions of the Pennsylvania Limited Liability Company Law of 1994, as amended from time to time (the “**Act**”). At the time of formation PECO Energy Company was the member.

WHEREAS, on January 1, 2001, due to a corporate restructuring ownership of the Company was transferred from PECO Energy Company to Exelon Ventures Company, LLC.

WHEREAS, on January 1, 2001, the Company’s Operating Agreement was amended and restated as the First Amended and Restated Operating Agreement of the Company.

WHEREAS, on September 30, 2014, Exelon Ventures Company, LLC was dissolved in Delaware and ownership of the Company was transferred to Exelon Corporation.

WHEREAS, on October 30, 2019, the Company’s First Amended and Restated Operating Agreement was amended and restated as the Second Amended and Restated Operating Agreement of the Company.

WHEREAS, on February 1, 2022, the Company’s Second Amended and Restated Operating Agreement was amended and restated as the Third Amended and Restated Operating Agreement of the Company for the purpose of (i) reflecting the transfer of all of the membership interests of the Company from Exelon Corporation to the Member, effective February 1, 2022, and (ii) changing the Company’s name from “Exelon Generation Company, LLC” to “Constellation Energy Generation, LLC”.

NOW THEREFORE, in consideration of the agreements and obligations set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Member hereby agrees and states as follows:

**ARTICLE 1  
FORMATION, PURPOSE AND DEFINITIONS**

1.1 Establishment of Limited Liability Company. The Company was formed on December 27, 2000 pursuant to the provisions of the Act, to carry on a business for profit. This Agreement, in accordance with the Act, amends and restates terms relating to the governance and business affairs of the Company. The Member is

hereby admitted to membership in the Company and, as provided in Section 5.2 until this Agreement is amended appropriately to contemplate the admission of additional members and their right to conduct the Company's business, the Member shall be the sole member of the Company.

1.2 Name. The name of the Company is Constellation Energy Generation, LLC. The Company may conduct its activities under any other permissible name designated by the Member. The Member shall be responsible for complying with any registration requirements if an alternate name is used.

1.3 Principal Place of Business of the Company. The principal place of business of the Company shall be located at such locations as the Member, in its discretion, may determine. The registered agent for the service of process, if any, and the registered office of the Company shall be the person (if any) and location stated in the Company's Certificate of Organization filed with the Pennsylvania Department of State. The Member may, from time to time, change such registered agent and registered office, by appropriate filings as required by law.

1.4 Purpose. The Company's purpose shall be to engage in all lawful businesses for which limited liability companies may be organized under the Act. The Company shall have the authority to do all things necessary or advisable in order to accomplish such purposes.

1.5 Duration. Unless the Company shall be earlier terminated in accordance with Article 7, it shall continue in existence in perpetuity.

1.6 Other Activities of Member. The Member may engage in or possess an interest in other business ventures of any nature, whether or not similar to or competitive with the activities of the Company.

1.7 Federal Income Tax Status. The Company has been structured to qualify as an entity that will not be required to pay income tax at the state or federal level.

## **ARTICLE 2 CAPITAL CONTRIBUTIONS**

2.1 Capital Contributions. The Member may make such contributions of cash or property to the Company at such times and in such amounts as the Member shall determine. The receipt by the Member from the Company of any distributions whatsoever (whether pursuant to Section 3.1 or otherwise and whether or not such distributions may be considered a return of capital) shall not increase the Member's obligations under this Section 2.1.

2.2 Additional Capital Contributions. Except as provided in Section 2.1 the Member may, but shall not be required to, make additional capital contributions to the Company.

2.3 Limitation of Liability of Member. The Member shall not have any liability or obligation for any debts, liabilities or obligations of the Company, or of any agent or employee of the Company, beyond the Member's capital contribution, except as may be expressly required by this Agreement or applicable law.

2.4 Loans. If the Member makes any loans to the Company, or advances money on its behalf, the amount of any such loan or advance shall not be deemed an increase in, or contribution to, the capital contribution of the Member. Interest shall accrue on any such loan at an annual rate agreed to by the Company and the Member (but not in excess of the maximum rate allowable under applicable usury laws).

**ARTICLE 3  
DISTRIBUTIONS**

3.1 Distributions. The Company shall make cash distributions to the Member at the times and in the manner that the Member deems appropriate and as permitted by law.

**ARTICLE 4  
RIGHTS AND DUTIES OF THE MEMBER**

4.1 Management. The business and affairs of the Company shall be managed solely by the Member. In doing so, the Member shall not be deemed a “manager” within the meaning of the Act. The Member shall direct, manage, and control the business of the Company to the best of the Member’s ability.

4.2 Action by Written Consent. Any action by the Member may be taken in the form of a written consent rather than at a Member’s meeting. The Company shall maintain a permanent record of all actions taken by the Member.

4.3 Powers of the Member. The Member shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by the Member under the laws of the Commonwealth of Pennsylvania. Without limiting the generality of the foregoing, the Member shall have the specific power and authority to cause the Company, in the Company’s own name:

- (a) To sell or otherwise dispose of all or substantially all of the assets of the Company (or a substantial portion of the assets) as part of a single transaction or plan so long as that disposition is not in violation of or a cause of a default under any other agreement to which the Company may be bound;
- (b) To execute all instruments and documents, including, without limitation, checks; drafts; notes and other negotiable instruments; mortgages or deeds of trust; security agreements; financing statements; documents providing for the acquisition, mortgage or disposition of the Company’s property; assignments; bills of sale; leases; partnership agreements; operating agreements of other limited liability companies; and any other instruments or documents necessary, in the opinion of the Member, to the business of the Company;
- (c) To enter into any and all other agreements on behalf of the Company, with any other person for any purpose, in such form as the Member may approve;
- (d) To make distributions in accordance with Section 3.1; and
- (e) To do and perform all other acts as may be necessary or appropriate to the conduct of the Company’s business.

Unless authorized in writing to do so by this Agreement or by the Member, no attorney-in-fact, employee, or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or render it liable pecuniarily for any purpose.



4.4 Officers and Agents. The Company may have such officers and agents with such respective rights and duties as the Member may from time to time determine. The Member may delegate to one or more agents, officers, employees or other persons (who shall not be deemed “managers” within the meaning of the Act) any and all powers to manage the Company that the Member possesses under this Agreement and the Act.

4.5 Member Has No Exclusive Duty to Company. The Member shall not be required to manage the Company as its sole and exclusive function and, as provided in Section 1.6, it may have other business interests and may engage in other activities in addition to those relating to the Company. The Company shall not have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Member or to the income or proceeds derived from such investments or activities. The Member shall incur no liability to the Company as a result of engaging in any other business or venture.

4.6 Indemnification. The Member shall, and any officer, employee or agent of the Company may in the Member’s absolute discretion, be indemnified by the Company to the fullest extent permitted by Section 8945 of the Act and as may be otherwise permitted by applicable law.

## **ARTICLE 5 TRANSFER OF MEMBERSHIP INTERESTS**

5.1 General Restriction. Until and unless this Agreement is appropriately amended to contemplate the admission of additional members, the Member may not transfer, whether voluntarily or involuntarily, any portion of its membership interest in the Company; provided, however, that the Member may assign or otherwise transfer, as a whole or in one or more partial or successive assignments or transfers, its membership interest to any direct or indirect subsidiary of the holding company of which the Member is then a direct or indirect subsidiary or to such holding company (“**Permitted Transfers**”) and following any such Permitted Transfer(s), such permitted transferee shall be considered hereunder and for all purposes under the Act as the Member. For purposes of this Agreement, a “transfer” includes, but is not limited to, any sale, assignment, gift, exchange, pledge, hypothecation, collateral assignment or creation of any security interest.

5.2 Single Member. Until and unless this Agreement is appropriately amended to contemplate the admission of additional members, the Company shall at all times have only one Member.

## **ARTICLE 6 DISSOCIATION OF THE MEMBER**

6.1 Dissociation. The Member shall not be entitled voluntarily to withdraw, resign or dissociate from the Company or assign its membership interest prior to the dissolution and winding-up of the Company, and any attempt by the Member to do so shall be ineffective; provided, however, that Permitted Transfers under Section 5.1 shall not be a violation of this Section 6.1.

## **ARTICLE 7 DISSOLUTION AND LIQUIDATION**

7.1 Events Triggering Dissolution. The Company shall dissolve and commence winding up and liquidation upon the first to occur of any of the following (“**Liquidating Events**”):

- (a) the written consent of the Member; or

- (b) the entry of a decree of judicial dissolution under Section 8972 of the Act.

The Company shall not be dissolved for any other reason, including without limitation, the Member's becoming bankrupt or executing an assignment for the benefit of creditors and any such bankruptcy or assignment shall not effect a transfer of any portion of Member's membership interest in the Company.

7.2 Liquidation. Upon dissolution of the Company in accordance with Section 7.1, the Company shall be wound up and liquidated by the Member or by a liquidating manager selected by the Member. The proceeds of such liquidation shall be applied and distributed in the following order of priority:

- (a) to creditors, including the Member if it is a creditor, in the order of priority as established by law, in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to the Member under Section 8932 or 8933 of the Act; and then
- (b) to the setting up of any reserves in such amount and for such period as shall be necessary to make reasonable provisions for payment of all contingent, conditional or unmatured claims and obligations known to the Company and all claims and obligations known to the Company but for which the identity of the claimant is unknown; and then
- (c) to the Member, which liquidating distribution may be made to the Member in cash or in kind, or partly in cash and partly in kind.

7.3 Certificate of Dissolution. Upon the dissolution of the Company and the completion of the liquidation and winding up of the Company's affairs and business, the Member shall on behalf of the Company prepare and file a certificate of dissolution with the Pennsylvania Department of State, if and as required by the Act. When such certificate is filed, the Company's existence shall cease.

## **ARTICLE 8 ACCOUNTING AND FISCAL MATTERS**

8.1 Fiscal Year. The fiscal year of the Company shall be the calendar year.

8.2 Method of Accounting. The Member shall select a method of accounting for the Company as deemed necessary or advisable and shall keep, or cause to be kept, full and accurate records of all transactions of the Company in accordance with sound accounting principles consistently applied.

8.3 Financial Books and Records. All books of account shall, at all times, be maintained in the principal office of the Company or at such other location as specified by the Member.

## **ARTICLE 9 MISCELLANEOUS**

9.1 Binding Effect. Except as otherwise provided in this Agreement to the contrary, this Agreement shall be binding upon and inure to the benefit of the Member and, subject to Article 5, its successors and assigns.

9.2 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania without reference to conflict of laws principles.

9.3 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

9.4 Gender. As used in this Agreement, the masculine gender shall include the feminine and the neuter, and vice versa, and the singular shall include the plural.

\* \* \*

**IN WITNESS WHEREOF**, the Member has executed this Agreement as of the date first written above.

**CONSTELLATION ENERGY CORPORATION**

By: /s/ Brian J. Buck  
Name: Brian J. Buck  
Title: Assistant Secretary



**INDENTURE**  
**by and between**  
**CONSTELLATION ENERGY GENERATION, LLC**  
**and**  
**DEUTSCHE BANK TRUST COMPANY AMERICAS**  
**Dated as of February 9, 2022**

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THIS INDENTURE, dated as of February 9, 2022, by and between CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (the “Issuer”), and DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, as trustee (the “Trustee”),

WITNESSETH:

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes or other evidences of indebtedness to be issued in one or more series (the “Securities”) up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture;

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide, among other things, for the authentication, delivery and administration of the Securities; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement according to its terms have been done;

NOW, THEREFORE, in consideration of the premises and the purchases of the Securities by the holders thereof, and intending to be legally bound hereby, the Issuer and the Trustee mutually covenant and agree for the equal and proportionate benefit of the respective holders from time to time of the Securities and of the coupons, if any, appertaining thereto as follows:

**ARTICLE I  
DEFINITIONS**

Section 1.1 Certain Terms Defined. Each of the following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the meanings specified in this Section. Every other term used in this Indenture that is defined in the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”), or the definitions of which in the Securities Act of 1933, as amended (the “Securities Act”), are referred to in the Trust Indenture Act, including terms defined therein by reference to the Securities Act (except as herein otherwise expressly provided or unless the context otherwise requires), shall have the meaning assigned to such term in the Trust Indenture Act and in the Securities Act as in effect from time to time. Each accounting term used herein and not expressly defined shall have the meaning assigned to such term in accordance with generally accepted accounting principles, and the term “generally accepted accounting principles” means such accounting principles as are generally accepted in the United States of America at the time of any computation unless a different time shall be specified with respect to such series of Securities as provided for in Section 2.3. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

“Affiliate” has the same meaning as given to that term in Rule 405 of the Securities Act or any successor provision.

“Authenticating Agent” shall have the meaning set forth in Section 6.15.

“Business Day” means, with respect to any Security, any day that is not a Saturday, a Sunday or a day on which commercial banking institutions in New York City or in the city in which the Corporate Trust Office of the Trustee is located are generally authorized or required by law or executive order to be closed.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

“Corporate Trust Office” means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, as of the date of this Indenture, located at 1 Columbus Circle 17<sup>th</sup> Floor MS:NYC01-1710 New York, New York 10019, Attention: Trust & Agency Services, Corporates Team/SF7147.

“Covenant Defeasance” shall have the meaning set forth in Section 9.1(d).

“Depository” means, with respect to the Securities of any series issuable or issued in the form of one or more Registered Global Securities, the Person designated as Depository by the Issuer pursuant to Section 2.3 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Depository” shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any such series shall mean the Depository with respect to the Registered Global Securities of that series.

“Dollar” or “\$” means the coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

“Electronic Signature” means any electronic signature covered by the Electronic Signatures in Global and National Commerce Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law (e.g., [www.docuSign.com](http://www.docuSign.com)).

“Event of Default” means any event or condition specified as such in Section 5.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Governing Body” means the governing body of the Issuer or any duly authorized committee of that body.

“Governing Body Resolution” means a copy of one or more resolutions, certified by the secretary or an assistant secretary of the Issuer to have been duly adopted or consented to by the Governing Body and to be in full force and effect, and delivered to the Trustee.

“Holder,” “Holder of Securities,” “Securityholder” or any other similar term means the Person in whose name such Security is registered in the security register kept by the Issuer for that purpose in accordance with the terms hereof.

“Indenture” means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder.

“IRS” means the Internal Revenue Service of the United States Department of the Treasury, or any successor entity.

“Issuer” means Constellation Energy Generation, LLC, a Pennsylvania limited liability company, and its successors and assigns.

“Issuer Order” means a written statement, request or order of the Issuer signed in its name by the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary or any other officer or agent of the Issuer, as the case may be, duly authorized by the Governing Body to act in respect of matters relating to this Indenture.

“Non-U.S. Person” means any Person that is not a “U.S. person” as such term is defined in Rule 902 of the Securities Act.

“Officer’s Certificate” means a certificate signed by the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary or any other officer or agent of the Issuer, as the case may be, duly authorized by the Governing Body to act in respect of matters relating to this Indenture. Each such certificate shall comply with Section 314 of the Trust Indenture Act and include the statements provided for in Section 10.5.

“Officer of the Issuer” means the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Chief Accounting Officer, the General Counsel, the Treasurer, any Assistant Treasurer, the Secretary, the Controller, Assistant Secretary or any Vice-President of the Issuer.

“Opinion of Counsel” means an opinion in writing signed by legal counsel who may be an employee of the Issuer or other counsel satisfactory to the Trustee. Each such opinion shall comply with Section 314 of the Trust Indenture Act and include the statements provided for in Section 10.5.

“Original Issue Date” of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

“Original Issue Discount Security” means any Security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1.

“Outstanding” when used with reference to Securities, means, except as otherwise provided in Section 7.4, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except:

(1) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Securities, or portions thereof, for the payment or redemption of which moneys or U.S. Government Obligations (as provided for in Section 9.1) in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer) or shall have been set aside, segregated and held in trust by the Issuer for the Holders of such Securities (if the Issuer shall act as its own paying agent); PROVIDED that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provisions satisfactory to the Trustee shall have been made for giving such notice; and

(3) Securities which shall have been paid or in substitution for which other Securities shall have been authenticated and delivered pursuant to the terms of Section 2.9 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a Person in whose hands such Security is a legal, valid and binding obligation of the Issuer). In determining whether the Holders of the requisite principal amount of Outstanding Securities of any or all series have given any request, demand, authorization, direction, notice, consent or waiver hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purposes shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1.

“Periodic Offering” means an offering of Securities of a series from time to time, the specific terms of which Securities, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Issuer or its agents upon the issuance of such Securities.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“principal” whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include “and premium, if any,” and as to any Original Issue Discount Security means the amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the maturity thereof pursuant to Section 5.1; PROVIDED that such inclusion of premium, if any, shall under no circumstances result in the double counting of such premium for the purpose of any calculation required hereunder.

“record date” shall have the meaning set forth in Section 2.7.

“Registered Global Security” means a Security evidencing all or a part of a series of Registered Securities, issued to the Depository for such series in accordance with Section 2.4, and bearing the legend prescribed in Section 2.4 and any other legend required by the Depository for such series.

“Registered Security” means any Security registered on the Security register of the Issuer.

“Responsible Officer” when used with respect to the Trustee means the officer at the Corporate Trust Office of the Trustee having direct responsibility for administration of this Indenture, or any other officer to whom a matter arising under this Indenture is referred because of his or her knowledge of and familiarity with the particular subject.

“Security” or “Securities” (except as otherwise provided in Section 7.4) has the meaning stated in the first recital of this Indenture.

“Securities Act” means the Securities Act of 1933, as amended.

“Subsidiary” means a corporation or other entity of which at least a majority of the outstanding voting stock or other ownership or economic interests having ordinary voting power to elect a majority of the board of directors (or equivalent body) is held, directly or indirectly, by the Issuer or by one or more of its Subsidiaries, or by the Issuer and one or more of its Subsidiaries. For the purposes of this definition, “voting stock” means stock or other ownership or economic interest which ordinarily has voting power for the election of directors, whether at all times or only so long as no senior class of stock or other ownership or economic interest has such voting power by reason of any contingency.

“Trustee” means the Person identified as “Trustee” in the first paragraph hereof and, subject to the provisions of Article VI, shall also include any successor trustee. “Trustee” shall also mean or include each Person who is then a trustee hereunder, and, if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the trustee with respect to the Securities of such series.

“U.S. Government Obligations” means direct obligations of the United States of America or obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States, which are not callable or redeemable at the option of the issuer thereof.

“Yield to Maturity” means the yield to maturity on a series of Securities, calculated at the time of issuance of such series, or, if applicable, at the most recent redetermination of interest on such series, and calculated in accordance with accepted financial practice.

**ARTICLE II  
SECURITIES**

Section 2.1 Forms Generally. The Securities of each series shall be substantially in such form or forms thereof established in one or more supplemental indentures hereto establishing such series or in one or more Governing Body Resolutions establishing such series, or in one or more Officer's Certificates pursuant to such supplemental indentures or Governing Body Resolutions, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities, as evidenced by their execution of such Securities. The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities as evidenced by their execution of such Securities.

Section 2.2 Form Of Trustee's Certificate Of Authentication. The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

"This is one of the Securities referred to in the within-mentioned Indenture.

[Name of Trustee] Dated: \_\_\_\_\_

By \_\_\_\_\_  
Authorized Signatory"

If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's Certificate of Authentication to be borne by the Securities of each such series shall be substantially as follows:

"This is one of the Securities referred to in the within-mentioned Indenture.  
Dated: \_\_\_\_\_

\_\_\_\_\_  
as Authenticating Agent

By \_\_\_\_\_  
Authorized Signatory"

Section 2.3 Amount Unlimited; Issuable In Series. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to one or more supplemental indentures hereto, Governing Body Resolutions or Officer's Certificates (and to the extent established pursuant to but not set forth in a Governing Body

Resolution, in a supplemental indenture hereto or an Officer's Certificate detailing such establishment), prior to the initial issuance of Securities of any series,

(1) the designation of the Securities of the series, which shall distinguish the Securities of the series from the Securities of all other series, and which may be part of a series of Securities previously issued;

(2) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.8, 2.9, 2.11, 8.5 or 11.3);

(3) the date or dates on which the principal of the Securities of the series is payable;

(4) the rate or rates at which the Securities of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable, the terms and conditions of any deferral of interest and the additional interest, if any, thereon, the right, if any, of the Issuer to extend the interest payment periods and the duration of the extensions and (in the case of Registered Securities) the date or dates on which a record shall be taken for the determination of Holders to whom interest is payable and/or the method by which such rate or rates or date or dates shall be determined;

(5) the place or places where and the manner in which, the principal of and any interest on Securities of the series shall be payable;

(6) the right, if any, of the Issuer to redeem Securities, in whole or in part, at its option and the period or periods within which, or the date or dates on which, the price or prices at which and any terms and conditions upon which Securities of the series may be so redeemed, pursuant to any sinking fund or otherwise;

(7) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a Holder thereof, and the price or prices at which and the period or periods within which or the date or dates on which and any terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(8) if other than minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof;

(9) the percentage of the principal amount at which the Securities will be issued, and, if other than the principal amount thereof, the portion

of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof;

(10) whether the Securities of the series will be issuable as unregistered securities (with or without coupons), any restrictions applicable to the offer, sale or delivery of unregistered securities or the payment of interest thereon and, the terms upon which unregistered securities of any series may be exchanged for Registered Securities of such series and vice versa;

(11) whether and under what circumstances the Issuer will pay additional amounts on the Securities of the series held by a Person who is not a U.S. Person in respect of any tax, assessment or governmental charge withheld or deducted and, if so, whether the Issuer will have the option to redeem the Securities of the series rather than pay such additional amounts;

(12) if the Securities of the series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and terms of such certificates, documents or conditions;

(13) any trustees, depositories, authenticating or paying agents, transfer agents or registrars of any other agents with respect to the Securities of such series;

(14) any deletion from, modification of or addition to the Events of Default or covenants with respect to the Securities of such series; and

(15) any other terms of the series (which terms shall not be inconsistent with the provisions of the Trust Indenture Act, but may modify, amend, supplement or delete any of the terms of this Indenture with respect to such series).

All Securities of any one series shall be substantially identical, except in the case of Registered Securities as to denomination and except as may otherwise be provided by or pursuant to the Governing Body Resolution or Officer's Certificate referred to above. All Securities of any one series need not be issued at the same time and may be issued from time to time, consistent with the terms of this Indenture, if so provided by or pursuant to such Governing Body Resolution or such Officer's Certificate.

Section 2.4 Authentication And Delivery Of Securities. The Issuer may deliver Securities of any series executed by the Issuer to the Trustee for authentication together with the applicable documents referred to below in this Section 2.4, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the order of the Issuer (contained in the Issuer Order referred to below in this Section) or pursuant to such procedures acceptable to the Trustee and to such recipients as may be specified from time to time by an Issuer Order. The maturity date, original issue date, interest rate and any other terms of the Securities of such series shall be



determined by or pursuant to such Issuer Order and procedures. If provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which instructions, if oral, shall be promptly confirmed in writing. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive (in the case of subparagraphs (2), (3) and (4) below only at or before the time of the first request of the Issuer to the Trustee to authenticate Securities of such series) and (subject to Section 6.1) shall be fully protected in relying upon, the following enumerated documents unless and until such documents have been superseded or revoked:

(1) an Issuer Order requesting such authentication and setting forth delivery instructions if the Securities are not to be delivered to the Issuer; PROVIDED that, with respect to Securities of a series subject to a Periodic Offering, (a) such Issuer Order may be delivered by the Issuer to the Trustee prior to the delivery to the Trustee of such Securities for authentication and delivery, (b) the Trustee shall authenticate and deliver Securities of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount established for such series, pursuant to an Issuer Order or pursuant to procedures acceptable to the Trustee as may be specified from time to time by an Issuer Order, (c) the maturity date or dates, original issue date or dates, interest rate or rates and any other terms of Securities of such series shall be determined by an Issuer Order or pursuant to such procedures and (d) if provided for in such procedures, such Issuer Order may authorize authentication and delivery pursuant to oral or electronic instructions from the Issuer or its duly authorized agent or agents, which instructions, if oral, shall be promptly confirmed in writing;

(2) any supplemental indenture hereto, Governing Body Resolution and/or Officer's Certificate referred to in Section 2.1 and 2.3 by or pursuant to which the forms and terms of the Securities were established;

(3) an Officer's Certificate setting forth the form or forms and terms of the Securities stating that the form or forms and terms of the Securities have been established pursuant to Sections 2.1 and 2.3 and comply with this Indenture, and covering such other matters as the Trustee may reasonably request; and

(4) At the option of the Issuer, either one or more Opinions of Counsel complying with Section 10.5, or a letter addressed to the Trustee permitting it to rely on one or more Opinions of Counsel complying with Section 10.5.

In rendering such opinions, such counsel may rely upon opinions of other counsel (copies of which shall be delivered to the Trustee) reasonably satisfactory to the Trustee, in which case the opinion shall state that counsel believes that counsel and the Trustee are entitled so to rely. Such counsel may also state that, insofar as such opinion involves factual matters, counsel has

relied, to the extent he deems proper, upon certificates of officers of the Issuer and its Subsidiaries and certificates of public officials.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section 2.4 if the Trustee shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's own rights, duties or immunities under the Securities, this Indenture or otherwise.

If the Issuer shall establish pursuant to Section 2.3 that the Securities of a series are to be issued in the form of one or more Registered Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the Issuer Order with respect to such series, authenticate and deliver one or more Registered Global Securities that (i) shall represent and shall be denominated in an amount equal to the aggregate principal amount of all of the Securities of such series issued and not yet canceled, (ii) shall be registered in the name of the Depository for such Registered Global Security or Securities or the nominee of such Depository, (iii) shall be delivered by the Trustee to such Depository or delivered or held pursuant to such Depository's instructions and (iv) shall bear a legend substantially to the following effect: "Unless and until it is exchanged in whole or in part for Securities in definitive registered form, this Security may not be transferred except as a whole by the Depository to the nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository."

Each Depository designated pursuant to Section 2.3 must, at the time of its designation and at all times while it serves as Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

Section 2.5 Execution Of Securities. The Securities shall be signed on behalf of the Issuer by an Officer of the Issuer, and may be, but need not be, under its corporate seal which may, but need not, be attested. Such signatures may be manual signatures, facsimiles, or Electronic Signatures, and may be delivered by telecopier, facsimile or other electronic transmission (e.g. a "pdf" or "tif"). The seal of the Issuer may be in the form of a facsimile thereof and may be impressed, affixed, imprinted or otherwise reproduced on the Securities. Typographical and other minor errors or defects in any such reproduction of the seal or any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any Officer of the Issuer who shall have signed any of the Securities shall cease to be such officer before the Security so signed shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security nevertheless may be authenticated and delivered or disposed of as though the Person who signed such Security had not ceased to be such Officer of the Issuer; and any Security may be signed on behalf of the Issuer by such Persons as, at the actual date of the execution of such Security shall be the proper Officers of the Issuer, although at the date of the execution and delivery of this Indenture any such Person was not such an officer.

Section 2.6 Certificate Of Authentication. Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the signature of its authorized officers (including, manual signatures, facsimiles, or Electronic Signatures), which may be delivered by telecopier, facsimile or other electronic transmission (e.g. a “pdf” or “tif”, which shall be effective as delivery of a manually executed counterpart thereof) shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. The execution of such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

Section 2.7 Denomination And Date Of Securities; Payment Of Interest. Unless otherwise provided in Section 2.3, the Securities of each series shall be issuable as Registered Securities in minimum denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof. The Securities of each series shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee, as evidenced by the execution and authentication thereof.

Each Registered Security shall be dated the date of its authentication. The Securities of each series shall bear interest, if any, from the date, and such interest shall be payable on the dates, established as contemplated by Section 2.3.

The Person in whose name any Registered Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Registered Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the Persons in whose names Outstanding Registered Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer to the Holders of Registered Securities not less than 15 days preceding such subsequent record date. The term “record date” as used with respect to any interest payment date (except a date for payment of defaulted interest) for the Securities of any series shall mean the date specified as such in the terms of the Registered Securities of such series established as contemplated by Section 2.3, or, if no such date is so established, if such interest payment date is the first day of a calendar month, the fifteenth day of the preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day. Except as the Issuer and the Trustee may agree otherwise agree, the Issuer shall promptly file with the Trustee following the end of each calendar year a written notice specifying the amount of original issue discount accrued on the Outstanding Original Issue Discount Securities for the previous calendar year, including daily rates and accrual periods, and such other information relating to original issue discount as may be required under the Internal Revenue Code of 1986 and applicable regulations, as amended from time to time.

Section 2.8 Registration, Transfer And Exchange. The Issuer will keep at each office or agency to be maintained for the purpose as provided in Section 3.2 for each series of Securities a register or registers in which, subject to such reasonable regulations as the Issuer may prescribe, it will provide for the registration of Registered Securities of such series and the registration of transfer of Registered Securities of such series. Such register shall be in written form in the English language or in any other form capable of being converted into such form within a reasonable time. At all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Registered Security of any series at any such office or agency to be maintained for the purpose as provided in Section 3.2, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Registered Security or Registered Securities of the same series, maturity date, interest rate and original issue date in authorized denominations for a like aggregate principal amount.

At the option of the Holder thereof, Registered Securities of any series (other than a Registered Global Security, except as set forth below) may be exchanged for a Registered Security or Registered Securities of such series having authorized denominations and an equal aggregate principal amount, upon surrender of such Registered Securities to be exchanged at the agency of the Issuer that shall be maintained for such purpose in accordance with Section 3.2 and upon payment, if the Issuer shall so require, of the charges hereinafter provided. Whenever any Securities are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities surrendered upon any exchange or transfer provided for in this Indenture shall be promptly cancelled and disposed of by the Trustee, and the Trustee shall deliver a certificate of disposition thereof to the Issuer.

All Registered Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer or the Trustee) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Trustee duly executed, by the Holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days preceding the first mailing of notice of redemption of Securities of such series to be redeemed or (b) any Securities selected, called or being called for redemption, in whole or in part, except, in the case of any Security to be redeemed in part, the portion thereof not so to be redeemed.

Notwithstanding any other provision of this Section 2.8, unless and until it is exchanged in whole or in part for Securities in definitive registered form, a Registered Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depository for such series to a nominee of such Depository or by a nominee of such

Depository to such Depository or another nominee of such Depository or by such Depository or any such nominee to a successor Depository for such series or a nominee of such successor Depository. The Issuer and the Trustee may treat the Depository (or its nominee) as the sole and exclusive owner of the Securities registered in its name for the purposes of payment of the principal of or interest on the Securities, giving any notice permitted or required to be given to registered owners under this Indenture, registering the transfer of Securities, obtaining any consent or other action to be taken by registered owners and for all other purposes whatsoever; and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. Neither the Issuer nor the Trustee shall have any responsibility or obligation to any participant in the Depository, any Person claiming a beneficial ownership interest in the Bonds under or through the Depository or any such participant, or any other Person which is not shown on the register as being a registered owner, with respect to either: (1) the Securities; (2) the accuracy of any records maintained by the Depository or any such participant; (3) the payment by the Depository or any such participant of any amount in respect of the principal of or interest on the Securities; (4) any notice which is permitted or required to be given to registered owners under this Indenture; (5) any consent given or other action taken by the Depository as registered owner; or (6) any selection by the Depository of any participant or other Person to receive payment of principal or interest on the Securities.

If at any time, the Depository for any Registered Securities of a series represented by one or more Registered Global Securities notifies the Issuer that it is unwilling or unable to continue as Depository for such Registered Securities or, if at any time, the Depository for such Registered Securities shall no longer be eligible under Section 2.4, the Issuer shall appoint a successor Depository eligible under Section 2.4 with respect to such Registered Securities. If a successor Depository eligible under Section 2.4 for such Registered Securities is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility, the Issuer's election pursuant to Section 2.3 that such Registered Securities be represented by one or more Registered Global Securities shall no longer be effective and the Issuer will execute, and the Trustee, upon receipt of an Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities in exchange for such Registered Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Registered Securities of any series issued in the form of one or more Registered Global Securities shall no longer be represented by a Registered Global Security or Securities. In such event, the Issuer will execute, and the Trustee, upon receipt of any Officer's Certificate for the authentication and delivery of definitive Securities of such series, will authenticate and deliver, Securities of such series in definitive registered form in any authorized denominations, in an aggregate principal amount equal to the principal amount of the Registered Global Security or Securities representing such Registered Securities, in exchange for such Registered Global Security or Securities.

If specified by the Issuer pursuant to Section 2.3 with respect to Securities represented by a Registered Global Security, the Depository for such Registered Global Security may surrender such Registered Global Security in exchange in whole or in part for Securities of the same series in definitive registered form on such terms as are acceptable to the Issuer and such Depository.

Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge:

(i) to the Person specified by such Depository a new Registered Security or Securities of the same series, of any authorized denominations as requested by such Person, in an aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Registered Global Security; and

(ii) to such Depository a new Registered Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Registered Global Security and the aggregate principal amount of Registered Securities authenticated and delivered pursuant to clause (i) above.

Upon the exchange of a Registered Global Security for Securities in definitive registered form in authorized denominations, such Registered Global Security shall be cancelled by the Trustee or an agent of the Issuer or the Trustee. Securities in definitive registered form issued in exchange for a Registered Global Security pursuant to this Section 2.8 shall be registered in such names and in such authorized denominations as the Depository for such Registered Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee or an agent of the Issuer or the Trustee. The Trustee or such agent shall deliver such Securities to or as directed by the Persons in whose names such Securities are so registered.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

Section 2.9 Mutilated, Defaced, Destroyed, Lost And Stolen Securities. In case any temporary or definitive Security shall be mutilated, defaced, destroyed, lost or stolen, the Issuer in its discretion may execute and, upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver, a new Security of the same series, maturity date, interest rate and original issue date, bearing a number or other distinguishing symbol not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case, the applicant for a substitute Security shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof, and in the case of mutilation or defacement shall surrender the Security to the Trustee or such agent.

Upon the issuance of any substitute Security, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) or its agent connected therewith. In case any Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Security), if the applicant for such

payment shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Issuer and the Trustee and any agent of the Issuer or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

Every substitute Security of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities of such series duly authenticated and delivered hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 2.10 Cancellation Of Securities; Destruction Thereof. All Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous fund, if any, if surrendered to the Issuer or any agent of the Issuer or the Trustee or any agent of the Trustee, shall be delivered to the Trustee or its agent for cancellation or, if surrendered to the Trustee, shall be canceled by it; and no Securities shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee or its agent shall dispose of canceled Securities held by it and, upon written request therefore, shall deliver a certificate of disposition to the Issuer. If the Issuer or its agent shall acquire any of the Securities, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee or its agent for cancellation.

Section 2.11 Temporary Securities. Pending the preparation of definitive Securities for any series, the Issuer may execute and the Trustee shall authenticate and deliver temporary Securities for such series (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any series shall be issuable as Registered Securities without coupons of any authorized denomination, and substantially in the form of the definitive Securities of such series but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Issuer with the concurrence of the Trustee as evidenced by the execution and authentication thereof. Temporary Securities may contain such references to any provisions of this Indenture as may be appropriate. Every temporary Security shall be executed by the Issuer and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities. Without unreasonable delay, the Issuer shall execute and shall furnish definitive Securities of such series and thereupon temporary Registered Securities of such series may be surrendered in exchange therefor without charge at each office or agency to be maintained by the Issuer for that purpose pursuant to Section 3.2 and the Trustee shall authenticate and deliver in exchange for such temporary Securities of such series an equal aggregate principal amount of

definitive Securities of the same series having authorized denominations. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as definitive Securities of such series, unless otherwise established pursuant to Section 2.3.

### **ARTICLE III COVENANTS OF THE ISSUER**

Section 3.1 Payment Of Principal And Interest. The Issuer covenants and agrees for the benefit of each series of Securities that it will duly and punctually pay or cause to be paid the principal of (and premium, if any), and interest on, each of the Securities of such series (together with any additional amounts payable pursuant to the terms of such Securities) at the place or places, at the respective time or times and in the manner provided in such Securities in this Indenture. The interest, if any, on Registered Securities (together with any additional amounts payable pursuant to the terms of such Securities) shall be payable only to or upon the written order of the Holders thereof and, at the option of the Issuer, may be paid by wire transfer or by mailing checks for such interest payable to or upon the written order of such Holders at their last addresses as they appear on the Securities register of the Issuer.

Section 3.2 Offices For Payments, Etc. So long as any Registered Securities (other than Global Registered Securities) are authorized for issuance pursuant to this Indenture or are outstanding hereunder, the Issuer will maintain in New York, an office or agency where the Registered Securities of each series may be presented for payment, where the Securities of each series may be presented for exchange as is provided in this Indenture and, if applicable, pursuant to Section 2.3 and where the Registered Securities of each series may be presented for registration of transfer as in this Indenture provided. Notices and demands to or upon the Issuer in respect of the Securities of any series or this Indenture may be served on the Issuer at the corporate trust office of the Trustee.

The Issuer will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. In case the Issuer shall fail to maintain any agency required by this Section to be located in New York, or shall fail to give such notice of the location or for any change in the location of any of the above agencies, presentations and demands may be made and notices may be served at the Corporate Trust Office of the Trustee.

The Issuer may from time to time designate one or more additional offices or agencies where the Securities of a series may be presented for payment, where the Securities of that series may be presented for exchange as provided in this Indenture and pursuant to Section 2.3 and where the Registered Securities of that series may be presented for registration of transfer as in this Indenture provided, and the Issuer may from time to time rescind any such designation, as the Issuer may deem desirable or expedient; PROVIDED that no such designation or rescission shall in any manner relieve the Issuer of its obligations to maintain the agencies provided for in this Section. The Issuer shall give to the Trustee prompt written notice of any such designation or rescission thereof.

Section 3.3 Appointment To Fill A Vacancy In Office Of Trustee. The Issuer, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided



in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

Section 3.4 Paying Agents. Whenever the Issuer shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(a) that it will hold all sums received by it as such agent for the payment of the principal of (and premium, if any) or interest on the Securities of such series (whether such sums have been paid to it by the Issuer or by any other obligor on the Securities of such series) in trust for the benefit of the Holders of the Securities of such series or of the Trustee;

(b) that it will give the Trustee notice of any failure by the Issuer (or by any other obligor on the Securities of such series) to make any payment of the principal of (and premium, if any) or interest on the Securities of such series when the same shall be due and payable; and

(c) that it will pay any such sums so held in trust by it to the Trustee upon the Trustee's written request at any time during the continuance of the failure referred to in the foregoing clause (b).

The Issuer will, on or prior to each due date of the principal of (and premium, if any) or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer will promptly notify the Trustee of any failure to take such action.

If the Issuer shall act as its own paying agent with respect to the Securities of any series, it will, on or before each due date of the principal of (and premium, if any) or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the Holders of the Securities of such series a sum sufficient to pay such principal (and premium, if any) or interest so becoming due. The Issuer will promptly notify the Trustee of any failure to take such action.

Anything in this Section to the contrary notwithstanding, but subject to Section 9.1, the Issuer may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Sections 9.3 and 9.4.

Section 3.5 Compliance Certificates. The Issuer will furnish to the Trustee on or before January 31 in each year (beginning with January 31, 2023 or any subsequent calendar year following the year in which Securities are first issued) a brief certificate (which need not comply with Section 10.5) from the principal executive, financial or accounting officer of the Issuer stating that in the course of the performance by the signer of his or her duties as an officer of the Issuer

he or she would normally have knowledge of any default or non-compliance by the Issuer in the performance of any covenants or conditions contained in this Indenture, stating whether or not he or she has knowledge of any such default or non-compliance and, if so, describing each such default or non-compliance of which the signer has knowledge and the nature of such default or non-compliance.

Section 3.6 Corporate Existence. Except as provided in Section 3.7, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate or other legal existence.

Section 3.7 The Issuer May Not Merge.

(a) The Issuer shall not merge or consolidate with any other Person or sell substantially all of its assets as an entirety, unless:

(i) the Issuer is the continuing corporation or the Person into which the Issuer is merged or formed by such consolidation or the Person which acquires by sale substantially all of the Issuer's assets as an entirety, shall be organized under the laws of the United States or a state or is organized under the laws of a foreign jurisdiction and consents to the jurisdiction of the courts of the United States or a state and expressly assumes, by an indenture supplemental hereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the payment of principal, and premium, if any, and interest on the debt securities and the performance and observance of all the covenants and conditions of this Indenture binding on the Issuer; and

(ii) the Issuer or the Person into which the Issuer is merged or formed by such consolidation or the Person which acquires by sale substantially all of the Issuer's assets as an entirety, is not immediately prior to or after the merger, consolidation or sale in an Event of Default.

(b) Upon any merger into, or consolidation of the Issuer with, any other Person or any sale of substantially all of the assets of the Issuer as an entirety in accordance with Section 3.7(a), the successor Person into which the Issuer is merged or formed by such consolidation or to which such sale is made shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture with the same effect as if such successor Person had been named as the Issuer herein, and thereafter the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Securities.

#### **ARTICLE IV SECURITYHOLDER LISTS AND REPORTS BY THE ISSUER AND THE TRUSTEE**

Section 4.1 Issuer To Furnish Trustee Information As To Names And Addresses Of Securityholders. If and so long as the Trustee shall not be the Security registrar for the Securities of any series, the Issuer and any other obligor on the Securities will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses

of the Holders of the Registered Securities of such series pursuant to Section 312 of the Trust Indenture Act:

(a) semi-annually not more than 5 days after each record date for the payment of interest on such Registered Securities, as hereinabove specified, as of such record date and on dates to be determined pursuant to Section 2.3 for non-interest bearing Registered Securities in each year; and

(b) at such other times as the Trustee may reasonably request in writing, within 30 days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished.

Section 4.2 Reports By The Trustee. Not later than March 31, in each year, commencing March 31, 2022, the Trustee shall transmit to the Holders, the Commission and each securities exchange upon which any Securities are listed, a report, dated as of the next preceding January 1, with respect to any events and other matters described in Section 313(a) of the Trust Indenture Act, in such manner and to the extent required by the Trust Indenture Act. The Trustee shall transmit to the Holders, the Commission and each securities exchange upon which any Securities are listed, and the Issuer, as the case requires, shall file with the Trustee (within 15 days after filing with the Commission in the case of reports which pursuant to the Trust Indenture Act must be filed with the Commission and furnished to the Trustee) and transmit to the Holders, such other information, reports and other documents, if any, at such times and in such manner, as shall be required by the Trust Indenture Act. The Issuer shall notify the Trustee of the listing of any Securities on any securities exchange or of the delisting thereof.

Upon the written request and at the expense of and payable in advance by any Securityholder, the Trustee shall provide such reports, information or documents as have been provided to it under this Section 4.2. The Trustee shall not have any obligation to review any report, information or documents provided to the Trustee by the Issuer pursuant to this Section 4.2, nor shall the Trustee be deemed to have notice of any item contained therein or Event of Default which may be disclosed therein in any manner. The Trustee's sole responsibility with respect to such reports shall be to act as the depository for such report for the Securityholders and to make such reports available to the Securityholders in accordance with this Section 4.2. The Trustee shall have no duty to request copies of any such reports, information or documents which are required to be furnished to it hereunder. Delivery of any reports, information and documents to the Trustee, including pursuant to Section 4.2, is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants pursuant to Article 4 (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

**ARTICLE V**  
**REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF**  
**DEFAULT**

Section 5.1 Event Of Default Defined, Acceleration Of Maturity; Waiver Of Default. “Event of Default” with respect to Securities of any series, wherever used herein, means any one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any installment of interest upon any of the Securities of such series as and when the same shall become due and payable, and continuance of such default for a period of 60 days; PROVIDED that a valid extension of an interest payment period by the Issuer in accordance with the terms of such Securities shall not constitute a failure to pay interest;

(b) default in the payment of all or any part of the principal or premium (if any) on any of the Securities of such series as and when the same shall become due and payable either at maturity, upon any redemption, by declaration or otherwise;

(c) default in the payment of any sinking fund installment as and when the same shall become due and payable by the terms of the Securities of such series;

(d) failure on the part of the Issuer duly to observe or perform any other of the covenants or agreements on the part of the Issuer in the Securities of such series or contained in this Indenture (other than a covenant or agreement included in this Indenture solely for the benefit of a series of Securities other than such series) for a period of 60 days after the date on which written notice specifying such failure, stating that such notice is a “Notice of Default” hereunder and demanding that the Issuer remedy the same, shall have been given by registered or certified mail, return receipt requested, to the Issuer by the Trustee, or to the Issuer and the Trustee by the holders of at least 25% in aggregate principal amount of the Outstanding Securities of the series to which such covenant or agreement relates;

(e) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Issuer for any substantial part of its or their property or ordering the winding up or liquidation of its or their affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days;

(f) the Issuer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar

official) of the Issuer or for any substantial part of its or their property, or make any general assignment for the benefit of creditors; or

(g) any other Event of Default provided in the Governing Body Resolution, supplemental indenture, or Officer's Certificate under which such series of Securities is issued or in the form of Security for such series.

If an Event of Default described in clause (a), (b) or (c) occurs and is continuing, then, and in each and every such case, except for any series of Securities the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of each such affected series then Outstanding hereunder (each such series voting as a separate class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of such series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such series, and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

Except as otherwise provided in the terms of any series of Securities pursuant to Section 2.3, if an Event of Default described in clause (d) or (g) above with respect to all series of the Securities then Outstanding, occurs and is continuing, then, and in each and every such case, unless the Principal of all of the Securities shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all of the Securities then Outstanding hereunder (treated as one class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all of the Securities then Outstanding, and the interest accrued thereon, if any, to be due and payable immediately, and upon such declaration, the same shall become immediately due and payable.

If an Event of Default described in clause (d) or (g) occurs and is continuing, which Event of Default is with respect to less than all series of Securities then Outstanding, then, and in each and every such case, except for any series of Securities the principal of which shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of each such affected series then Outstanding hereunder (each such series voting as a separate class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal (or, if the Securities of such series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) of all Securities of such series, and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

If an Event of Default described in clause (e) or (f) above occurs and is continuing, then the principal amount of all the Securities then Outstanding, and the interest accrued thereon, if any, shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

The foregoing provisions are subject to the condition that if, at any time after the principal (or, if the Securities are Original Issue Discount Securities, such portion of the principal as may be specified in the terms thereof) of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall pay or shall deposit with the Trustee a sum sufficient to pay

(i) all matured installments of interest upon all the Securities of such series (or all the Securities, as the case may be); and

(A) the principal of any and all Securities of such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration; and

(B) interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series (or at the respective rates of interest or Yields to Maturity of all the Securities, as the case may be) to the date of such payment or deposit; and

(C) all amounts payable to the Trustee pursuant to Section 6.6; and

(ii) all Events of Default under this Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein, then and in every such case the Holders of a majority, or any applicable supermajority, in aggregate principal amount of all the Securities of such series voting as a separate class (or all the Securities, as the case may be, voting as a single class), then Outstanding, by written notice to the Issuer and to the Trustee, may waive all defaults with respect to such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

Section 5.2 Collection Of Indebtedness By Trustee; Trustee May Prove Debt. The Issuer covenants that (a) in case default shall be made in the payment of any installment of interest on any of the Securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days, or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise, then upon demand of the Trustee, the Issuer will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series, for principal and interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and such other amount due the Trustee under Section 6.6 in respect of Securities of such series.

Until such demand is made by the Trustee, the Issuer may pay the principal of and interest on the Securities of any series to the registered Holders, whether or not the Securities of such series be overdue.

In case the Issuer shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or other obligor upon the Securities and collect in the manner provided by law out of the property of the Issuer or other obligor upon the Securities, wherever situated, all the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or its property or such other obligor, or in case of any other comparable judicial proceedings relative to the Issuer or other obligor upon the Securities, or to the creditors or property of the Issuer or such other obligor, the Trustee, irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal and interest (or, if the Securities of any series are Original Issue Discount Securities, such portion of the principal amount as may be specified in the terms of such series) owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for amounts payable to the Trustee under Section 6.6) and of the Securityholders allowed in any judicial proceedings

relative to the Issuer or other obligor upon the Securities, or to the creditors or property of the Issuer or such other obligor; and

(b) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a receiver, assignee, trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings, custodian or other Person performing similar functions in respect of any such proceedings; and

(c) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official performing similar functions in respect of any such proceedings is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee its costs and expenses of collection and all other amounts due to it pursuant to Section 6.6.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding, except as aforesaid in clause (b).

All rights of action and of asserting claims under this Indenture, or under any of the Securities of any series may be enforced by the Trustee without the possession of any of the Securities of such series or the production thereof in any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be awarded to the Trustee for ratable distribution to the Holders of the Securities in respect of which such action was taken, after payment of all sums due to the Trustee under Section 6.6 in respect of such Securities.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party), the Trustee shall be held to represent all the Holders of the Securities in respect to which such action was taken, and it shall not be necessary to make any Holders of such Securities parties to any such proceedings.

Section 5.3 Application Of Proceeds. Any moneys collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal or interest, upon presentation of the several Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:



FIRST: To the payment of costs and expenses applicable to such series of Securities in respect of which monies have been collected, including all amounts due or reasonably anticipated to become due to the Trustee and each predecessor Trustee pursuant to Section 6.6 in respect to such series of Securities;

SECOND: In case the principal of the Securities of such series in respect of which moneys have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments on such interest, with interest (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in such Securities, such payments to be made ratably to the Persons entitled thereto, without discrimination or preference;

THIRD: In case the principal of the Securities of such series in respect of which moneys have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the same rate as the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) specified in the Securities of such series; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest or Yield to Maturity, without preference or priority of principal over interest or Yield to Maturity, or of interest or Yield to Maturity over principal, or of any installment of interest over any other installment of interest or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest or Yield to Maturity; and

FOURTH: To the payment of the remainder, if any, to the Issuer or any other Person lawfully entitled thereto. The Trustee may fix a record date and payment date for any payment to Holders.

Section 5.4 Suits For Enforcement. In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 5.5 Restoration Of Rights On Abandonment Of Proceedings. In case the Trustee or any Holder of any Security shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Trustee and the Holders of Securities shall be restored severally and respectively to

their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

Section 5.6 Limitations On Suits By Securityholders. No Holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture or such Security, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder or thereunder, unless (a) such Holder previously shall have given to the Trustee written notice of an Event of Default with respect to Securities of such series and of the continuance thereof, as hereinbefore provided, (b) the Holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as Trustee hereunder and shall have offered to the Trustee such reasonable indemnity or security as it may require against the costs, expenses and liabilities to be incurred therein or thereby, (c) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity or security shall have failed to institute any such action or proceeding, and (d) no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.9; it being understood and intended, and being expressly covenanted by the Holder of every Security with every other Holder and the Trustee, that no one or more Holders of Securities of any series shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture or any Security to affect, disturb or prejudice the rights of any other such Holder of Securities or to obtain or seek to obtain priority over or preference to any other such Holder or to enforce any right under this Indenture or any Security, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 5.7 Unconditional Right Of Securityholders To Institute Certain Suits. Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security to receive payment of the principal of and interest on such Security on or after the respective due dates expressed in such Security or the applicable redemption dates provided for in such Security, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 5.8 Powers And Remedies Cumulative; Delay Or Omission Not Waiver Of Default. Except as provided in Section 5.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities is intended to be exclusive of any other right or remedy and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of Securities to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an

acquiescence therein. Every power and remedy given by this Indenture, any Security or law to the Trustee or to the Holders of Securities may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or, subject to Section 5.6, by the Holders of Securities.

Section 5.9 Control By Holders Of Securities. The Holders of a majority in aggregate principal amount of the Securities of each series affected (with each such series voting as a separate class) at the time Outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; PROVIDED that such Holders shall have offered to the Trustee such reasonable indemnity as it may require against costs, expenses and liabilities to be incurred therein or thereby; and PROVIDED, FURTHER, that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture; and PROVIDED, FURTHER, that (subject to the provisions of Section 6.1) the Trustee shall have the right to decline to follow any such direction if (a) the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken; or (b) if the Trustee shall determine in good faith that the action or proceedings so directed would involve the Trustee in personal liability; or (c) if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all affected series not joining in the giving of said direction, it being understood that (subject to Section 6.1) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

Section 5.10 Waiver Of Past Defaults. Prior to the declaration of acceleration of the Securities of any series as provided in Section 5.1, the Holders of a majority in aggregate principal amount of the Securities of such series at the time Outstanding (voting as a single class) may on behalf of the Holders of all such Securities waive any past default or Event of Default described in Section 5.1 and its consequences, except (i) in the payment of the principal of or premium, if any, or interest if any, on or any additional amounts payable in respect of any security of that series or (ii) a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected. In the case of any such waiver, the Issuer, the Trustee and the Holders of all such Securities shall be restored to their former positions and rights hereunder, respectively, and such default shall cease to exist and be deemed to have been cured and not to have occurred for purposes of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 5.11 Trustee To Give Notice Of Default, But May Withhold In Certain Circumstances. The Trustee shall, within 90 days after the occurrence of a default with respect to the Securities of any series, give notice of all defaults with respect to that series known to a Responsible Officer or the Trustee to all Holders of Securities of such series in the manner and to the extent provided in Section 313(c) of the Trust Indenture Act, unless in each case such defaults shall have been cured before the mailing or publication of such notice (the term "default" for the

purpose of this Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); PROVIDED that, except in the case of default in the payment of the principal of or interest on any of the Securities of such series, or in the payment of any sinking fund installment on such series, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

Section 5.12 Waiver of Stay or Extension Laws. The Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force which may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 5.13 Right Of Court To Require Filing Of Undertaking To Pay Costs. All parties to this Indenture agree, and each Holder of any Security by his or her acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Securityholder or group of Securityholders of any series holding in the aggregate more than 10% in aggregate principal amount of the Securities of such series, or, in the case of any suit relating to or arising under clause (d) or (g) of Section 5.1 (if the suit relates to Securities of more than one but less than all series), 10% in aggregate principal amount of Securities then Outstanding and affected thereby, or in the case of any suit relating to or arising under clause (d) or (g) (if the suit under clause (d) or (g) relates to all the Securities then Outstanding) or (e) or (f) of Section 5.1, 10% in aggregate principal amount of all Securities then Outstanding, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security or any date fixed for redemption.

## **ARTICLE VI CONCERNING THE TRUSTEE**

Section 6.1 Duties And Responsibilities Of The Trustee; During Default; Prior To Default. Prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture with respect to such series of Securities. In case an Event of Default with respect to the Securities of a series has occurred and has not been cured or waived, and the Trustee has written notice or actual knowledge of such event, the Trustee shall, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs.

The Trustee will be under no obligation to exercise any of its rights or powers at the request of any holder of Securities, unless such holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense. .

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of gross negligence or willful misconduct on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders pursuant to Section 5.9 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or in accordance with the direction of a majority of the Outstanding Securities in exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability under any circumstances.

The provisions of this Section 6.1 are in furtherance of and subject to Section 315 of the Trust Indenture Act.

Section 6.2 Certain Rights Of The Trustee. In furtherance of and subject to the Trust Indenture Act, and subject to Section 6.1:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Governing Body Resolution, Officer's Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof is specifically prescribed herein or in the terms established in respect of any series); and any resolution of the Governing Body shall be evidenced by a Governing Body Resolution;

(c) the Trustee may consult with counsel and any written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in reliance thereon in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture at the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity satisfactory to it in its sole discretion against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, bond, debenture, note, coupon, security or other paper or document unless (i) requested in writing so to do by the Holders of not less than a majority in aggregate principal amount of the Securities of all series affected then Outstanding (treated as one class) or (ii) otherwise provided in the terms of any series of Securities pursuant to Section 2.3; PROVIDED that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity or security against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Issuer or, if paid by the Trustee or any predecessor trustee, shall be repaid by the Issuer upon demand;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder;

(h) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(j) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture; and

(k) the Trustee shall not be charged with knowledge of any Event of Default with respect to the Securities of any series for which it is acting as Trustee unless a Responsible Officer of the Trustee shall have received actual written notice of such Event of Default by the Company or any other obligor on such Securities or by any Holder of such Securities.

Section 6.3 Trustee Not Responsible For Recitals, Disposition Of Securities Or Application Of Proceeds Thereof. The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof. The Trustee shall incur no liability for any performance failure or delay of any obligation hereunder if such failure or delay arises from or is caused by, directly or indirectly, acts of God, war, terrorism, fire, floods, pandemics, epidemic, strikes, electrical outages, equipment or transmission failures, or other causes reasonably beyond its control; it being understood that the Trustee shall use commercially reasonable efforts consistent with accepted practices for corporate trustees to resume performance as soon as reasonably practicable under the circumstances.

Section 6.4 Trustee And Agents May Hold Securities; Collections, Etc. The Trustee or any agent of the Issuer or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not the Trustee or such agent and may otherwise deal with the Issuer and receive, collect, hold and retain collections from the Issuer with the same rights it would have if it were not the Trustee or such agent.

Section 6.5 Held By Trustee. Subject to the provisions of Section 9.4, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any moneys received by it hereunder.

Section 6.6 Compensation And Indemnification Of Trustee And Its Prior Claim. The Issuer covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be

entitled to reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) and the Issuer covenants and agrees to pay or reimburse the Trustee and each predecessor trustee upon its request for all documented expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including the documented compensation and the expenses and disbursements of its counsel and of all agents and other Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Issuer also covenants to indemnify the Trustee and each predecessor trustee (and their respective directors, officers, agents and employees) for, and to hold them harmless against, any loss, liability, fine, penalty or expense (including out-of-pocket and incidental expenses and legal fees) incurred without gross negligence or willful misconduct on their part as determined by a court of competent jurisdiction, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including, in each case, the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer under this Section to compensate and indemnify the Trustee and each predecessor trustee (and their respective directors, officers, agents and employees) and to pay or reimburse the Trustee and each predecessor trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Securities and the Securities are hereby subordinated to such senior claim. The Trustee shall have a lien prior to the Securities as to all property and funds held by it hereunder for any amount owing it or any predecessor Trustee pursuant to this Section 6.6, except with respect to funds held in trust for the benefit of the Holders of particular Securities.

Section 6.7 Right Of Trustee To Rely On Officer's Certificate, Etc. Subject to Sections 6.1 and 6.2, whenever in the administration of the trusts of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such certificate, in the absence of gross negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 6.8 Indentures Not Creating Potential Conflicting Interests For The Trustee. This Indenture is hereby specifically described for the purposes of Section 310(b)(1)(i) of the Trust Indenture Act with respect to series of Securities that are of an equal priority.

Section 6.9 Qualification Of Trustee; Conflicting Interests. The Trustee shall comply with Section 310(b) of the Trust Indenture Act. Subject to compliance with the Trust Indenture Act, the Trustee and its affiliates, may also engage in or be interested in any financial or other transaction with the Issuer and may act as depository, trustee or agent for any committee of Holder or other obligations of the Issuer as freely as if it were not Trustee.



Section 6.10 Persons Eligible For Appointment As Trustee. The Trustee for each series of Securities hereunder shall at all times be a corporation or banking association organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, having a combined capital and surplus of at least \$50,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by Federal, state or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.11.

The provisions of this Section 6.10 are in furtherance of and subject to Section 310(a) of the Trust Indenture Act.

Section 6.11 Resignation And Removal; Appointment Of Successor Trustee.

(a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving 30 days' prior written notice of resignation to the Issuer and by mailing notice of such resignation to the Holders of then Outstanding Registered Securities of each series affected at their addresses as they shall appear on the registry books. Upon receiving such notice of resignation, the Issuer shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed by authority of the Governing Body, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.13, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 310(b) of the Trust Indenture Act with respect to any series of Securities after written request therefor by the Issuer or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.10 hereof and Section 310(a) of the Trust Indenture Act and shall fail to resign after written request therefor by the Issuer or by any Securityholder; or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged bankrupt or insolvent, or a receiver or liquidator of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Issuer may upon 10 days' prior written notice to the Trustee remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed by order of the Governing Body of the Issuer, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 315(e) of the Trust Indenture Act, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and so prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence as of the action in that regard taken by the Securityholders as provided for in Section 7.1.

(d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.11 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.12.

Section 6.12 Acceptance Of Appointment By Successor Trustee. Any successor trustee appointed as provided in Section 6.11 shall execute and deliver to the Issuer and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 9.4, pay over to the successor trustee all moneys at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.6.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, the predecessor trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees as co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.12 unless at the time of such acceptance such successor trustee shall be qualified under Section 310(b) of the Trust Indenture Act and eligible under the provisions of Section 6.10.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.12, the Issuer shall give notice thereof to the Holders of Registered Securities of each series affected by mailing such notice to such Holders at their addresses as they shall appear on the registry books. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.11. If the Issuer fails to give such notice within 10 days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Issuer.

**Section 6.13 Merger, Conversion, Consolidation Or Succession To Business Of Trustee.** Any corporation, association or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation, association or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation, association or other entity succeeding to the corporate trust business of the Trustee, (including by sale or transfer of all or substantially all of its corporate trust assets) shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding; PROVIDED that such corporation, association or other entity shall be qualified under Section 310(b) of the Trust Indenture Act and eligible under the provisions of Section 6.10.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any such successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate of authentication shall have the full force which under this Indenture or the Securities of such series it is provided that the certificate of authentication of the Trustee shall have; PROVIDED that the right to adopt the certificate of authentication of any

predecessor trustee or to authenticate Securities of any series in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 6.14 Preferential Collection Of Claims Against The Issuer. The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship as provided in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent indicated therein.

Section 6.15 Appointment Of Authenticating Agent. As long as any Securities of a series remain Outstanding, the Trustee may, by an instrument in writing, appoint with the approval of the Issuer an authenticating agent (the "Authenticating Agent") which shall be authorized to act on behalf of the Trustee to authenticate Securities, including Securities issued upon exchange, registration of transfer, partial redemption or pursuant to Section 2.9. Securities of each such series authenticated by such Authenticating Agent shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee. Whenever reference is made in this Indenture to the authentication and delivery of Securities of any series by the Trustee or to the Trustee's Certificate of Authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent for such series and a Certificate of Authentication executed on behalf of the Trustee by such Authenticating Agent. Such Authenticating Agent shall at all times be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$50,000,000 (determined as provided in Section 6.10 with respect to the Trustee) and subject to supervision or examination by federal or state authority.

Any corporation into which any Authenticating Agent may be merged or converted, or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall continue to be the Authenticating Agent with respect to all series of Securities for which it served as Authenticating Agent without the execution or filing of any paper or any further act on the part of the Trustee or such Authenticating Agent. Any Authenticating Agent may at any time, and if it shall cease to be eligible shall, resign by giving written notice of resignation to the Trustee and to the Issuer.

Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.15 with respect to one or more series of Securities, the Trustee shall, upon receipt of an Issuer Order, appoint a successor Authenticating Agent and the Issuer shall provide notice of such appointment to all Holders of Securities of such series in the manner and to the extent provided in Section 11.2. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if originally named as Authenticating Agent. The Issuer agrees to pay to the Authenticating Agent for such series from time to time reasonable compensation. The Authenticating Agent for the Securities of any series shall have no responsibility or liability for any action taken by it as such at the direction of the Trustee.

Sections 6.2, 6.3, 6.4, 6.6 and 7.3 shall be applicable to any Authenticating Agent.

## **ARTICLE VII CONCERNING THE SECURITYHOLDERS**

Section 7.1 Evidence Of Action Taken By Securityholders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in Person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture, and subject to the provisions of Sections 6.1 and 6.2, conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

Notwithstanding the foregoing, with respect to any Registered Global Security, nothing herein shall prevent the Issuer, the Trustee, or any agent of the Issuer or the Trustee, from giving effect to any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be given or taken by a Depository or impair, as between a Depository and such holders of beneficial interest, the operation of customary practices governing the exercise of the rights of the Depository (or its nominee) as Holder of any Security.

Without limiting the generality of this Section 7.1, unless otherwise provided in or pursuant to this Indenture, a Holder, including a Depository that is a Holder of a Registered Global Security, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be made, given or taken by Holders, and a Depository that is a Holder of a Registered Global Security may give its proxy or proxies to the Depository's participants or the beneficial owners of interests in any such Registered Global Security, as the case may be, through such Depository's standing instructions and customary practices.

The Trustee shall fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any permanent Registered Global Security held by a Depository and who are entitled under the procedures of such Depository to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 90 days after such record date.

Section 7.2 Proof Of Execution Of Instruments And Of Holding Of Securities. The execution of any instrument by a Securityholder or his or her agent or proxy may be proved in

accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Registered Securities shall be proved by the Security register or by a certificate of the registrar thereof.

Section 7.3  Holders To Be Treated As Owners . The Issuer, the Trustee and any agent of the Issuer or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be affected by any notice to the contrary.

No holder of any beneficial interest in any Registered Global Security held on its behalf by a Depository (or its nominee) shall have any rights under this Indenture with respect to such Registered Global Security or any Security represented thereby, and such Depository may be treated by the Issuer, the Trustee, and any agent of the Issuer or the Trustee as the owner of such Registered Global Security or any Security represented thereby for all purposes whatsoever. None of the Issuer, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Registered Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 7.4  Securities Owned By Issuer Deemed Not Outstanding . In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any request, demand, authorization, direction, notice, consent, waiver or other action by Securityholders under this Indenture, Securities which are owned by the Issuer or any other obligor on the Securities with respect to which such determination is being made or by any Affiliate of the Issuer or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such action only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer or any other obligor upon the Securities or any Affiliate of the Issuer or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described Persons; and the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

Section 7.5  Right Of Revocation Of Action Taken . At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.1, of the taking of any action by the Holders

of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid, any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor or on registration of transfer thereof, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Trustee and the Holders of all the Securities affected by such action.

### **ARTICLE VIII SUPPLEMENTAL INDENTURES**

Section 8.1 Supplemental Indentures Without Consent Of Securityholders. The Issuer, when authorized by a resolution of its Governing Body (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(a) to evidence the succession of another corporation to the Issuer, or successive successions, and the assumption by the successor corporation of the covenants, agreements and obligations of the Issuer pursuant to any applicable covenants herein and pursuant to the terms of the Securities as set forth in Section 2.3;

(b) to add to the covenants of the Issuer such further covenants, restrictions, conditions or provisions as the Issuer and the Trustee shall consider to be for the protection of the Holders of Securities and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; PROVIDED that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default; PROVIDED, FURTHER, that any such addition, change or elimination (i) shall neither (A) apply to any Security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision and (ii) shall become effective only when there is no such Security Outstanding;

(c) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture, or to conform the terms hereof, as amended and supplemented, that are applicable to the Securities of any series thereof to the description of the terms of such Securities in the offering memorandum, prospectus supplement or other offering document applicable to such Securities at the time of initial sale thereof;

(d) to establish any other provisions as the Issuer may deem necessary or desirable; PROVIDED that no such action shall adversely affect the interests of the Holders of the Securities in any material respect;

(e) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.12;

(f) to establish the form or terms of Securities of any series as contemplated by Sections 2.2 and 2.3;

(g) to make any changes permitted by a supplemental indenture provided such change only affects the series of Securities to which such supplemental indenture applies; and

(h) to make any change that would provide any additional rights or benefits to the Holders of the Securities or that does not adversely affect the legal rights under this Indenture of any Holder.

Without limiting the generality of the foregoing, if the Trust Indenture Act as in effect at the date of the execution and delivery of this Indenture or at any time thereafter shall be amended and

(x) if any such amendment shall require one or more changes to any provisions hereof or the inclusion herein of any additional provisions, or shall by operation of law be deemed to effect such changes or incorporate such provisions by reference or otherwise, this Indenture shall be deemed to have been amended so as to conform to such amendment to the Trust Indenture Act, and the Issuer and the Trustee may, without the consent of any Holders, enter into an indenture supplemental hereto to effect or evidence such changes or additional provisions; or

(y) if any such amendment shall permit one or more changes to, or the elimination of, any provisions hereof which, at the date of the execution and delivery hereof or at any time thereafter, are required by the Trust Indenture Act to be contained herein, this Indenture shall be deemed to have been amended to effect such changes or elimination, and the Issuer and the Trustee may, without the consent of any Holders, enter into an indenture supplemental hereto to evidence such amendment hereof



The Trustee is hereby authorized to join with the Issuer in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.2.

Section 8.2 Supplemental Indentures With Consent Of Securityholders.

(a) Except as set forth in paragraph (b) below, with the consent (evidenced as provided in Article VII) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding of all series of Securities affected by such supplemental indenture (voting as one class), the Issuer, when authorized by a resolution of its Governing Body (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order), and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as in force and effect at the date of execution thereof) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series.

(b) No such supplemental indenture shall (i) extend the fixed maturity of any Security or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any amount payable on redemption thereof, or make the principal thereof (including any amount in respect of original issue discount), or interest thereon payable in any coin or currency other than that provided in the Securities or in accordance with the terms thereof, or reduce the amount of the principal of an Original Issue Discount Security that would be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.1 or the amount thereof provable in bankruptcy pursuant to Section 5.2, or impair or affect the right of any Securityholder to institute suit for the payment thereof when due, in each case without the consent of the Holder of each Security so affected, or (ii) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.

(c) A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of Holders of Securities of such series, with respect to such covenant or provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

(d) Upon the request of the Issuer, accompanied by a copy of a resolution of the Governing Body (which resolution may provide general terms or parameters for such action and may provide that the specific terms of such action may be determined in accordance with or pursuant to an Issuer Order) certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of the Holders of the Securities as aforesaid and other documents, if any, required by Section 7.1, the Trustee shall join with the Issuer in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer and the Trustee of any supplemental indenture pursuant to the provisions of this Section 8.2, the Trustee shall give notice thereof to the Holders of then Outstanding Registered Securities of each series affected thereby, by mailing a notice thereof by first-class mail to such Holders at their addresses as they shall appear on the Security register, and such notice shall set forth in general terms the substance of such supplemental indenture. Any failure of the Issuer to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 8.3 Effect Of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Issuer and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 8.4 Documents To Be Given To Trustee. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article VIII is authorized or permitted by this Indenture.

Section 8.5 Notation On Securities In Respect Of Supplemental Indentures. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture or as to any action taken by Securityholders. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Governing Body, to any modification of this Indenture contained in any such supplemental indenture may be prepared by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then Outstanding.

**ARTICLE IX**  
**SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONEYS**

Section 9.1 Satisfaction And Discharge Of Indenture.

(a) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Governing Body Resolution, Officer's Certificate or supplemental indenture provided pursuant to Section 2.3. If at any time (i) the Issuer shall have paid or caused to be paid the principal of and interest on all the Securities of any series Outstanding hereunder and (other than Securities of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.9) as and when the same shall have become due and payable, or (ii) the Issuer shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated (other than any Securities of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.9) or (iii) in the case of any series of Securities where the exact amount of principal of and interest due on which can be determined at the time of making the deposit referred to in clause (B) below, (A) all the Securities of such series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (B) the Issuer shall have irrevocably deposited or caused to be deposited with the Trustee funds in trust the entire amount in (1) cash (other than moneys repaid by the Trustee or any paying agent to the Issuer in accordance with Section 9.4), (2) U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash sufficient to pay at such maturity or upon such redemption, as the case may be, or (3) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (x) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (y) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of this Indenture and the Securities of such series; and if, in any such case, the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities of such series pursuant to Section 2.8 and the Issuer's right of optional redemption, if any, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities (iii) rights of holders of Securities pursuant to Section 2.8 to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations, duties and immunities of the Trustee hereunder, including those under Section 6.6, (v) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, and (vi) the obligations of the Issuer under Section 3.2) and the Trustee, on demand of the Issuer accompanied by an Officer's Certificate and an Opinion of Counsel complying with Section 10.5 and at the cost and expense of the Issuer, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture; PROVIDED, that the rights of Holders of the Securities to receive amounts in respect of principal of and interest on the Securities held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are

listed. The Issuer agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Securities of such series.

(b) The following provisions shall apply to the Securities of each series unless specifically otherwise provided in a Governing Body Resolution, Officer's Certificate or supplemental indenture provided pursuant to Section 2.3. In addition to discharge of this Indenture pursuant to the next preceding paragraph, in the case of any series of Securities the exact amounts of principal of and interest due on which can be determined at the time of making the deposit referred to in subparagraph (i) below, the Issuer shall be deemed to have paid and discharged the entire indebtedness on all the Securities of such a series on the date of the deposit referred to in subparagraph (i) below, and the provisions of this Indenture with respect to the Securities of such series shall no longer be in effect (except as to (1) rights of registration of transfer and exchange of Securities of such series pursuant to Section 2.8 and the Issuer's right of optional redemption, if any, (2) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (3) rights of Holders of Securities to receive payments of principal thereof and interest thereon, upon the original stated due dates therefor (but not upon acceleration), and remaining rights of the Holders to receive mandatory sinking fund payments, if any, (4) the rights, obligations, duties and immunities of the Trustee hereunder, (5) the rights of the Holders of Securities of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them and (6) the obligations of the Issuer under Section 3.2) and the Trustee, at the expense of the Issuer, shall at the Issuer's request, execute proper instruments acknowledging the same, if:

(i) with reference to this provision the Issuer has irrevocably deposited or caused to be irrevocably deposited with the Trustee as funds in trust, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Securities of such series: (A) cash in an amount, or (B) U.S. Government Obligations, maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (1) the principal and interest on all Securities of such series on each date that such principal or interest is due and payable and (2) any mandatory sinking fund payments on the dates on which such payments are due and payable in accordance with the terms of this Indenture and the Securities of such series;

(ii) such deposit will not result in a breach or violation of, or constitute a default under, any agreement or instrument to which the Issuer is a party or by which it is bound;

(iii) the Issuer has delivered to the Trustee an Opinion of Counsel from a nationally recognized law firm based on the fact that (A) the Issuer has received from, or there has been published by, the IRS a ruling or (B) since the date hereof, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and such opinion shall confirm that, the Holders of the Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to United States federal

income tax on the same amount and in the same manner and at the same times, as would have been the case if such deposit, defeasance and discharge had not occurred;

(iv) the Issuer has delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to avoidance as a preferential transfer under Section 547(b) of the United States Bankruptcy Code (except with respect to any Holder that is an “insider” of the Issuer within the meaning of the United States Bankruptcy Code); and

(v) the Issuer has delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance contemplated by this provision have been complied with.

(c) If the trustee or any paying agent is unable to apply any money in accordance with this Indenture by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting that application, then the Issuer’s obligations under this Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to this Indenture, until such time as the Trustee or paying agent is permitted to apply all money in accordance with this Indenture; PROVIDED that if the Issuer makes any payment of principal of (or premium, if any) or interest, if any, on any Security following the reinstatement of such obligations, the Issuer will be subrogated to the rights of the Holders to receive such payment from the money held by the Trustee or paying agent.

(d) The Issuer shall be released from its obligations under Sections 3.6 and 3.7 and unless otherwise provided for in the Governing Body Resolution and/or Officer’s Certificate establishing such series of Securities, from all covenants and other obligations referred to in Section 2.3(14) or 2.3(15) with respect to such series of Securities, outstanding on and after the date the conditions set forth below are satisfied (hereinafter, “Covenant Defeasance”). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of any series, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in such Section, whether directly or indirectly by reason of any reference elsewhere herein to such Section or by reason of any reference in such Section to any other provision herein or in any other document and such omission to comply shall not constitute an Event of Default under Section 5.1, but the remainder of this Indenture and such Securities shall be unaffected thereby. The following shall be the conditions to application of this subsection (d) of this Section 9.1, unless otherwise provided for in the Governing Body Resolution and/or Officer’s Certificate establishing such series of Securities:

(i) The Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of the Securities of such series, (i) cash in an amount, or (ii) U.S. Government Obligations maturing as to principal and interest at such times and in such amounts as will insure the availability of cash or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay (A) the principal and interest on all Securities of

such series and (B) any mandatory sinking fund payments on the day on which such payments are due and payable in accordance with the terms of this Indenture and the Securities of such series;

(ii) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to the Securities shall have occurred and be continuing on the date of such deposit;

(iii) Such covenant defeasance shall not cause the Trustee to have a conflicting interest as defined in Section 6.9 or for purposes of the Trust Indenture Act with respect to any securities of the Issuer;

(iv) Such covenant defeasance shall not result in a breach or violation of, or constitute a default under any agreement or instrument to which the Issuer is a party or by which it is bound;

(v) Such covenant defeasance shall not cause any Securities then listed on any registered national securities exchange under the Exchange Act to be delisted;

(vi) The Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel from a nationally recognized law firm to the effect that the Holders of the Securities of such series will not recognize income, gain or loss for United States federal income tax purposes as a result of such covenant defeasance and will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred;

(vii) The Issuer has delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to avoidance as a preferential transfer under Section 547(b) of the United States Bankruptcy Code (except with respect to any Holder that is an "insider" of the Issuer within the meaning of the United States Bankruptcy Code); and

(viii) The Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the covenant defeasance contemplated by this provision have been complied with.

Section 9.2 Application By Trustee Of Funds Deposited For Payment Of Securities. Subject to Section 9.4, all moneys deposited with the Trustee (or other trustee) pursuant to Section 9.1 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent), to the Holders of the particular Securities of such series for the payment or redemption of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest; but such money need not be segregated from other funds except to the extent required by law.

Section 9.3 Repayment Of Moneys Held By Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all moneys then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

Section 9.4 Return Of Moneys Held By Trustee And Paying Agent Unclaimed For Two Years. Any moneys deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series and not applied but remaining unclaimed for two years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer by the Trustee for such series or such paying agent, and the Holder of the Securities of such series shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such moneys shall thereupon cease; PROVIDED that the Trustee or such paying agent, before being required to make any such repayment with respect to moneys deposited with it for any payment shall at the expense of the Issuer, mail by first-class mail to Holders of such Securities at their addresses as they shall appear on the Security register, notice that such moneys remain and that, after a date specified therein, which shall not be less than 30 days from the date of such mailing or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

Section 9.5 Indemnity For U.S. Government Of Obligations. The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 9.1 or the principal or interest received in respect of such obligations.

## **ARTICLE X MISCELLANEOUS PROVISIONS**

Section 10.1 Incorporators, Shareholders, Officers And Directors Of Issuer Exempt From Individual Liability. No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such, or against any past, present or future shareholder, officer or director, as such, of the Issuer or of any successor, either directly or through the Issuer or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders thereof and as part of the consideration for the issue of the Securities.

Section 10.2 Provisions Of Indenture For The Sole Benefit Of Parties And Holders Of Securities. Nothing in this Indenture, in the Securities, expressed or implied, shall give or be construed to give to any Person, other than the parties thereto and their successors and the Holders of the Securities any legal or equitable right, remedy or claim under this Indenture or under any

covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities.

Section 10.3 Successors And Assigns Of Issuer Bound By Indenture. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so expressed or not.

Section 10.4 Notices And Demands On Issuer, Trustee And Holders Of Securities. Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities to or on the Issuer may be given or served by being deposited postage prepaid, first-class mail (except as otherwise specifically provided herein) addressed (until another address of the Issuer is filed by the Issuer with the Trustee) to Constellation Energy Generation, LLC, 200 Exelon Way, Kennett Square, Pennsylvania 19348, Attention: General Counsel, with a copy to (which shall not constitute notice): 1735 Market Street, 51<sup>st</sup> Floor, Philadelphia, Pennsylvania 19103, Attention: Patrick R. Gillard, Esq. Any notice, direction, request or demand by the Issuer or any Holder of Securities to or upon the Trustee shall be deemed to have been sufficiently given or served by being deposited postage prepaid, first-class mail (except as otherwise specifically provided herein) addressed (until another address of the Trustee is filed by the Trustee with the Issuer) to, Deutsche Bank Trust Company Americas, Trust and Agency Services, 1 Columbus Circle, 17th Floor, MS NYC 01-1710, New York, New York 10019 Attn: Corporates – Constellation Energy Generation, LLC.

Where this Indenture provides for notice to Holders of Registered Securities, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class mail, postage prepaid, to each Holder entitled thereto, at his or her last address as it appears in the Security register.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods; PROVIDED that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 10.5 Officer's Certificates And Opinions Of Counsel; Statements To Be Contained Therein. Upon any application or demand by the Issuer to the Trustee to take any action under any of the provisions of this Indenture, the Issuer shall furnish to the Trustee an Officer's



Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the Person making such certificate or opinion has read such covenant or condition, (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with and (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters or information in the possession of the Issuer, upon the certificate, statement or opinion of or representations by an officer or officers of the Issuer, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer, unless such officer or counsel, as the case may be, knows that the certificate or opinion of or representations with respect to the accounting matters upon which his or her certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with and directed to the Trustee shall contain a statement that such firm is independent.

Section 10.6 Payments Due On Saturdays, Sundays And Holidays. Unless otherwise provided in a Governing Body Resolution or Officer's Certificate, if the date of maturity of interest on or principal of the Securities of any series or the date fixed for redemption or repayment of any such Security shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect

as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 10.7 Limited Incorporation by Reference of Trust Indenture. This Indenture is not subject to the mandatory provisions of the Trust Indenture Act. The provisions of the Trust Indenture Act are not incorporated by reference in or made part of this Indenture unless specifically provided herein.

Section 10.8 Governing Law. This Indenture and the Securities shall be governed by and construed in accordance with the State of New York, without regard to conflict of laws principles thereunder, except to the extent that the law of any other jurisdiction shall be mandatorily applicable.

Section 10.9 Waiver of Jury Trial. EACH OF THE ISSUER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 10.10 FATCA. In order to comply with applicable tax laws, rules and regulations (inclusive of directives, guidelines and interpretations promulgated by competent authorities) in effect from time to time (“Applicable Law”) a foreign financial institution, issuer, trustee, paying agent, holder or other institution is or has agreed to be subject to related to this Indenture, the Company agrees (i) to provide to Deutsche Bank Trust Company Americas sufficient information about holders or other applicable parties and/or transactions (including any modification to the terms of such transactions) so Deutsche Bank Trust Company Americas can determine whether it has tax related obligations under Applicable Law, (ii) that Deutsche Bank Trust Company Americas shall be entitled to make any withholding or deduction from payments under this Indenture to the extent necessary to comply with Applicable Law for which Deutsche Bank Trust Company Americas shall not have any liability, and (iii) to hold harmless Deutsche Bank Trust Company Americas for any losses it may suffer due to the actions it takes to comply with such Applicable Law. The terms of this section shall survive the termination of this Indenture.

Section 10.11 Counterparts. The parties may sign any number of copies of this Indenture. Signatures to this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) (“Executed Documentation”) may be manual, facsimile, or Electronic Signatures. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page to Executed Documentation by telecopier, facsimile or other electronic transmission (e.g. a “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart thereof. The exchange of copies of Executed Documentation and of signature pages by telecopier, facsimile or other electronic transmission (e.g. a “pdf” or “tif”) shall constitute effective execution and delivery of this Indenture and other Executed Documentation as to the

parties hereto and may be used in lieu of the original Indenture or other Executed Documentation and signature pages for all purposes.

Section 10.12 Effect Of Headings. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 10.13 Anti-Money Laundering Laws. In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States (“Applicable AML Law”), the Trustee is required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, each of the parties agree to provide to the Trustee, upon its request from time to time such identifying information and documentation as may be available for such party in order to enable the Trustee to comply with Applicable AML Law.

## **ARTICLE XI REDEMPTION OF SECURITIES AND SINKING FUNDS**

Section 11.1 Applicability Of Article. The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.3 for Securities of such series.

Section 11.2 Notice Of Redemption; Partial Redemptions. Notice of redemption to the Holders of Registered Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, at least 10 days and not more than 60 days prior to the date fixed for redemption to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of such Security of such series.

The notice of redemption to each such Registered Holder shall specify the principal amount of each Security of such series held by such Registered Holder to be redeemed, the date fixed for redemption, the redemption price, the place or places of payment, that payment will be made upon presentation and surrender of such Securities, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only, the notice of redemption to Registered Holders of Securities of the series shall state the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or

Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

On or before the redemption date specified in the notice of redemption given as provided in this Section, the Issuer will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own paying agent, set aside, segregate and hold in trust as provided in Section 3.4) an amount of money sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption (it being understood and agreed that the Trustee shall have no obligation to calculate or verify any redemption price). The Issuer will deliver to the Trustee at least 10 days prior to the date fixed for redemption, or such shorter period as shall be acceptable to the Trustee, an Officer's Certificate stating the aggregate principal amount of Securities to be redeemed. In case of a redemption at the election of the Issuer prior to the expiration of any restriction on such redemption, the Issuer shall deliver to the Trustee, prior to the giving of any notice of redemption to Holders pursuant to this Section, an Officer's Certificate stating that such restriction has been complied with.

In the event that less than all of the Securities of a series are to be redeemed at any time, except as otherwise provided for in a Governing Body Resolution or Officer's Certificate, selection of Securities for redemption will be made by the Trustee in compliance with the requirements governing redemptions of the principal securities exchange, if any, on which the Securities are listed or if such securities exchange has no requirement governing redemption or the Securities are not then listed on a securities exchange, by any method as may be required by the Depository Trust Company in accordance with its applicable procedures. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer in writing of the Securities of such series selected for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed. For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

Section 11.3 Payment Of Securities Called For Redemption. If notice of redemption has been given as above provided, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue, and, except as provided in Sections 6.5 and 9.4, such Securities shall cease from and after the date fixed for redemption to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date

fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; PROVIDED that payment of interest becoming due on or prior to the date fixed for redemption shall be payable to the Holder of such Registered Securities registered as such on the relevant record date, subject to the terms and provisions of Sections 2.3 and 2.7.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest or Yield to Maturity (in the case of an Original Issue Discount Security) borne by such Security.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

Section 11.4 Exclusion Of Certain Securities From Eligibility For Selection For Redemption. Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 10 days prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by, either (a) the Issuer or (b) an entity specifically identified in such written statement as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

Section 11.5 Mandatory And Optional Sinking Funds. The minimum amount of any sinking fund payment provided for by the terms of the Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of the Securities of any series is herein referred to as an "optional sinking fund payment." The date on which a sinking fund payment is to be made is herein referred to as the "sinking fund payment date."

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the 60th day next preceding each sinking fund payment date for any series, the Issuer will deliver to the Trustee an Officer's Certificate (which need not contain the statements

required by Section 10.5) (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series and the basis for such credit, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have not theretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such Officer's Certificate (or reasonably promptly thereafter if acceptable to the Trustee). Such Officer's Certificate shall be irrevocable and upon its receipt by the Trustee, the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such 60th day, to deliver such Officer's Certificate and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$50,000 or a lesser sum in Dollars if the Issuer shall so request with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be \$50,000 or less and the Issuer makes no such request then it shall be carried over until a sum in excess of \$50,000 is available. The Trustee shall select, in the manner provided in Section 11.2, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such series to absorb said cash, as nearly as may be, and shall (if requested in writing by the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities shall be excluded from eligibility for redemption under this Section if they are identified by registration and certificate number in an Officer's Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date as being owned of record and beneficially by, and not pledged or hypothecated by, either (a) the Issuer or (b) an entity specifically identified in such Officer's Certificate as directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 11.2 (and with the effect provided in Section 11.3) for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with

the provisions of this Section. Any and all sinking fund moneys held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other moneys, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

On or before each sinking fund payment date, the Issuer shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on the next following sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund moneys or give any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the giving of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities; PROVIDED, that it shall have received from the Issuer a sum sufficient for such redemption. Except as aforesaid, any moneys in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any moneys thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default be deemed to have been collected under Article V and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the 60th day preceding the sinking fund payment date in any year, such moneys shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed and attested as of the date first written above.

CONSTELLATION ENERGY  
GENERATION, LLC

By: /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

DEUTSCHE BANK TRUST COMPANY  
AMERICAS,  
as Trustee

By: /s/ Bridgette Casanovas  
Name: Bridgette Casanovas  
Title: Vice President

By: /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President





**FIRST SUPPLEMENTAL INDENTURE**

THIS FIRST SUPPLEMENTAL INDENTURE, dated as of February 9, 2022 (this “Supplemental Indenture”), is between CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (the “Company”), and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee (the “Trustee”).

**WITNESSETH**

WHEREAS, pursuant to the Indenture, dated as of February 9, 2022, between the Company and the Trustee (the “Base Indenture” and, together with and as supplemented by this Supplemental Indenture, the “Indenture”), the Company may from time to time issue and sell Securities (as defined in the Base Indenture) in one or more series and, pursuant to Section 2.3 of the Base Indenture, the Company may establish the form or terms of Securities of any series issued thereunder through one or more supplemental indentures pursuant to Section 2.4 of the Base Indenture;

WHEREAS, the Company desires by this Supplemental Indenture to create and authorize one new series of Securities entitled as follows: “3.046% Senior Notes due 2027” (the “Notes”), and to provide the terms and conditions of the Notes and upon which the Notes are to be executed, registered, authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Supplemental Indenture;

WHEREAS, the Company has duly authorized the execution and delivery of this Supplemental Indenture to establish the Notes as a series of Securities under the Base Indenture and to provide for, among other things, the issuance and form of the Notes and the terms, provisions and conditions thereof;

WHEREAS, the Notes are one series of Securities and are being issued under the Base Indenture and are subject to the terms contained therein and herein;

WHEREAS, the Notes are to be substantially in the form attached hereto as Exhibit A;

WHEREAS, pursuant to the terms of the Base Indenture and this Supplemental Indenture, the Company has duly authorized the creation, issuance and sale on one or more occasions to Fells Point Funding Trust, a Delaware statutory trust (the “Trust”), pursuant to the Facility Agreement, dated as of February 9, 2022, among the Company, the Trust, and the Trustee (the “Facility Agreement”) of the Notes, not to exceed the Maximum Amount (as defined below) at any one time outstanding; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by or on behalf of the Trustee as provided in the Base Indenture and this Supplemental Indenture, the valid, binding and legal obligations of the Company, and to make this Supplemental Indenture a legal, binding and enforceable agreement, have been done and performed.

NOW, THEREFORE, in order to declare the terms and conditions upon which the Notes are executed, registered, authenticated, issued and delivered, and in consideration of the foregoing premises and the purchase of such Notes by the Holders thereof, the Company and the Trustee mutually covenant and agree, for the equal and proportionate benefit of the Holders from time to time of the Notes, as follows:

Section 1. DEFINITIONS. For all purposes of this Supplemental Indenture, the following terms will have the respective meanings set forth in this Section 1. Terms used in this Supplemental Indenture and not defined herein shall have the respective meanings given such terms in the Base Indenture.

“144A Global Note” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of, and registered in

the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“Applicable Procedures” means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and Clearstream that apply to such transfer or exchange.

“Automatic Exercise” has the meaning set forth in the Facility Agreement.

“Automatic Exercise Event” has the meaning set forth in the Facility Agreement.

“Available Amount” has the meaning set forth in the Facility Agreement.

“Base Indenture” has the meaning assigned to it in the recitals to this Supplemental Indenture, as originally executed and as thereafter supplemented, modified or amended.

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Certificate” has the meaning set forth in the Trust Declaration.

“Change of Control” means the occurrence of any of the following:

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Subsidiaries taken as a whole to any “person” (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of the Company or any of its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or
- (2) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined above), other than a corporation owned directly or indirectly by the stockholders of the Company in substantially the same proportion as their ownership of stock of the Company prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares.

“Change of Control Offer Issuance Amount” has the meaning set forth in the Facility Agreement.

“Change of Control Triggering Event” means (i) a Change of Control has occurred and (ii) the P-Caps and/or the Notes are downgraded by each of the Rating Agencies on any date during the 60-day period commencing after the earlier of (a) the occurrence of a Change of Control and (b) public disclosure by the Company of the occurrence of a Change of Control or the Company’s intention to effect a Change of Control; *provided, however*, that a particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Trustee in writing at the Company’s or the Trustee’s request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); *provided further* that no Change of Control Triggering Event shall occur if following such downgrade, (x) the P-Caps (or, in the event the P-Caps are not outstanding, the Notes) are rated Investment Grade by each of the Rating Agencies or (y) the ratings of the P-Caps (or, in the event the P-Caps are not outstanding, the Notes) by each of the Rating Agencies are equal to or better than the ratings of the P-Caps on the issue date of the P-Caps.

“Clearstream” means Clearstream Banking, S.A.

“Company” means Constellation Energy Generation, LLC, a Pennsylvania limited liability company, and any and all successors thereto.

“Collateral Enforcement Amount” has the meaning set forth in the Facility Agreement.

“Consolidated Net Tangible Assets” means the total consolidated assets of the Company and its Subsidiaries, less the sum of goodwill and other intangible assets, in each case determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the Company.

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2(e) hereof. Definitive Notes will be substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Legend.

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“Depository” has the meaning of “Depository” set forth in the Indenture.

“Electronic Signature” means any electronic signature covered by the Electronic Signatures in Global and National Commerce Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law (e.g., [www.docusign.com](http://www.docusign.com)).

“Equity Interest” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Euroclear” means Euroclear Bank, S.A./N.V., as operator of the Euroclear system.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Facility Agreement” has the meaning assigned to it in the recitals to this Supplemental Indenture, as originally executed and as thereafter supplemented, modified or amended.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time; provided that any lease that would not be considered a capital lease pursuant to GAAP prior to the effectiveness of Accounting Standards Codification 842 (whether or not such lease was in effect on such date) shall be treated as an operating lease for all

purposes under the Indenture and shall not be deemed to constitute a capitalized lease or Indebtedness hereunder.

“Global Legend” means the legend set forth in Section 2(e)(vi)(2) hereof, which is required to be placed on all Global Notes issued under this Supplemental Indenture.

“Global Notes” means, individually and collectively, each Restricted Global Note and each Unrestricted Global Note deposited with or on behalf of and registered in the name of the Depositary or its nominee that bears the Global Legend, issued in accordance with Sections 2(a), 2(b), 2(e)(ii)(3), 2(e)(ii)(4), 2(e)(iv)(2), or 2(e)(vi) hereof.

“IAI Global Note” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes.

“Indebtedness” of any Person means (1) all indebtedness of such person for borrowed money, (2) all obligations of such person evidenced by senior notes, debentures, notes or other similar instruments, (3) all obligations of such person to pay the deferred purchase price of property or services, (4) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such person (even though the rights and remedies of the seller or lender under such agreement in the event of the default are limited to repossession or sale of such property), (5) all capital lease obligations of such person (excluding leases of property in the ordinary course of business), and (6) all Indebtedness of the type referred to in clauses (1) through (5) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any lien or security interest on property.

“Indenture” has the meaning assigned to it in the recitals to this Supplemental Indenture, as originally executed and as thereafter supplemented, modified or amended.

“Indirect Participant” means a Person who holds a beneficial interest in a Global Note through a Participant.

“Institutional Accredited Investor” means an institution that is an “accredited investor” as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who are not also QIBs.

“Investment Grade” means a rating of (i) Baa3 or better by Moody’s, (ii) BBB- or better by S&P, (iii) the equivalent of such rating by such organization or (iv) if another Rating Agency has been selected by the Company, the equivalent of such rating by such other Rating Agency.

“Issuance Right” has the meaning set forth in the Facility Agreement.

“Lien” means, with respect to any asset:

(1) any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset;

(2) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; and

(3) in the case of Equity Interests or debt securities, any purchase option, call or similar right of a third party with respect to such Equity Interests or debt securities.

“Maximum Amount” has the meaning assigned to it in the Facility Agreement.

“Mandatory Exercise” has the meaning set forth in the Facility Agreement.

“Mandatory Exercise Event” has the meaning set forth in the Facility Agreement.

“Notes” has the meaning assigned to it in the recitals to this Supplemental Indenture.

“Officer” means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Chief Accounting Officer, the General Counsel, the Treasurer, any Assistant Treasurer, the Secretary, the Controller, Assistant Secretary or any Vice-President of such Person.

“Participant” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

“P-Caps” means the pre-capitalized trust securities to be issued by the Trust in the form of the Certificates evidencing undivided beneficial interests in the assets of the Trust in accordance with the terms of the Trust Declaration and designated as the “Pre-Capitalized Trust Securities Redeemable January 31, 2027”.

“Pledge Agreement” has the meaning set forth in the Facility Agreement.

“Private Placement Legend” means the legend set forth in Section 2(e)(vi)(1) hereof to be placed on all Notes issued under this Supplemental Indenture except where otherwise permitted by the provisions of this Supplemental Indenture.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Ratings Agency” means (i) each of Moody’s and S&P and (ii) if either of Moody’s or S&P ceases to rate the P-Caps or, following the dissolution of the Trust, the Notes or fails to make a rating of the P-Caps or, following the dissolution of the Trust, the Notes publicly available, a Nationally Recognized Statistical Rating Organization selected by the Company which shall be substituted for Moody’s or S&P, as the case may be with respect to such securities.

“Registrar” means the office or agency with respect to the Notes, where the Notes may be presented for registration of transfer or exchange.

“Regulation S” means Regulation S promulgated under the Securities Act.

“Regulation S Global Note” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 903 of Regulation S.

“Repurchase Right” has the meaning set forth in the Facility Agreement.

“Restricted Global Note” means a Global Note bearing the Private Placement Legend.

“Restricted Definitive Note” means a Definitive Note bearing the Private Placement Legend.

“Rule 144” means Rule 144 promulgated under the Securities Act.

“Rule 144A” means Rule 144A promulgated under the Securities Act.

“Rule 903” means Rule 903 promulgated under the Securities Act.

“Rule 904” means Rule 904 promulgated under the Securities Act.

“SEC” means the Securities and Exchange Commission.

“Subsidiary” means any corporation or other entity of which sufficient voting stock or other ownership or economic interests having ordinary voting power to elect a majority of the board of directors (or equivalent body) are at the time directly or indirectly held by a Person.

“Supplemental Indenture” has the meaning assigned to it in the preamble to this Supplemental Indenture, as originally executed and as thereafter supplemented, modified or amended.

“Security Register” means the register kept by the Registrar of the Notes and their transfer and exchange.

“Trust” has the meaning assigned to it in the recitals to this Supplemental Indenture.

“Trust Declaration” means the Amended and Restated Declaration of Trust, dated as of February 9, 2022, among the Company, in its individual capacity and as depositor, Deutsche Bank Trust Company Delaware, as Delaware trustee, and Deutsche Bank Trust Company Americas, as trustee, as originally executed and as thereafter supplemented, modified or amended.

“Unrestricted Global Note” means a Global Note that does not bear and is not required to bear the Private Placement Legend.

“Unrestricted Definitive Note” means a Definitive Note that does not bear and is not required to bear the Private Placement Legend.

“Voluntary Exercise” has the meaning set forth in the Facility Agreement.

“Voting Stock” means the Capital Stock of any Person as of any date that is at the time entitled to vote in the election of the board of directors of such Person.

## Section 2. THE NOTES.

(a) Establishment. There is hereby created and authorized the following new series of Securities to be offered and issued under the Base Indenture, to be designated as the: “3.046% Senior Notes due 2027”. On the date of entry into the Facility Agreement, the Company will issue to the Trust a Note in definitive form with an initial principal amount of \$0 (the “Initial Note Certificate”). Any delivery of Notes by the Company to the Trust as contemplated by the Facility Agreement upon any exercise of the Issuance Right (including any Voluntary Exercise, Automatic Exercise or Mandatory Exercise) will be effected by increasing the principal amount of the Initial Note Certificate and recording such increase in the Schedule of Increases and Decreases attached to the Initial Note Certificate and the Security Register. Any redemption of the Notes held by the Trust and any delivery of the Notes by the Trust to the Company upon the Company’s exercise of the Repurchase Right or pursuant to the Company’s rights to redeem the Notes as described below under Section 3 will be effected by decreasing the principal amount of the Initial Note Certificate and recording such decrease in the Schedule of Increases and Decreases attached to the Initial Note Certificate and the Security Register. The Company may exercise the Issuance Right under the Facility Agreement to sell Notes to the Trust at its discretion at any time up to the Available Amount of the Notes. The Company must exercise the Issuance Right under the Facility Agreement to sell to the Trust the entire Available Amount of Notes (in respect of a Mandatory Exercise Event occurring under clause (1), (2), (3) or (6) of the definition of “Mandatory Exercise Event” in the Facility Agreement) or the Collateral Enforcement Amount of the Notes (in respect of a Mandatory Exercise Event occurring under clause (4) of the definition of “Mandatory Exercise Event” in the Facility Agreement) or the Change of Control Offer Issuance Amount (in respect of a Mandatory Exercise occurring under clause (5) of the definition of “Mandatory Exercise Event” in the Facility Agreement). The Issuance Right under the Facility Agreement to sell to the Trust the Available Amount of Notes is automatically exercised in full upon the occurrence of an Automatic Exercise Event in accordance with the Facility Agreement. Upon a Mandatory Exercise Event occurring under clause (5) of the definition of “Mandatory Exercise Event” in the Facility Agreement, the Company will be required to sell to the Trust Notes in a principal amount equal to the Change of Control Offer Issuance Amount. On the Change of

Control Payment Date (as defined herein), the Company shall pay the Change of Control Payment (as defined herein) under this Supplemental Indenture with respect to the Notes held by the Trust (including Notes issued pursuant to the related Mandatory Exercise Event) to be repurchased.

(b) Form and Dating.

(i) The Notes. The Notes (other than the Initial Note Certificate) shall be issued in registered global form without interest coupons. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. The Company shall furnish any such notations, legends or endorsements to the Trustee in writing. Each Note shall be dated the date of its authentication. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000. The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of the Indenture and the Company and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of the Notes conflicts with the express provisions of the Base Indenture, the provisions of the Notes shall govern and be controlling, and to the extent any provision of the Notes conflicts with the express provisions of this Supplemental Indenture, the provisions of this Supplemental Indenture shall govern and be controlling.

(ii) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A attached hereto (including the Global Legend thereon). Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Legend thereon). Each Global Note shall represent such of the outstanding Notes as will be specified therein and each shall provide that it represents the aggregate principal amount of outstanding Notes from time to time as reflected in the records of the Trustee and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. The Trustee's records shall be noted to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby, in accordance with instructions given by the Holder thereof as required by Section 2(e) hereof.

(iii) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream will be applicable to transfers of beneficial interests in the Regulation S Global Note that are held by Participants through Euroclear or Clearstream.

(c) Execution and Authentication. One Officer must sign the Notes for the Company by manual signature, facsimile, or Electronic Signature. If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note will nevertheless be valid. A Note will not be valid until authenticated by the manual signature, facsimile, or Electronic Signature of the Trustee. Such signature will be conclusive evidence that the Note has been authenticated under this Supplemental Indenture. The Trustee shall, upon receipt of a written order of the Company signed by at least one Officer (an "Authentication Order"), authenticate Notes for original issue under this Supplemental Indenture. The aggregate principal amount of Notes outstanding at any time may not exceed the Maximum Amount, except as provided in Section 2.9 of the Base Indenture. The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Supplemental Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders, the Company or an Affiliate of the Company.

(d) Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.



(e) *Transfer and Exchange.* In the event that the Company or any of its Affiliates requests that the trustee of the Trust exchange P-Caps for Notes pursuant to Section 5.4(e) of the Trust Declaration, the Trustee shall register the transfer of such Notes to the Company or any of its Affiliates or, if requested by the Company or any of its Affiliates, cancel such Notes in accordance with Section 2.10 of the Base Indenture. The Company shall provide the Trustee with a copy of any request by the Company or any of its Affiliates under Section 5.4(e) of the Trust Declaration promptly after such a request is made, accompanied by an Officer's Certificate that the exchange complies with the Trust Declaration and is permitted hereunder. In the event the Notes are distributed to the holders of the P-Caps upon the termination of the Trust, such Notes will be exchangeable for other Notes, in any authorized denominations, for the same aggregate principal amount and having the same terms.

(i) *Transfer and Exchange of Global Notes.* A Global Note may not be transferred except as a whole by the Depository to a nominee of the Depository, by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. All Global Notes shall be exchanged by the Company for Definitive Notes if:

(1) the Company delivers to the Trustee notice from the Depository that it is unwilling or unable to continue to act as Depository or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Company within 120 days after the date of such notice from the Depository;

(2) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee; or

(3) there has occurred and is continuing a Default or Event of Default with respect to the Notes.

Upon the occurrence of any of the preceding events in (1), (2) or (3) above, Definitive Notes shall be issued in such names and in any approved denominations as the Depository shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.9 and 2.11 of the Base Indenture. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2(e) or Sections 2.9 or 2.11 of the Base Indenture, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.05(i), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2(e)(ii), (iii) or (vi) hereof.

(ii) *Transfer and Exchange of Beneficial Interests in the Global Notes.* The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Supplemental Indenture and the Applicable Procedures. Transfers of beneficial interests in the Global Notes also will require compliance with either subparagraph (1) or (2) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(1) *Transfer of Beneficial Interests in the Same Global Note.* Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2(e)(ii)(1).

(2) *All Other Transfers and Exchanges of Beneficial Interests in Global Notes.* In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2(e)(ii)(1) above, the transferor of such beneficial interest must deliver to the Registrar either:

a. both:

i. a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged; and

ii. instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase; or

b. both:

i. a written order from a Participant or an Indirect Participant given to the Depositary in accordance with the Applicable Procedures directing the Depositary to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged; and

ii. instructions given by the Depositary to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above.

(3) *Transfer of Beneficial Interests to Another Restricted Global Note.* A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2(e)(ii)(2) above and the Registrar receives the following:

a. if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

b. if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

c. if the transferee will take delivery in the form of a beneficial interest in the IAI Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(4) *Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note.* A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted

Global Note if the exchange or transfer complies with the requirements of Section 2(e)(ii)(2) above and the Registrar receives the following:

a. if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

b. if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof; and, in each such case of this Section 2(e)(ii)(4), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this Section 2(e)(ii)(4) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2(c) hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this Section 2(e)(ii)(4). Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(iii) *Transfer or Exchange of Beneficial Interests in Global Notes for Definitive Notes.* Transfers or exchanges of beneficial interests in Global Notes for Definitive Notes shall in each case be subject to the satisfaction of any applicable conditions set forth in Section 2(e)(ii)(2) hereof, and to the requirements set forth below in this Section 2(e)(iii).

(1) *Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes.* If any Holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

a. if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

b. if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

c. if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

d. if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

e. if such beneficial interest is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (b) through (d) above, a certificate to the effect set forth in Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

f. if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

g. if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2(e)(viii) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this to Section 2(e)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2(e)(iii)(1) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(2) *Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes.* A Holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if the Registrar receives the following:

a. if the Holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

b. if the Holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2(e)(iii)(2), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the

restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes.* If any Holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth Section 2(e)(ii)(2) hereof, the Trustee shall cause the aggregate principal amount of the applicable Unrestricted Global Note to be reduced accordingly pursuant to Section 2(e)(viii) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2(e)(iii)(3) shall be registered in such name or names and in such authorized denomination or denominations as the Holder of such beneficial interest requests through instructions to the Registrar from or through the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2(e)(iii)(3) will not bear the Private Placement Legend.

(iv) *Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes.*

(1) *Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes.* If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note (in each case, other than an exchange or transfer to DTC as set forth in Section 2(f) below), then, upon receipt by the Registrar of the following documentation:

a. if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

b. if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

c. if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

d. if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

e. if such Restricted Definitive Note is being transferred to an Institutional Accredited Investor in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (b) through (d) above, a certificate to the effect set forth in

Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable;

f. if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof; or

g. if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee will cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (a) above, the appropriate Restricted Global Note, in the case of clause (b) above, the 144A Global Note, in the case of clause (C) above, the Regulation S Global Note, and in all other cases, the IAI Global Note.

(2) *Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

a. if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

b. if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2(e)(iv)(2), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of this Section 2(e)(iv)(2), the Trustee will cancel the Restricted Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee will cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraphs (2)(b), (2)(d) or (3) above at a time when an Unrestricted Global Note has not yet been issued, the Company will

issue and, upon receipt of an Authentication Order in accordance with Section 2(c) hereof, the Trustee will authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(v) *Transfer and Exchange of Definitive Notes for Definitive Notes.* Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2(e)(v), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder must provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2(e)(v).

(1) *Restricted Definitive Notes to Restricted Definitive Notes.* Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

- a. if the transfer will be made pursuant to Rule 144A, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;
- b. if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and
- c. if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(2) *Restricted Definitive Notes to Unrestricted Definitive Notes.* Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

- a. if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or
- b. if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2(e)(v)(2), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(3) *Unrestricted Definitive Notes to Unrestricted Definitive Notes.* A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(vi) *Legends.* The following legends will appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(1) Private Placement Legend.

a. Except as permitted by subparagraph (b) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER ANY STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS NOTE IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER.

THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) TO A PERSON WHO THE TRANSFEROR REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ACQUIRING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF ONE OR MORE QUALIFIED INSTITUTIONAL BUYERS IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A OR PURSUANT TO RULE 144 UNDER THE SECURITIES ACT, IF APPLICABLE, OR ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS.

ANY PURCHASER OR HOLDER OF THIS NOTE OR ANY INTEREST HEREIN REPRESENTS BY ITS PURCHASE AND HOLDING OF THIS NOTE OR SUCH INTEREST THAT EITHER (1) IT IS NOT (A) AN EMPLOYEE BENEFIT PLAN AS DEFINED IN SECTION 3(3) OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA") OR THAT IS SUBJECT TO ERISA OR A PLAN DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), (B) AN EMPLOYEE BENEFIT PLAN THAT IS A GOVERNMENTAL PLAN (AS DEFINED IN SECTION 3(32) OF ERISA), A CHURCH PLAN (AS DEFINED IN SECTION 3(33) OF ERISA) OR A NON-U.S. PLAN (AS DESCRIBED IN SECTION 4(B)(4) OF ERISA) THAT IS NOT SUBJECT TO THE REQUIREMENTS OF ERISA OR THE CODE BUT IS SUBJECT TO SIMILAR PROVISIONS UNDER APPLICABLE FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS ("SIMILAR LAWS") OR (C) AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE "PLAN ASSETS" OF ANY SUCH PLANS PURSUANT TO SECTION 3(42) OF ERISA, DEPARTMENT OF LABOR REGULATIONS OR OTHERWISE, OR (2) THE PURCHASE AND HOLDING OF THE NOTES WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA, SECTION 4975 OF THE CODE OR UNDER ANY APPLICABLE SIMILAR LAWS.

CONSTELLATION ENERGY GENERATION, LLC RESERVES THE RIGHT TO MODIFY THE FORM OF THE NOTES FROM TIME TO TIME TO REFLECT ANY CHANGES IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN



PRACTICES RELATING TO THEIR PURCHASE OR RESALE. THE NOTES AND RELATED DOCUMENTATION, INCLUDING THIS LEGEND, MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY RESTRICTIONS ON AND PROCEDURES FOR RESALES AND OTHER TRANSFERS OF THE SECURITIES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF NOTES SUCH AS THE NOTES GENERALLY. EACH HOLDER OF THIS CERTIFICATE SHALL BE DEEMED, BY THE ACCEPTANCE OF THIS CERTIFICATE, TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

b. Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (ii)(4), (iii)(2), (iii)(3), (iv)(2), (iv)(3), (v)(2), (v)(3) or (vi) of this Section 2(e) (and all Notes issued in exchange therefor or substitution thereof) will not bear the Private Placement Legend.

(2) *Global Legend.* Each Global Note will bear a legend in substantially the following form:

UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO CONSTELLATION ENERGY GENERATION, LLC OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

THIS NOTE IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF DTC OR A NOMINEE THEREOF. THIS NOTE MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A NOTE REGISTERED, AND NO TRANSFER OF THIS NOTE IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN DTC OR SUCH NOMINEE, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

(3) *Original Issue Discount Legend.* Each Note issued with original issue discount, if any, will bear a legend in substantially the following form:

FOR THE PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THIS NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT; FOR EACH \$1,000 IN AGGREGATE PRINCIPAL AMOUNT OF THIS NOTE, THE ISSUE PRICE IS \$[ ], THE AMOUNT OF ORIGINAL ISSUE DISCOUNT IS \$[ ], THE ISSUE DATE IS [ ], 202[ ] AND THE YIELD TO MATURITY IS [ ]% PER ANNUM.

(vii) *Cancellation and/or Adjustment of Global Notes.* At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 of the Base Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note will be reduced accordingly and a notation will be made on the records maintained by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note will be increased accordingly and a notation will be made on the records maintained by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(viii) *General Provisions Relating to Transfers and Exchanges.*

(1) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2(c) hereof or at the Registrar's request.

(2) No service charge shall be made to a Holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 3(f) and 4(d), and Sections 2.8, 2.11, 11.2 and 9.05 of the Base Indenture).

(3) The Registrar shall not be required to register the transfer of or exchange of any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part.

(4) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Supplemental Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(5) The Company shall not be required:

a. to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 10 days before the day of any selection of Notes for redemption and ending at the close of business on the day of selection;

b. to register the transfer of or to exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; or

c. to register the transfer of or to exchange a Note between a record date and the next succeeding interest payment date.

(6) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company shall deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(7) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2(c) hereof.

(8) All orders, certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2(e) to effect a registration of transfer or exchange may be submitted by facsimile or electronic format (e.g. "pdf" or "tif").

(9) All references in this Section 2(e) to the exchange or transfer of Notes, Global Notes, Definitive Notes or any beneficial interests therein shall be

deemed to refer to the exchange or transfer of the applicable P-Caps, Global Notes, Definitive Notes or any beneficial interests therein.

(f) Trust Dissolution. If the Trust distributes the Notes to the holders of the P-Caps upon its dissolution and termination, then prior to such distribution, the Notes shall, and the Company shall take commercially reasonable efforts to cause the Notes to, be exchanged for one or more Global Notes and the Depository shall be DTC; provided that, if such Notes are not eligible to be settled through DTC at the time of such distribution, such Notes will be distributed in the form of one or more individual Securities. Any such Global Notes shall be Global Notes for purposes of the Base Indenture and shall be subject to the provisions thereof governing Global Notes, except as modified hereby.

(g) Ranking. The Notes will be the Company's direct unsecured general obligations and will rank equally with all of the Company's existing and future unsecured and unsubordinated indebtedness from time to time outstanding and will be senior in right of payment to all of the Company's existing and future subordinated debt.

(h) The date on which the principal is payable on the Notes, unless accelerated pursuant to the terms of the Indenture, shall be as provided in the form of security attached hereto as Exhibit A.

(i) The Notes shall bear interest as provided in the form of security attached hereto as Exhibit A. The interest payment dates, and the Record Dates for the determination of Holders of the Notes to whom such interest is payable, for each series, shall be as provided in the form of security attached hereto as Exhibit A.

(j) The Notes shall be subject to the Events of Default provided in Section 5.1 of the Base Indenture. For purposes of the Notes (but not other Securities, unless provided by the terms thereof), an "Event of Default" shall also include:

(i) an event of default, as defined in any of the Company's instruments under which there may be issued, or by which there may be secured or evidenced, any Indebtedness of the Company that has resulted in the acceleration of such Indebtedness, or any default occurring in payment of any such Indebtedness at final maturity (and after the expiration of any applicable grace periods), other than such Indebtedness the principal of which, and interest on which, does not individually, or in the aggregate, exceed \$100,000,000; or

(ii) one or more final judgments, decrees or orders of any court, tribunal, arbitrator, administrative or other governmental body or similar entity for the payment of money shall be rendered against the Company or any of its properties in an aggregate amount in excess of \$100,000,000 (excluding the amount thereof covered by insurance) and such judgment, decree or order shall remain unvacated, undischarged and unstayed for more than 60 consecutive days, except while being contested in good faith by appropriate proceedings.

(k) The discharge, defeasance and covenant defeasance provisions that will apply to the Notes shall be as provided in the Base Indenture in Article IX thereof; provided that, the Notes will be subject to the discharge, defeasance or covenant defeasance as described below only if they are distributed to holders of the P-Caps upon the Trust's dissolution and termination.

(l) The Company initially appoints The Depository Trust Company to act as Depository with respect to the Notes if the Notes are issued in the form of a Global Security following the dissolution of the Trust. Additional provisions applicable to the Notes issued in the form of a Global Security are set forth in the form of security attached hereto as Exhibit A.

(m) The Trustee will initially act as the Paying Agent with respect to the Notes of each series. The office of the Paying Agent will be located at Deutsche Bank Trust Company Americas, Trust and Agency Services, 1 Columbus Circle, 17th Floor, MS NYC 01-1710, New York, New York 10019 Attn: Corporates – Constellation Energy Generation, LLC.

- (n) Except as otherwise set forth herein and in the Notes, the terms of the Notes shall be as set forth in the Base Indenture.

Section 3. REDEMPTION.

(a) Notices to Trustee. If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3(g) hereof, it must furnish to the Trustee, at least 15 days (or such shorter period as the Trustee may in its sole discretion allow) but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

- (i) the clause of this Supplemental Indenture pursuant to which the redemption shall occur;
- (ii) the redemption date;
- (iii) the redemption price or, where the redemption price cannot be calculated at the time of such notice, the method of calculation thereof.

(b) Selection of Notes to Be Redeemed or Purchased. If less than all of the Notes are to be redeemed at any time, the Trustee shall select Notes for redemption on a *pro rata* basis among all outstanding Notes or, if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed, in either case, unless otherwise required by law or depository requirements. In the event of partial redemption by lot, the particular Notes to be redeemed or purchased shall be selected, unless otherwise provided herein, not less than 10 nor more than 60 days prior to the redemption by the Trustee from the outstanding Notes not previously called for redemption. The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess of \$2,000; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000 shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Supplemental Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. No Notes of \$2,000 or less shall be redeemed in part. Notices of redemption shall be mailed by first class mail or delivered electronically at least 10 but not more than 60 days before the redemption date to each Holder of Notes to be redeemed at its registered address, except that redemption notices may be mailed or delivered electronically more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Supplemental Indenture. If any Note is to be redeemed in part only, the notice of redemption that relates to that Note shall state the portion of the principal amount of that Note that is to be redeemed. A new Note in principal amount equal to the unredeemed portion of the original Note shall be issued in the name of the Holder of Notes upon cancellation of the original Note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on Notes or portions of them called for redemption. Prior to the dissolution of the Trust, the Company may redeem the Notes only in integral multiples of \$20,000,000 principal amount.

(c) Notice of Redemption. At least 10 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, or delivered electronically, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Supplemental Indenture pursuant to Articles 8 or 11 hereof. The notice will identify the Notes to be redeemed and will state:

- (i) the redemption date;
- (ii) the redemption price or, where the redemption price cannot be calculated at the time of such notice, the method of calculation thereof;

- (iii) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (vii) the paragraph of the Notes and/or Section of this Supplemental Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (viii) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least four (4) Business Days prior to the date such notice of redemption is to be distributed to the Holders (or such shorter period as the Trustee in its sole discretion may allow), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph. Any redemption and notice thereof may, in the Company's discretion, be subject to the satisfaction of one or more conditions precedent.

(d) Effect of Notice of Redemption. Once notice of redemption is mailed or delivered in accordance with Section 3(c) hereof, Notes called for redemption become, subject to any conditions precedent set forth in the notice of redemption, irrevocably due and payable on the redemption date at the redemption price.

(e) Deposit of Redemption or Purchase Price. No later than 10:00 a.m. Eastern Time on the redemption or purchase date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, accrued interest and premium, if any, on all Notes to be redeemed or purchased on that date. Promptly after the Company's written request, the Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, accrued interest and premium, if any, on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4(a) hereof.

(f) Notes Redeemed or Purchased in Part. Upon surrender of a Note that is redeemed or purchased in part, the Company shall issue and, upon receipt of an Authentication Order, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

(g) Optional Redemption.

(i) At any time prior to December 31, 2026 (the “Par Call Date”), the Company may on any one or more occasions redeem all or a part of the Notes, upon not less than 10 nor more than 60 days’ prior notice, at a redemption price equal to the greater of:

(1) the sum of (a) the present values of the remaining scheduled payments of principal and interest thereon discounted to the redemption date (assuming the Notes matured on the Par Call Date) on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 25 basis points less (b) interest accrued to, but excluding, the date of redemption, and

(2) 100% of the principal amount of Notes to be redeemed.

Plus, in either case, accrued and unpaid interest thereon to, but excluding, the redemption date.

(ii) At any time on or after the Par Call Date, the Company may redeem the Notes, in whole but not in part, at a redemption price equal to 100% of the principal amount of such Notes, plus accrued and unpaid interest thereon to, but excluding, the redemption date.

(iii) Prior to the dissolution and termination of the Trust, the Company may redeem Notes held by the Trust only in integral multiples of \$10 million principal amount.

(iv) For purposes of this Section 3(g), “Treasury Rate” means, with respect to any applicable redemption date, the yield determined by Constellation in accordance with the following: The Treasury Rate shall be determined by the Company after 4:15 p.m., New York City time (or after such time as yields on U.S. government securities are posted daily by the Board of Governors of the Federal Reserve System), on the third Business Day preceding the redemption date based upon the yield or yields for the most recent day that appear after such time on such day in the most recent statistical release published by the Board of Governors of the Federal Reserve System designated as “Selected Interest Rates (Daily) - H.15” (or any successor designation or publication) (“H.15”) under the caption “U.S. government securities–Treasury constant maturities–Nominal” (or any successor caption or heading).

In determining the Treasury Rate, the Company shall select, as applicable: (1) the yield for the Treasury constant maturity on H.15 exactly equal to the period from the redemption date to the Par Call Date (the “Remaining Life”); or (2) if there is no such Treasury constant maturity on H.15 exactly equal to the Remaining Life, the two yields – one yield corresponding to the Treasury constant maturity on H.15 immediately shorter than and one yield corresponding to the Treasury constant maturity on H.15 immediately longer than the Remaining Life – and shall interpolate to the Par Call Date on a straight-line basis (using the actual number of days) using such yields and rounding the result to three decimal places; or (3) if there is no such Treasury constant maturity on H.15 shorter than or longer than the Remaining Life, the yield for the single Treasury constant maturity on H.15 closest to the Remaining Life. For purposes of this paragraph, the applicable Treasury constant maturity or maturities on H.15 shall be deemed to have a maturity date equal to the relevant number of months or years, as applicable, of such Treasury constant maturity from the redemption date.

If on the third Business Day preceding the redemption date H.15 or any successor designation or publication is no longer published, the Company shall calculate the Treasury Rate based on the rate per annum equal to the semi-annual equivalent yield to maturity at 11:00 a.m., New York City time, on the second Business Day preceding such redemption date of the United States Treasury security maturing on, or with a maturity that is closest to, the Par Call Date, as applicable. If there is no United States Treasury security maturing on the Par Call Date but there are two or more United States Treasury securities with a maturity date equally distant from the Par Call Date, one with a maturity date preceding the Par Call Date and one with a maturity date following the Par Call Date, The Company shall select the United States Treasury security with a maturity date preceding the Par Call Date. If there are two or more United States Treasury securities maturing on the Par Call Date or two or more United States Treasury securities meeting the criteria of the preceding sentence, The Company shall select from among

these two or more United States Treasury securities the United States Treasury security that is trading closest to par based upon the average of the bid and asked prices for such United States Treasury securities at 11:00 a.m., New York City time. In determining the Treasury Rate in accordance with the terms of this paragraph, the semi-annual yield to maturity of the applicable United States Treasury security shall be based upon the average of the bid and asked prices (expressed as a percentage of principal amount) at 11:00 a.m., New York City time, of such United States Treasury security, and rounded to three decimal places.

(v) The Company's actions and determinations in determining the redemption price shall be conclusive and binding for all purposes, absent manifest error.

(vi) Any optional redemption may be conditioned upon the consummation of one or more other transactions. The Trustee shall not have responsibility for calculating the redemption price.

(h) Mandatory Redemption. The Company will not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

Section 4. COVENANTS OF THE ISSUER. The Company shall be subject to the Covenants of the Issuer provided in Article III of the Base Indenture. For purposes of the Notes (but not other Securities, unless provided by the terms thereof), the Company additionally covenants and agrees to the following:

(a) Reports. The Company shall provide any documents or reports that the Company may be required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act will be filed with the Trustee within 15 days after The Company has filed those documents or reports with the SEC. The Company has agreed that even if it is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange act or otherwise required to report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, the Company will nonetheless file with the SEC and make available to the Trustee and to holders of the Notes the following reports:

(1) all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Company were required to file such reports; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

All such reports shall be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. Each annual report on Form 10-K will include a report on the Company's consolidated financial statements by the Company's independent registered public accounting firm. In addition, the Company shall file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing). To the extent such filings are made, the reports shall be deemed to be furnished to the Trustee and Holders of Notes. The Trustee shall not be responsible for determining whether such filings have been made.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company shall nevertheless continue filing the reports specified in this Section 4(a) with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Company agrees that it shall not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company shall post the reports referred to in this Section 4(a) on its website within the time periods that would apply if the Company were required to file those reports with the SEC.

In addition, at any time that the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company will agree that, for so long as any Notes are Outstanding, the Company will furnish or otherwise make available to holders and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act. Delivery of such documents and reports to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of such documents and reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of the covenants contained in the Indenture (as to which the Trustee will be entitled to conclusively rely on officer's certificates).

(b) Limitations on Liens. The Company may not issue, assume, guarantee or permit to exist any Indebtedness (as defined below) secured by any Lien on any of its property, whether owned on the date that the Notes are issued or thereafter acquired, without in any such case effectively securing the outstanding Notes (together with, if the Company shall so determine, any other Indebtedness of or guaranteed by the Company ranking equally with the Notes) equally and ratably with such Indebtedness (but only so long as such Indebtedness is so secured); provided that the foregoing restriction shall not apply to the following permitted liens ("Permitted Liens"):

- (1) pledges or deposits in the ordinary course of business in connection with bids, tenders, contracts or statutory obligations or to secure surety or performance bonds;
- (2) Liens imposed by law, such as carriers', warehousemen's and mechanics' liens, arising in the ordinary course of business;
- (3) Liens for property taxes being contested in good faith;
- (4) minor encumbrances, easements or reservations which do not in the aggregate materially adversely affect the value of the properties or impair their use;
- (5) Liens on property existing at the time of acquisition thereof by the company, or to secure any Indebtedness incurred by the Company prior to, at the time of, or within 90 days after the later of the acquisition, the completion of construction (including any improvements on an existing property) or the commencement of commercial operation of the property, which Indebtedness is incurred for the purpose of financing all or any part of the purchase price or construction or improvements;
- (6) Liens to secure purchase money Indebtedness not in excess of the cost or value of the property acquired;
- (7) Liens securing obligations issued by a state, territory or possession of the United States, or any political subdivision of any of the foregoing or the District of Columbia, to finance the acquisition or construction of property, and on which the interest is not, in the opinion of tax counsel of recognized standing or in accordance with a ruling issued by the Internal Revenue Service, includible in gross income of the holder by reason of Section 103(a)(1) of the Internal Revenue Code of 1986, as amended (or any successor to such provision) as in effect at the time of the issuance of such obligations; and
- (8) other Liens to secure Indebtedness so long as the amount of outstanding Indebtedness secured by Liens pursuant to this clause (8) does not exceed 10% of the Company's Consolidated Net Tangible Assets].

In the event that the Company shall propose to pledge, mortgage or hypothecate any property to secure Indebtedness, other than as permitted by clauses (1) through (8) of the previous paragraph, the Company shall (prior thereto) give written notice thereof to the trustee, who shall give notice to the



holders, and the Company shall, prior to or simultaneously with such pledge, mortgage or hypothecation, effectively secure, all the Notes equally and ratably with such Indebtedness. The Indenture does not limit the Company's Subsidiaries' ability to issue, assume, guarantee or permit to exist any Indebtedness secured by any Lien on any of such Subsidiary's property, whether owned on the date the Notes are issued or thereafter acquired, provided that such Indebtedness is limited in recourse only to such Subsidiary.

(c) Restriction on Sales and Leasebacks. The Company may not enter into any sale and leaseback transaction with any Subsidiary. In addition, the Company may not enter into any sale and leaseback transaction unless the Company complies with this restrictive covenant. A "sale and leaseback transaction" generally is an arrangement between the Company and a Subsidiary, bank, insurance company or other lender or investor where the Company leases real or personal property which was or will be sold by the Company to that Subsidiary, lender or investor. The Company will comply with this restrictive covenant if it meets either of the following conditions:

(i) the sale and leaseback transaction is entered into prior to, concurrently with or within 90 days after the acquisition, the completion of construction (including any improvements on an existing property) or the commencement of commercial operations of the property; or

(ii) The Company could otherwise grant a Lien on the property as a Permitted Lien.

(d) Offer to Repurchase Upon Change of Control Triggering Event.

(i) Upon the occurrence of a Change of Control Triggering Event, the Company will make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess of \$2,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest, if any, on the Notes repurchased to the date of purchase, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date (the "Change of Control Payment"). Within 30 days following any Change of Control Triggering Event, the Company will mail (or deliver electronically) a notice to each Holder describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4(d) and that all Notes tendered will be accepted for payment;

(ii) the purchase price and the purchase date, which shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed or delivered (the "Change of Control Payment Date");

(1) that any Note not tendered will continue to accrue interest;

(2) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;

(3) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer shall be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(4) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, facsimile

transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and

(5) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$2,000 in principal amount or an integral multiple of \$1,000 in excess of \$2,000.

(iii) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control Triggering Event. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4(d), the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4(d) by virtue of such compliance.

(iv) With respect to any Notes issued to the Trust in the amount of a Change of Control Offer Issuance Amount in connection with a Mandatory Exercise Event or other Notes already held by the Trust, to the extent holders of the P-Caps have accepted the Change of Control Offer with respect to P-Caps upon a Change of Control Offer Expiration Date, the Company will be required to repurchase such Notes on the Change of Control Payment Date for an amount equal to the Change of Control Payment in accordance with this Section 4(d).

(v) On the Change of Control Payment Date, the Company shall, to the extent lawful:

- (1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;
- (2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and
- (3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

(vi) The Paying Agent shall promptly distribute to each Holder of Notes properly tendered the Change of Control Payment for the Notes, and the Trustee shall promptly authenticate and deliver (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess of \$2,000. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(vii) The provisions described in Section 4(d) shall apply whether or not other provisions of this Supplemental Indenture are applicable. Except as described in Section 4(d) hereof, Holders of Notes shall not be permitted to require that the Company repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

(viii) Notwithstanding anything to the contrary in this Section 4(d), the Company shall not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4(d) and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 4(d) hereof, unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control Triggering Event, with

the obligation to pay and the timing of payment conditioned upon the occurrence of a Change of Control Triggering Event, if a definitive agreement to effect a Change of Control is in place at the time the Change of Control Offer is made.

Section 5. **EFFECT OF SUPPLEMENTAL INDENTURE.** This Supplemental Indenture is a supplemental indenture within the meaning of the Base Indenture. The provisions of this Supplemental Indenture are intended to supplement those of the Base Indenture as in effect immediately prior to the execution and delivery hereof. The Base Indenture shall remain in full force and effect except to the extent that the provisions of the Base Indenture are expressly modified by the terms of this Supplemental Indenture. The Base Indenture, as supplemented and amended by this Supplemental Indenture, is in all respects ratified, confirmed and approved and, with respect to the Notes, the Base Indenture, as supplemented and amended by this Supplemental Indenture, shall be read, taken and construed as one and the same instrument.

Notwithstanding any other provision of the Base Indenture or this Supplemental Indenture to the contrary, to the extent any provisions of this Supplemental Indenture or any Note issued hereunder shall conflict with any provision of the Base Indenture, the provisions of this Supplemental Indenture (including the terms and conditions of each series of Notes set forth in Section 2 hereof) shall govern.

Section 6. **GOVERNING LAW.** This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles thereunder, except to the extent that the law of any other jurisdiction shall be mandatorily applicable.

Section 7. **Waiver of Jury Trial.** EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS SUPPLEMENTAL INDENTURE OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 8. **TRUSTEE'S DISCLAIMER.** The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of the Notes of any series, it shall not be accountable for the Company's use of the proceeds from the Notes of any series or any money paid to the Company or upon the Company's direction under any provision of the Indenture or the Notes, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes of any series or any other document in connection with the sale of the Notes of any series or pursuant to this Supplemental Indenture other than its certificate of authentication.

Section 9. **AMENDMENTS AND SUPPLEMENTS.** Except as provided below, this Supplemental Indenture and the terms of the Notes shall be modified only as provided in Article VIII of the Base Indenture.

Section 10. **TRUST INDENTURE ACT.** Except as required by applicable law, notwithstanding any term or provision of the Base Indenture, this Supplemental Indenture and the Notes will not be subject to the provisions of the Trust Indenture Act of 1939, as amended.

Section 11. **COUNTERPART ORIGINALS.** The parties may sign any number of copies of this Supplemental Indenture. Signatures to this Supplemental Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Supplemental Indenture or related hereto or thereto (including, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) ("Executed Documentation") may be manual, facsimile, or Electronic Signatures. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of a signature page to this Supplemental Indenture and other Executed Documentation by telecopier, facsimile or other electronic transmission (e.g. a "pdf" or "tif") shall be effective as delivery of a manually executed counterpart thereof. The exchange of copies of this Supplemental Indenture and other Executed Documentation and of signature pages by telecopier,

facsimile or other electronic transmission (e.g. a “pdf” or “tif”) shall constitute effective execution and delivery of this Supplemental Indenture and other Executed Documentation as to the parties hereto and may be used in lieu of the original Supplemental Indenture or other Executed Documentation and signature pages for all purposes.

Section 12. **MULTIPLE ROLES.** The parties expressly acknowledge and consent to the Trustee acting in the capacity of trustee and Delaware trustee under the Trust Declaration (the “Owner Trustee”), as Collateral Agent and Securities Intermediary (each as defined in the Pledge Agreement) under the Pledge Agreement, and as the Trustee under the Indenture and the Facility Agreement. Each of the Owner Trustee, the Securities Intermediary, the Collateral Agent and the Trustee may, in such capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent any such conflict or breach arises from the performance by the Owner Trustee of express duties set forth in the Trust Declaration, the Collateral Agent and Securities Intermediary of express duties set forth in the Pledge Agreement or the Trustee of express duties set forth in the Facility Agreement and in the Indenture, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto and the Holders of the Notes.

*[The remainder of this page is left blank intentionally]*

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the day and year first above written.

CONSTELLATION ENERGY GENERATION, LLC

By: /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

[Signature page to First Supplemental Indenture]

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee

By: /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By: /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

[Signature page to First Supplemental Indenture]

EXHIBIT A

FORM OF NOTE

[Face of Note]

CUSIP/CINS 210385 AA8

3.046% Senior Notes due 2027

No. \_\_\_\_\_ \$ \_\_\_\_\_

as revised [by the Schedule of Increases and Decreases attached hereto] with a principal sum not to exceed \$\_\_, and \$\_\_  
in the aggregate for the Securities of the Series.

CONSTELLATION ENERGY GENERATION, LLC

promises to pay to \_\_\_\_\_ or registered assigns,

the principal sum of \_\_\_\_\_ DOLLARS on January 31, 2027

Interest Payment Dates: January 31 and July 31

Record Dates: January 15 and July 15

Dated: \_\_\_\_\_

This Note is one of the Securities  
of the Series designated therein referred to  
in the within-mentioned Base Indenture.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

CONSTELLATION ENERGY GENERATION, LLC

By: \_\_\_\_\_

Name:

Title:



DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee

By: \_\_\_\_\_

Name:

Title:

[Insert the Global Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Original Issue Discount Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Supplemental Indenture referred to below (or incorporated by reference therein) unless otherwise indicated.

(1) **INTEREST.** Constellation Energy Generation, LLC, a Pennsylvania limited liability company (the "*Company*"), promises to pay interest on the principal sum (not in excess of the Maximum Amount) [reflected on the Schedule of Increases and Decreases on Schedule A of this Note] and in the Security Register in accordance with the terms of the Indenture at 3.046% per annum from and including the date the Notes are delivered to the Trust or, if such date is not January 31 or July 31 (or if such date is prior to July 31, 2022, the date the P-Caps are issued) (the "*Issuance Date*"), and will be payable on each January 31 and July 31, commencing on July 31, 2022 (each, "*Distribution Date*"), or at any time the Notes are held by the Trust or in book-entry form only, at the close of business on the Business Day immediately preceding the Distribution Date. The Company shall pay interest semi-annually in arrears on January 31 and July 31 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "*Interest Payment Date*"). Interest on this Note will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issuance Date; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) **METHOD OF PAYMENT.** The Company shall pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the January 15 and July 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.7 of the Base Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Paying Agent and Registrar within the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; provided, that payment by wire transfer of immediately available funds will be required with respect to principal of, premium, if any, and interest on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. If this Note has been distributed by the Trust to the holders of the P-Caps upon the dissolution and termination of the Trust and is not represented by a Global Note, at the option of the Company, payment may be made by (i) check mailed to the address of the person entitled thereto as such address shall appear in the Security Register or (ii) Holders of the Notes must make arrangements to have their payments picked up at or wired from the corporate trust office of the Trustee. That office is currently located at 1 Columbus Circle 17th Floor MS:NYC01-1710 New York, New York 10019, Attention: Trust & Agency Services, Corporates Team/SF7147. The Company may arrange for additional payment offices or cancel or change these offices.

(3) **PAYING AGENT AND REGISTRAR.** Initially, Deutsche Bank Trust Company Americas, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change the Paying Agent or Registrar without prior notice to the Holders of the Notes. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

(4) *INDENTURE*. This Note is one of a duly authenticated series of securities of the Company issued and to be issued in one or more series under an Indenture (the "*Base Indenture*"), dated as of February 9, 2022, between the Company and the Trustee, as amended by the Supplemental Indenture (the "*Supplemental Indenture*" and, together with the Base Indenture, the "*Indenture*"), dated as of February 9, 2022, among the Company and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Base Indenture, the provisions of this Note shall govern and be controlling, and to the extent any provision of this Note conflicts with the express provisions of the Supplemental Indenture, the provisions of the Supplemental Indenture shall govern and be controlling. The Notes are unsecured general obligations of the Company.

(5) *OPTIONAL REDEMPTION*. This Note may be redeemed at the option of the Company as set forth in Section 3(g) of the Supplemental Indenture. Any redemption pursuant to this Section 5 shall be made pursuant to the provisions of Sections 3 of the Supplemental Indenture.

(6) *MANDATORY REDEMPTION*. The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER*. Upon the occurrence of a Change of Control Triggering Event, the Company will make an offer (a "*Change of Control Offer*") to each Holder to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess of \$2,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest, if any, on the Notes repurchased to the date of purchase, subject to the rights of Holders of Notes on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Company will mail (or deliver electronically) a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(8) *NOTICE OF REDEMPTION*. At least 10 days but not more than 60 days before a redemption date, the Company shall mail or cause to be mailed, by first class mail, or deliver electronically, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed or delivered more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Supplemental Indenture pursuant to Articles IX thereof. Notes and portions of Notes selected will be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder shall be redeemed or purchased.

(9) *Denominations, Transfer, Exchange*. The Securities are in registered form in minimum denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof. The provisions of Section 2.8 of the Base Indenture (Registration, Transfer and Exchange) shall apply to the Securities.

(10) *Persons Deemed Owners*. The registered holder of a Note shall be treated as the owner of such Note for all purposes.

(11) *Amendments, Supplements and Waivers*. The Indenture and the Securities may be amended or supplemented as provided in the Indenture.

(12) *Defaults and Remedies*. If an Event of Default with respect to the Securities shall occur and be continuing, the principal of all the Securities may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture provides that no Holder of any Note of any series may enforce any remedy with respect to such series under the Indenture unless (a) such Holder previously shall have given to the Trustee written notice of an Event of Default, (b) the Holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding (treated as a single class) shall have made written request upon the Trustee to institute such action or proceedings in its own name as Trustee and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, (c) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding, and (d) no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.9 of the Base Indenture; provided, however, that such provision shall not prevent the holder hereof from enforcing payment of the principal of or interest on this Note.

(13) *Discharge and Defeasance.* The Indenture contains provisions for discharge and for the defeasance of the entire indebtedness of this Note and certain restrictive covenants upon compliance by the Company with certain conditions set forth therein. Such discharge and defeasance provisions will only apply to this Note following the Trust's dissolution and termination and a distribution of the Securities to the holders of the P-Caps.

(14) *Trustee Dealings with the Company.* The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its affiliates, and may otherwise deal with the Company or its affiliates, as if it were not the Trustee.

(15) *No Recourse Against Others.* A director, officer, employee, incorporator or stockholder of the Company, as such, shall not have any liability for any obligations of the Company under the Securities or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Securities.

(16) *Signatures.* The Company may deliver its signature page to this Note, and the Trustee may validly authenticate this Note, by manual, facsimile, or Electronic Signature, in each case which may be delivered by telecopier, facsimile or other electronic transmission (e.g. a "pdf" or "tif"), which shall be effective as delivery of a manually signed signature thereof and may be used in lieu of manual signature pages for all purposes.

(17) *Authentication.* This Note shall not be valid until authenticated by the manual signature, facsimile, or Electronic Signature of the Trustee or an authenticating agent in accordance with the Indenture. An authenticating agent may authenticate Notes whenever the Trustee may do so.

(18) *Abbreviations.* Customary abbreviations may be used in the name of a holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian) and U/G/M/A (= Uniform Gifts to Minors Act).

(19) *CUSIP and ISIN Numbers.* Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Securities and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to holders. No representation is made as to the accuracy of such numbers either as printed on the Securities or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

(20) *Governing Law.* This Note and the Indenture shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws principles thereunder, except to the extent that the law of any other jurisdiction shall be mandatorily applicable.

(21) *Waiver of Jury Trial.* EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF

OR RELATING TO THIS NOTE, THE INDENTURE OR THE TRANSACTION CONTEMPLATED HEREBY.

(22) THE COMPANY SHALL FURNISH TO ANY HOLDER UPON WRITTEN REQUEST AND WITHOUT CHARGE A COPY OF THE BASE INDENTURE OR ANY RELEVANT SUPPLEMENTAL INDENTURE. REQUESTS MAY BE MADE TO THE REGISTERED OFFICE OF THE COMPANY.

(23)

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note  
to: \_\_\_\_\_

(Insert assignee's legal name)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint\_\_to transfer this Note on the books of  
the Company. The agent may substitute another to act for him.

Date:\_\_\_\_\_

Your  
Signature:\_\_\_\_\_ (Sign exactly as your name appears on the face of this Note)

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4(d) of the Supplemental Indenture, check here:

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4(d) of the Supplemental Indenture, state the amount you elect to have purchased:

\$ \_\_\_\_\_  
Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification  
No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_  
\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee)

SCHEDULE A

SCHEDULE OF INCREASES AND DECREASES IN THE NOTE

The following increases and decreases in this Note have been made:

Date of Change	Amount of decrease in Principal Amount of this Note	Amount of increase in Principal Amount of this Note	Principal Amount of this Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian
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EXHIBIT B  
FORM OF CERTIFICATE OF TRANSFER

Constellation Energy Generation, LLC  
200 Exelon Way, Kennett Square  
Pennsylvania 19348,  
Attention: General Counsel

Deutsche Bank Trust Company Americas  
c/o DB Services Americas, Inc.  
5022 Gate Parkway, Suite 200  
Jacksonville, FL 32256  
Attn: Transfer Department

Re: 3.046% Senior Notes due 2027 (CUSIP 210385 AA8)

Reference is hereby made to the Supplemental Indenture, dated as of February 9, 2022 (the "Indenture"), among Constellation Energy Generation, LLC, as issuer (the "Company"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1.  Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2.  Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act, (iii) the transaction is not part of a plan or scheme to

evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3.  Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

- a.  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act; or
- b.  such Transfer is being effected to the Company or a subsidiary thereof; or
- c.  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act; or
- d.  such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than \$250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4.  Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note.

- a.  Check if Transfer is pursuant to Rule 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.
- b.  Check if Transfer is Pursuant to Regulation S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any

applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

- c.  Check if Transfer is Pursuant to Other Exemption. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a)  a beneficial interest in the:

- (i)  144A Global Note (CUSIP ), or
- (ii)  Regulation S Global Note (CUSIP ), or
- (iii)  IAI Global Note (CUSIP ); or

(b)  a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a)  a beneficial interest in the:

- (i)  144A Global Note (CUSIP ), or
- (ii)  Regulation S Global Note (CUSIP ), or
- (iii)  IAI Global Note (CUSIP ); or
- (iv)  Unrestricted Global Note (CUSIP ); or

(b)  a Restricted Definitive Note; or

(c)  an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

EXHIBIT C  
FORM OF CERTIFICATE OF EXCHANGE

Constellation Energy Generation, LLC  
200 Exelon Way, Kennett Square  
Pennsylvania 19348,  
Attention: General Counsel

Deutsche Bank Trust Company Americas  
c/o DB Services Americas, Inc.  
5022 Gate Parkway, Suite 200  
Jacksonville, FL 32256  
Attn: Transfer Department

Re: 3.046% Senior Notes due 2027 (CUSIP 210385 AA8)

Reference is hereby made to the Supplemental Indenture, dated as of February 9, 2022 (the "Indenture"), among Constellation Energy Generation, LLC, as issuer (the "Company"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**
  - a.  **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.
  - b.  **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.
  - c.  **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions

applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

d.  **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note.** In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

a.  **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

b.  **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note.** In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE]  144A Global Note,  Regulation S Global Note,  IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

EXHIBIT D  
FORM OF CERTIFICATE FROM  
ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

Constellation Energy Generation, LLC  
200 Exelon Way, Kennett Square  
Pennsylvania 19348,  
Attention: General Counsel

Deutsche Bank Trust Company Americas  
c/o DB Services Americas, Inc.  
5022 Gate Parkway, Suite 200  
Jacksonville, FL 32256  
Attn: Transfer Department

Re: 3.046% Senior Notes due 2027 (CUSIP 210385 AA8)

Reference is hereby made to the Supplemental Indenture, dated as of February 9, 2022 (the "Indenture"), among Constellation Energy Generation, LLC, as issuer (the "Company"), the Guarantors party thereto and Deutsche Bank Trust Company Americas, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of \$\_\_aggregate principal amount of:

- (a)  a beneficial interest in a Global Note, or
- (b)  a Definitive Note,

we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "Securities Act").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than \$250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144 under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the

foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Insert Name of Accredited Investor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_



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**FACILITY AGREEMENT**

dated as of February 9, 2022

among

**CONSTELLATION ENERGY GENERATION, LLC,**

**FELLS POINT FUNDING TRUST,**

and

**DEUTSCHE BANK TRUST COMPANY AMERICAS,**  
as Notes Trustee

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FACILITY AGREEMENT, dated as of February 9, 2022 (this “*Agreement*”), among CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (“*Constellation*”), FELS POINT FUNDING TRUST, a Delaware statutory trust (the “*Trust*”), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as Notes Trustee (as defined below).

WHEREAS, Constellation is entering into a new facility agreement (the “*LC Agreement*”) for the issuance of letters of credit by certain financial institutions (the “*LC Issuers*”) to support the operations of Constellation and its subsidiaries and minority investments;

WHEREAS, pursuant to the LC Agreement, Constellation will agree with the LC Issuers to collateralize its obligations under the LC Agreement by directing the Trust, in accordance with this Agreement, to grant a first priority security interest in certain Eligible Treasury Assets in favor of Deutsche Bank Trust Company Americas as the collateral agent (the “*Collateral Agent*”) for the LC Issuers and other secured parties under the LC Agreement, to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of Constellation to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right, in each case pursuant to a pledge and control agreement to be entered into among the Trust, the Collateral Agent and Constellation (the “*Pledge Agreement*”);

WHEREAS, Constellation wishes to have the right to require the Trust to purchase up to \$1,000,000,000 aggregate principal amount of Constellation’s 3.046% Senior Notes due 2027 (the “*Senior Notes*”), issued under the Indenture, dated as of the date hereof (the “*Base Indenture*”), between Constellation and Deutsche Bank Trust Company Americas, as trustee (the “*Notes Trustee*”), as amended and supplemented by the First Supplemental Indenture thereto, dated as of the date hereof (the “*Supplemental Indenture*”) and the Base Indenture, as amended and supplemented by the Supplemental Indenture, the “*Notes Indenture*”);

WHEREAS, the Trust has been authorized to purchase the Senior Notes from Constellation on the terms and conditions set forth herein;

WHEREAS, Constellation and the Trust desire to enter into a binding agreement pursuant to which Constellation will have the right, and in certain circumstances the obligation, to sell the Senior Notes, when and if issued and outstanding, in a maximum aggregate principal amount not to exceed the Maximum Amount to the Trust, and the Trust will have an obligation to purchase such Senior Notes, if and when issued and outstanding, upon the voluntary, mandatory or automatic exercise of such right, and upon satisfaction of the other terms and conditions specified herein and Constellation will have the right from time to time in certain circumstances to repurchase Senior Notes then held by the Trust in whole or in part; and

WHEREAS, simultaneously with the execution and delivery of this Agreement, Constellation is ordering the Notes Trustee to authenticate and deliver the Initial Note Certificate to the Trust to evidence any Senior Notes sold to the Trust from time to time upon the exercise of the right granted by and in accordance with the terms of this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I**  
**DEFINITIONS: INTERPRETATION**

*Section 1.1. Definitions.*

(a) Unless the context otherwise requires, in this Agreement (including in the Recitals):

“*Accounting Change*” means any change in GAAP that has been adopted by Constellation and is effective for accounting periods ending after the date hereof.

“*Applicable Percentage*” means (i) in the case of any Voluntary Exercise of the Issuance Right, a percentage equal to the Designated Amount specified in the applicable Issuance Notice divided by the Available Amount at the date of such notice, (ii) in the case of any Collateral Enforcement Event, a percentage equal to the Collateral Enforcement Amount divided by the Available Amount (which, for the avoidance of doubt, when such percentage is applied to the Available Amount shall include all Removed Collateral), (iii) in the case of the occurrence of a Change of Control Offer Expiration Date, a percentage equal to the Change of Control Offer Issuance Amount divided by the Available Amount at the date of such notice and (iv) 100% in the case of any Automatic Exercise Event or Mandatory Exercise Event (other than a Collateral Enforcement Event or the occurrence of a Change of Control Offer Expiration Date).

“*Automatic Exercise Event*” means:

(i) Constellation fails to pay any Facility Fee when due or any amount due and owing under the Trust Expense Reimbursement Agreement on any Distribution Date or fails on any Distribution Date to purchase and pay for any Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 by 5:00 p.m. on such Distribution Date and in each case, such failure is not cured (including payment in full of the Special Facility Fee due as a result of such failure) within 30 days of such Distribution Date; or

(ii) a Bankruptcy Event in respect of Constellation has occurred.

“*Available Amount*” means, at any time, the Maximum Amount *minus* (i) the aggregate original principal amount of Senior Notes that have been issued and sold to the Trust pursuant to Section 2.1 and not repurchased by Constellation pursuant to Section 2.2 for which the Settlement Date has occurred prior to such time and (ii) the aggregate Designated Amount of Senior Notes for which Issuance Notices have been delivered at or prior to such time but for which the Settlement Date has not yet occurred.

“*Bankruptcy Event*” in respect of a Person means that such Person (i)(A) institutes a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under

any bankruptcy or insolvency law or other similar law affecting creditors' rights, or (B) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, such proceeding or petition either (x) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (y) in the case of an insolvency proceeding, is not dismissed, discharged, stayed or restrained, in each case, within 60 days of the institution or presentation thereof; (ii) has a resolution passed for its winding-up or liquidation (other than pursuant to a consolidation, amalgamation or merger); or (iii) causes or is subject to any event with respect to which, under applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) or (ii).

*"Beneficial Owner"* has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms *"Beneficially Owns"* and *"Beneficially Owned"* have a corresponding meaning.

*"Calculation Agent"* means Credit Suisse Securities (USA) LLC, in its capacity as calculation agent under the Calculation Agency Agreement, or any successor thereto in such capacity.

*"Capital Stock"* means:

- (i) in the case of a corporation, corporate stock;
- (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (iii) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (iv) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

*"Change of Control"* means the occurrence of any of the following:

- (i) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Constellation and its Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of Constellation or any of its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or

(ii) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined above), other than a corporation owned directly or indirectly by the stockholders of Constellation in substantially the same proportion as their ownership of stock of Constellation prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of Constellation, measured by voting power rather than number of shares.

“*Change of Control Offer Expiration Date*” means the third Business Day preceding the Change of Control Payment Date.

“*Change of Control Payment Date*” means the date specified in the notice to each Holder regarding the Change of Control Offer.

“*Collateral Enforcement Event*” means any withdrawal of Eligible Treasury Assets by the Collateral Agent from the Trust Collateral Account pursuant to, and subject to the conditions and other requirements set forth in, the LC Agreement and the Pledge Agreement.

“*Consolidated Net Worth*” means the consolidated stockholders’ equity of Constellation determined in accordance with GAAP but excluding (i) accumulated other comprehensive income (or loss), (ii) equity of non-controlling interests attributable thereto and (iii) treasury stock at cost.

“*Coupon Rate*” means the interest that will accrue on the Senior Notes at a rate of 3.046% per annum.

“*Deutsche Bank DE*” means Deutsche Bank Trust Company Delaware, a Delaware corporation.

“*Deutsche Bank NY*” means Deutsche Bank Trust Company Americas, a New York banking corporation.

“*Exchange Act*” means the Securities Exchange Act of 1934 (together with any other securities laws and regulations thereunder).

“*GAAP*” means generally accepted accounting principles as in effect from time to time in the United States.

“*Investment Grade*” means a rating of (i) Baa3 or better by Moody’s, (ii) BBB – or better by S&P, (iii) the equivalent of such rating by such organization or (iv) if another Rating Agency has been selected by Constellation, the equivalent of such rating by such other Rating Agency.

“*Issuance Notice*” means a written notice substantially in the form attached as *Annex A*.

“*Lien*” means, with respect to any asset, any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset.

“*Mandatory Exercise Event*” means:

- (i) Constellation’s Consolidated Net Worth has fallen below the Minimum Net Worth Threshold;
- (ii) an Event of Default under (and as defined in) the Notes Indenture has occurred or would have occurred had the Senior Notes been outstanding;
- (iii) Constellation breaches the Senior Notes issuance capacity covenant in Section 2.7;
- (iv) a Collateral Enforcement Event has occurred;
- (v) a Change of Control Offer Expiration Date has occurred; or
- (vi) (A) Constellation determines that an Investment Company Act Event is reasonably likely to occur or has occurred and (B)(x) within five Business Days of such determination, the Transaction Agreements have not been amended to prevent or cease such event, or (y) Constellation has reasonably determined that no such amendment is possible.

Upon a Mandatory Exercise Event occurring under clause (i), (ii), (iii) or (vi) above, Constellation will be required to promptly notify the Trustee and to sell to the Trust the Available Amount of the Senior Notes. Upon a Mandatory Exercise Event occurring under clause (iv) above, Constellation will be required to sell to the Trust an amount of Senior Notes (rounded up to the nearest \$20,000,000 principal amount) (the “*Collateral Enforcement Amount*”) such that the Removed Collateral would be included in the Notes Purchase Price for the exercise of the Issuance Right with respect to the Collateral Enforcement Amount (assuming for purposes of determining the Notes Purchase Price that none of the Eligible Treasury Assets would be Blocked Eligible Treasury Assets), as determined by the Calculation Agent. Upon a Mandatory Exercise Event occurring under clause (v) above, Constellation will be required to sell to the Trust Senior Notes in a principal amount equal to the excess of the initial purchase price of the Trust Securities that have accepted the Change of Control Offer (the “*P-Caps Tendered Amount*”) over the principal amount of Senior Notes held by the Trust, with such excess rounded up to the nearest \$20,000,000 principal amount (such principal amount following rounding, the “*Change of Control Offer Issuance Amount*” and such principal amount prior to rounding the “*Change of Control Offer Subject Amount*”). On the Change of Control Payment Date, Constellation shall pay the Change of Control Payment to the Trust to repurchase a principal amount of Senior Notes equal to the P-Caps Tendered Amount (minus the Change of Control Offer Subject Amount if Constellation has paid the Cash Settlement Amount with respect thereto in lieu of issuance), at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest to, but not including, the date of repurchase, in each case to the extent necessary to pay the Change of Control Payment



with respect to the P-Caps Tendered Amount. Constellation will be required to notify the Trustee of a Change of Control Triggering Event.

“*Maximum Amount*” means, at any time, in respect of the Senior Notes, \$1,000,000,000 aggregate principal amount of Senior Notes less the aggregate principal amount of Senior Notes, if any, that Constellation has previously redeemed or as to which Constellation has paid the Cash Settlement Amount.

“*Minimum Net Worth Threshold*” means \$2 billion, subject to adjustment as set forth in Section 2.4.

“*Moody’s*” means Moody’s Investors Service, Inc. or any successor entity.

“*Notes Purchase Price*” means the Applicable Percentage of each series of securities constituting Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by the Trust on the Settlement Date (excluding any such Eligible Treasury Assets that are scheduled to mature on such date) with respect to an exercise of the Issuance Right (and, in the event such Eligible Treasury Assets are or have been liquidated, any proceeds received with respect thereto shall be treated for purposes of determining the Notes Purchase Price as equal not more than the face amount of such Eligible Treasury Assets, with the effect that Holders of the Trust Securities will have no exposure to changes in value, if any, of the Eligible Treasury Assets); *provided* that, in the event that the face amount of any series of securities constituting Eligible Treasury Assets to be delivered as part of the Notes Purchase Price would not be equal to an integral multiple of \$100, the face amount of such series of Eligible Treasury Assets to be delivered as part of the Notes Purchase Price shall be rounded down to the nearest \$100.

“*P-Caps Final Redemption Date*” means January 31, 2027 or, if such day is not a Business Day, the following Business Day.

“*Rating Agency*” means (i) each of Moody’s and S&P and (ii) if either of Moody’s or S&P ceases to rate the Trust Securities or the Senior Notes or fails to make a rating of the Trust Securities or the Senior Notes publicly available, a Nationally Recognized Statistical Rating Organization selected by Constellation which shall be substituted for Moody’s, or S&P, as the case may be with respect to the Trust Securities or the Senior Notes.

“*Reorganization*” means any consolidation, merger or sale of all or substantially all assets of Constellation or any similar transaction, or acquisition or disposition of any subsidiary of Constellation (whether a direct or indirect subsidiary).

“*Retained Eligible Treasury Assets*” means any Blocked Eligible Treasury Assets and any other Eligible Treasury Assets held by the Trust at the direction and on behalf of Constellation after a Mandatory Exercise or Automatic Exercise of the Issuance Right.

“*S&P*” means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the United States Securities Act of 1933.

“Settlement Date” means the date on which the relevant exercise of the Issuance Right is settled.

“Special Facility Fee” means, with respect to any Overdue Amount, a premium equal to the excess, if any, of (i) the amount due and payable on the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust or under this Agreement as of the applicable Distribution Date, plus interest thereon at the Coupon Rate from and including the Business Day immediately following the applicable Distribution Date to but excluding, the relevant Special Facility Fee Payment Date, calculated on a 30/360 Basis, over (ii) the amounts otherwise actually received by the Trust in respect of such Eligible Treasury Assets (including the purchase price of any Defaulted Eligible Treasury Assets, but excluding any Retained Eligible Treasury Assets) or in respect of such Overdue Amounts (including overdue interest on Defaulted Eligible Treasury Assets other than any Retained Eligible Treasury Assets), except that the “Special Facility Fee” with respect to any Overdue Amount paid after the Trust Dissolution Date shall be equal to the amount equal to interest at the Coupon Rate from and including the Trust Dissolution Date to, but excluding, the relevant Special Facility Fee Payment Date, calculated on a 30/360 Basis on a notional amount equal to the excess of (i) the amount due and payable on the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) or under this Agreement as of the Trust Dissolution Date over (ii) the amounts otherwise actually received by the Trust in respect of such Eligible Treasury Assets (including the purchase price of any Defaulted Eligible Treasury Assets but excluding any Retained Eligible Treasury Assets) or in respect of such Overdue Amounts (including overdue interest on Defaulted Eligible Treasury Assets).

“Statutory Trust Act” means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 *et seq.*

“Subsidiary” means, with respect to any specified Person:

(i) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that person (or a combination thereof); and

(ii) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

“*Trust Declaration*” means the Amended and Restated Declaration of Trust, dated as of the date hereof, among Constellation, in its individual capacity and as depositor, Deutsche Bank NY, as trustee, and Deutsche Bank DE, as Delaware trustee.

“*Trust Expense Reimbursement Agreement*” means the Trust Expense Reimbursement Agreement, dated as of the date hereof, between Constellation and the Trust.

“*Voluntary Exercise*” means any exercise of the Issuance Right that is not an Automatic Exercise or a Mandatory Exercise.

“*Voting Stock*” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the board of directors of such Person.

(b) As used herein (including in the Recitals), each of the following terms shall have the meaning set forth in the Section of this Agreement or in the other document set forth opposite such term in the table below, unless the context otherwise requires:

30/360 Basis.....	Trust Declaration
Agreement.....	Preamble
Authorized Officer .....	Pledge Agreement
Aggregate Collateral Amount .....	LC Agreement
Automatic Exercise .....	Section 2.1(a)
Automatic Exercise Notice .....	Section 3.2(a)
Base Indenture .....	Recitals
Blocked Eligible Treasury Assets.....	Section 3.3(e)
Business Day.....	Trust Declaration
Calculation Agency Agreement.....	Trust Declaration
Cash Settlement Amount .....	Section 2.1(b)
Cash Settlement Election .....	Section 2.1(b)
Change of Control Offer .....	Trust Declaration
Change of Control Offer Issuance Amount .....	Section 1.1
Change of Control Offer Subject Amount.....	Section 1.1
Change of Control Payment.....	Trust Declaration
Change of Control Triggering Event .....	Trust Declaration
Collateral Agent.....	Recitals
Collateral Enforcement Amount.....	Section 1.1
Constellation .....	Preamble
Constellation Collateral Account.....	Pledge Agreement
Defaulted Eligible Treasury Assets .....	Trust Declaration
Designated Amount .....	Section 3.1
Distribution Date.....	Trust Declaration
Distribution Period.....	Trust Declaration
Eligible Treasury Assets .....	Trust Declaration
Enforceability Exceptions.....	Section 6.1(e)
Event of Default.....	Base Indenture

Facility Fee.....	Section 4.1
Holder .....	Trust Declaration
Initial Note Certificate .....	Section 2.1(d)(i)
Investment Company Act Event.....	Trust Declaration
Issuance Right.....	Section 2.1(a)
LC Agreement.....	Recitals
LC Issuers .....	Recitals
Majority of Holders.....	Trust Declaration
Mandatory Exercise .....	Section 2.1(a)
Minimum Collateral Base .....	LC Agreement
Notes Indenture.....	Recitals
Notes Trustee .....	Recitals
Offering Memorandum .....	Trust Declaration
Officer’s Certificate .....	Notes Indenture
Optional Redemption Price.....	Trust Declaration
Overdue Amounts .....	Section 4.2
P-Caps Tax Event .....	Trust Declaration
P-Caps Tendered Amount.....	Section 1.1
Person.....	Trust Declaration
Pledge Agreement.....	Recitals
Proceedings .....	Section 7.8
Purchase Agreement .....	Section 6.2(h)
Redemption Price.....	Trust Declaration
Removed Collateral .....	Section 3.1
Repurchase .....	Section 2.2(a)
Repurchase Price.....	Section 2.2(a)
Repurchase Right .....	Section 2.2(a)
Repurchase Settlement Date .....	Section 2.2(c)
Retained Eligible Treasury Assets Account ...	Pledge Agreement
Security Register.....	Base Indenture
Senior Notes.....	Recitals
Senior Notes Issuance Capacity Covenant .....	Section 2.7
Special Facility Fee Payment Date .....	Section 4.2
Supplemental Indenture .....	Recitals
Transaction Agreements .....	Trust Declaration
Trust .....	Preamble
Trust Collateral Account.....	Pledge Agreement
Trust Dissolution Date .....	Trust Declaration
Trust Securities .....	Trust Declaration
Trustee.....	Trust Declaration

*Section 1.2. Interpretation.* Unless the context otherwise requires, in this Agreement (including in the Recitals):

(a) any reference to this Agreement or any other agreement or document shall be construed as a reference to this Agreement or such other agreement or document, as

applicable, as the same may have been, or may from time to time be, amended, varied, novated or supplemented in accordance with its terms;

(b) any reference to a statute or regulation shall be construed as a reference to such statute or regulation or any successor or replacement statute or regulation, in each case as the same may have been, or may from time to time be, amended, varied or supplemented in accordance with its terms;

(c) any reference to time is to New York City time;

(d) the words “*herein*”, “*hereof*” and “*hereunder*” and other words of similar import refer to this Agreement as a whole and not to any particular section, clause or other subdivision, and references to “*Articles*”, “*Sections*” and “*Annexes*” refer to Articles or Sections of, or Annexes to, this Agreement except as otherwise expressly provided;

(e) the word “*including*” shall be deemed to be followed by the words “*without limitation*”;

(f) any definition shall be equally applicable to both the singular and plural forms of the defined term;

(g) headings contained in this Agreement are inserted for convenience of reference only and do not affect the interpretation of this Agreement or any provision hereof; and

(h) whenever in this Agreement any Person is named or referred to, the successors and assigns of such Persons shall be deemed to be included, and all covenants and agreements in this Agreement by Constellation, the Trust and the Notes Trustee shall bind and inure to the benefit of their respective successors and assigns, whether or not so expressed.

## **ARTICLE II**

### **ISSUANCE RIGHT; REPURCHASE RIGHT; TERM**

#### *Section 2.1. Grant of Issuance Right.*

(a) The Trust hereby grants to Constellation the right to require the Trust to purchase, on one or more occasions, up to the Maximum Amount of Senior Notes on the terms specified in this Agreement from Constellation (the “*Issuance Right*”). The exercise of the Issuance Right shall be in the sole discretion of Constellation, *provided* that at any time that the Trust holds Eligible Treasury Assets (other than Retained Eligible Treasury Assets), (i) Constellation shall be required to exercise the Issuance Right for the entire Available Amount upon the occurrence of a Mandatory Exercise Event (other than pursuant to a Collateral Enforcement Event or a Change of Control Triggering Event and in each case as provided for in the definition of “Mandatory Exercise Event” above), (ii) Constellation shall be required to exercise the Issuance Right for the Collateral Enforcement Amount upon the occurrence of a Mandatory Exercise Event constituting a Collateral Enforcement Event, (iii) Constellation shall be required to exercise the Issuance Right for the Change of Control Offer Issuance Amount upon the occurrence of a Mandatory Exercise Event constituting a Change of Control Offer Expiration Date (any such exercise pursuant to this clause (iii) or clause (i) or (ii) above, a

“Mandatory Exercise”), and (iv) the exercise of the Issuance Right for the entire Available Amount shall occur automatically (such exercise, an “Automatic Exercise”) upon the occurrence of an Automatic Exercise Event. Neither the Notes Trustee nor the Trust shall have any duty to calculate, monitor or track the Available Amount.

(b) Constellation may, in connection with any Voluntary Exercise or Mandatory Exercise pursuant to a Change of Control Triggering Event (solely to the extent of the Change of Control Offer Subject Amount), make an election (a “Cash Settlement Election”) to deliver on the Settlement Date, in lieu of Senior Notes, by wire transfer in immediately available funds, an amount equal to the Optional Redemption Price (or for the Change of Control Offer Subject Amount, the repurchase price), including accrued and unpaid interest to but excluding the date of payment, as determined pursuant to the Senior Notes (the “Cash Settlement Amount”), that would be payable if Constellation had sold such Senior Notes to the Trust and redeemed them (or, in the case of a Change of Control Triggering Event, been required to repurchase them) on such Settlement Date; *provided* that a Cash Settlement Election solely in connection with a Voluntary Exercise may be made only with respect to an integral multiple of \$20,000,000 principal amount of Senior Notes or, in the event that the Available Amount is less than \$20,000,000, for the Available Amount. For the avoidance of doubt, in the event that Constellation elects to pay the Cash Settlement Amount in connection with a Mandatory Exercise pursuant to a Change of Control Triggering Event, such Cash Settlement Amount shall only be paid with respect to the Change of Control Offer Subject Amount, and Constellation will be required to issue Senior Notes to the Trust with a principal amount equal to the difference between the Change of Control Offer Issuance Amount and the Change of Control Offer Subject Amount.

(c) The Trust agrees that it shall purchase Senior Notes from Constellation (or, if Constellation has made a Cash Settlement Election with respect to such Senior Notes, receive the applicable Cash Settlement Amount) in exchange for the Notes Purchase Price upon each exercise of the Issuance Right, in whole or in part, as provided in ARTICLE III, in accordance with any Issuance Notice or upon an Automatic Exercise and subject to the terms and conditions set forth herein.

(d) The parties acknowledge and agree that:

(i) on the date hereof, Constellation is issuing to the Trust a Senior Note with an initial principal amount of \$0 (the “Initial Note Certificate”);

(ii) any delivery of Senior Notes by Constellation to the Trust as contemplated by this Agreement upon any Voluntary Exercise, Automatic Exercise or Mandatory Exercise shall be effected by increasing the principal amount of the Initial Note Certificate and recording such increase in the Security Register; and

(iii) any redemption of Senior Notes held by the Trust and any delivery of Senior Notes by the Trust to Constellation upon Constellation’s exercise of the Repurchase Right shall be effected by decreasing the principal amount of the Initial Note Certificate and recording such decrease in the Security Register.

*Section 2.2. Repurchase Right.*

(a) Subject to Section 2.2(b) Constellation shall have the right to repurchase, on one or more occasions, Senior Notes then outstanding and held by the Trust, in whole or in part (*provided* that any repurchase of Senior Notes then outstanding and held by the Trust shall be made as to an integral multiple of \$20,000,000 principal amount of Senior Notes), at any time in exchange for Eligible Treasury Assets that entitle the Trust to receive on each subsequent Distribution Date through and including the P-Caps Final Redemption Date, payments of principal and interest that are in the same amounts as the Trust would have received on each such Distribution Date on the Eligible Treasury Assets that it delivered to Constellation, or to the Collateral Agent, as the case may be upon the exercise of the Issuance Right in respect of the Senior Notes to be so repurchased (the “*Repurchase Price*”). The repurchase right described in this Section 2.2(a) is referred to herein as a “*Repurchase Right*” and any such repurchase is referred to herein as a “*Repurchase*”.

(b) The Repurchase Right shall terminate upon the earliest to occur of (i) an Automatic Exercise Event, (ii) a Mandatory Exercise Event pursuant to which the Available Amount is reduced to zero, or (iii) Constellation’s delivery of a notice substantially in a form of *Annex B* to the Trust and the Notes Trustee irrevocably waiving its right to exercise the Repurchase Right. Constellation may not effect a Repurchase of any Senior Notes for which Constellation has delivered a notice of redemption pursuant to the Notes Indenture.

(c) Constellation may exercise the Repurchase Right by delivering to the Trust and the Notes Trustee a notice substantially in the form of *Annex C*, which notice shall specify the settlement date (the “*Repurchase Settlement Date*”), which shall be a Business Day that is prior to the Trust Dissolution Date and at least three Business Days after Constellation delivers such notice. On the Repurchase Settlement Date, Constellation shall deliver the Repurchase Price to the Trust against delivery of the Senior Notes by the Trust to Constellation or its designee. Each of Constellation and the Trust hereby covenants and agrees that its delivery of the Repurchase Price or the Senior Notes, respectively, pursuant to this Section 2.2 shall be made free and clear of any adverse claims, together with all transfer and registration documents (or all notices, instructions or other communications) as are necessary to convey title to the Repurchase Price or the Senior Notes to the Trust or Constellation (or its designee), as the case may be and cause them to be a protected purchaser (within the meaning of the New York Uniform Commercial Code) of the Repurchase Price or the Senior Notes, as the case may be.

*Section 2.3. Termination of Facility Agreement.* The Issuance Right, the Repurchase Right and this Agreement shall terminate on the Trust Dissolution Date, except with respect to obligations that have accrued hereunder prior to such date.

*Section 2.4. Consolidated Net Worth.*

(a) *Consolidated Net Worth.* No later than five Business Days after each date on which Constellation’s annual or quarterly financial statements are required to be filed on Form 10-K or Form 10-Q with the SEC, including without limitation any applicable extensions thereof, or if Constellation is not required to file such financial statements with the SEC, the date on which Constellation would be required to file such financial statements if Constellation

continued to be subject to SEC filing requirements, Constellation shall notify the Trust of its Consolidated Net Worth as of the last day of the immediately preceding fiscal year or quarter, as the case may be, and state whether or not a Mandatory Exercise Event has occurred. Such notice shall briefly describe any Reorganization or Accounting Change resulting in a change in the Minimum Net Worth Threshold pursuant to clauses (b), (c) and (d) of this Section 2.4 since the later of (i) the date of this Agreement or (ii) the most recent such notice and specify (A) the adjustment to the Minimum Net Worth Threshold caused by such Reorganization or Accounting Change, including the calculation of such adjustment, and (B) the effective date of such adjustment.

(b) *Reorganizations.* In the event of a Reorganization of Constellation that would result in a change in its Consolidated Net Worth, after giving effect to such Reorganization, of 15% or more of its Consolidated Net Worth immediately prior to such Reorganization, the Minimum Net Worth Threshold shall be adjusted by multiplying the Minimum Net Worth Threshold applicable immediately prior to such Reorganization by a fraction, the numerator of which is the Consolidated Net Worth after giving effect to such Reorganization, and the denominator of which is the Consolidated Net Worth immediately prior to the Reorganization.

(c) *Change of Accounting Policies.* If at any time an Accounting Change would affect the computation of Consolidated Net Worth resulting in a change in the Consolidated Net Worth, after giving effect to such Accounting Change, of 15% or more of the Consolidated Net Worth immediately prior to such Accounting Change, the Minimum Net Worth Threshold shall be adjusted by multiplying the Minimum Net Worth Threshold applicable immediately prior to the Accounting Change by a fraction, the numerator of which is the Consolidated Net Worth after giving effect to the Accounting Change, and the denominator of which is the Consolidated Net Worth immediately prior to the Accounting Change.

(d) *Calculation of the Consolidated Net Worth.* For purposes of this Section 2.4, the Consolidated Net Worth immediately prior to a Reorganization or an Accounting Change shall be calculated based on the most recent annual or quarterly consolidated financial statements of Constellation that are available at the time of determination of such Consolidated Net Worth. Constellation shall report any changes in the Minimum Net Worth Threshold, the basis for such change and the calculation thereof in a notice to the Trust.

*Section 2.5. Exercisability of the Issuance Right.* The Issuance Right shall be exercisable in accordance with Section 2.1 notwithstanding any failure to pay any amount due under this Agreement, and no such failure shall constitute a breach of or a default under this Agreement unless, by the end of the 30th day following the applicable Distribution Date on which amounts are due from Constellation to the Trust, such failure has not been remedied (whether (i) by Constellation paying the unpaid amount to the Trust or (ii) by Constellation delivering an Issuance Notice with respect to the entire Available Amount, for settlement prior to such 30th day, and such amounts being set-off against the Notes Purchase Price in respect thereof (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such setoff based on the proceeds received therefor by the Trust)).



*Section 2.6. Mandatory Exercise Events.* Constellation shall give prompt written notice to the Trust of the occurrence of any Mandatory Exercise Event.

*Section 2.7. Senior Notes Issuance Capacity.* Constellation shall ensure at all times that the issuance of an aggregate principal amount of the Senior Notes in an amount up to the Available Amount would not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which Constellation is a party or by which Constellation is bound (such provision, the “*Senior Notes Issuance Capacity Covenant*”).

### **ARTICLE III EXERCISE OF THE ISSUANCE RIGHT**

*Section 3.1. Exercise of the Issuance Right by Constellation.* The Issuance Right shall be exercisable upon delivery by Constellation of an Issuance Notice to the Trust and the Notes Trustee. The Issuance Notice shall specify (i) whether such exercise is a Mandatory Exercise, (ii) the Settlement Date, which shall be a Business Day that is on or prior to the Trust Dissolution Date and at least two Business Days after the date such notice is received by the Trust and the Notes Trustee, and if Constellation is making a Cash Settlement Election, at least 10 days but not more than 60 days following the date such notice is received by the Trust and the Notes Trustee; *provided* that in the case of a Mandatory Exercise, the Settlement Date shall be the second Business Day after the date of receipt, (iii) whether the Settlement Date is the Trust Dissolution Date, (iv) the principal amount of Senior Notes with respect to which Constellation is exercising the Issuance Right (the “*Designated Amount*”), which shall be an integral multiple of \$20,000,000 (or, in the event that the Available Amount is less than \$20,000,000, for the Available Amount) up to the Available Amount of Senior Notes, at the time the Issuance Right is exercised, or, in the case of a Mandatory Exercise, the entire Available Amount (in respect of a Mandatory Exercise Event occurring under clauses (i), (ii), (iii) or (vi) of the definition of “Mandatory Exercise Event”), the Collateral Enforcement Amount (in respect of a Mandatory Exercise Event occurring under clause (iv) of the definition of “Mandatory Exercise Event”) or the Change of Control Offer Issuance Amount (in respect of a Mandatory Exercise Event occurring under clause (v) of the definition of “Mandatory Exercise Event”), (v) in the case of a Voluntary Exercise or a Mandatory Exercise pursuant to a Change of Control Triggering Event (solely to the extent of the Change of Control Offer Subject Amount), the principal amount of Senior Notes, if any, as to which Constellation has made a Cash Settlement Election, (vi) in the case of any Mandatory Exercise Event constituting a Collateral Enforcement Event, the face amount of each series of Eligible Treasury Assets that have been withdrawn by the Collateral Agent from the Trust Collateral Account (the “*Removed Collateral*”), (vii) the remaining Available Amount, immediately after giving effect to the exercise of the Issuance Right pursuant to the applicable Issuance Notice and (viii) whether all or any portion of the Notes Purchase Price will be retained as Retained Eligible Treasury Assets. On the Settlement Date, (x) the Notes Trustee shall deliver the Designated Amount of the Senior Notes or (y) with respect to any Senior Notes as to which Constellation has made a Cash Settlement Election, Constellation shall deliver the Cash Settlement Amount to the Trust against delivery of the Notes Purchase Price by the Trust to Constellation. Subject to Section 3.3(e), upon the occurrence of a Mandatory Exercise Event, the Eligible Treasury Assets will be delivered to Constellation by the Trust. Any Eligible Treasury Assets delivered to Constellation by the Trust pursuant to this Agreement will, subject to Section 3.3(e), (i) prior to the termination of the LC Agreement, at Constellation’s

written instruction, either (x) be credited to the Retained Eligible Treasury Assets Account or, if permitted under this Facility Agreement, to the Constellation Collateral Account, each of which has been pledged in favor of the Collateral Agreement in accordance with the terms of the LC Agreement, or (y) with respect to any Mandatory Exercise or Automatic Exercise, continue to be held by the Trust as Retained Eligible Treasury Assets in the Retained Eligible Treasury Assets Account, and (ii) at any time after the termination of the LC Agreement, be delivered or credited to such account of Constellation as Constellation may specify in a written notice to the Trust. In addition, to the extent that the Aggregate Collateral Amount exceeds the Minimum Collateral Base at any time, upon written request of Constellation, the Excess Eligible Treasury Assets, as certified by Constellation, shall be released from any Lien (other than a Lien for the benefit of Constellation) created under the Pledge Agreement and Constellation shall be permitted to withdraw such excess funds from the Retained Eligible Treasury Assets Account, and Constellation shall be permitted to withdraw such excess assets from the Trust Collateral Account in connection with any permitted exercise of the Issuance Right under this Agreement, in accordance with Section 5(a) of the LC Agreement. This Agreement will terminate on the Trust Dissolution Date, except with respect to obligations that have already accrued thereunder prior to the Trust Dissolution Date.

*Section 3.2. Automatic Exercise of the Issuance Right.*

(a) The Trust shall deliver a notice substantially in the form of *Annex D* (such notice, an “*Automatic Exercise Notice*”) to the Notes Trustee and Constellation within two Business Days after obtaining actual knowledge of any Automatic Exercise Event that is not a Bankruptcy Event, and the Settlement Date of such Automatic Exercise shall be the second Business Day after the date such notice is received by the Notes Trustee, *provided* that if the Notes Trustee receives notice that a Bankruptcy Event with respect to Constellation has occurred before such Settlement Date, the Settlement Date shall be determined pursuant to Section 3.2(b).

(b) Constellation shall deliver an Automatic Exercise Notice to the Trust and the Notes Trustee promptly upon becoming aware of any Bankruptcy Event with respect to Constellation and provide the Notes Trustee and the Trust with either an order of the court administering its bankruptcy, liquidation or similar proceeding authorizing the issuance and sale of the Senior Notes to the Trust or an opinion of counsel that the Senior Notes may be issued and sold to the Trust without obtaining any such order. The Settlement Date of such Automatic Exercise shall be the second Business Day after such order or opinion of counsel is received by the Trust and the Notes Trustee or, if later, the date required by such order.

(c) On the Settlement Date of an Automatic Exercise, the Notes Trustee shall deliver the entire Available Amount of the Senior Notes to or upon the order of the Trust against delivery of the Notes Purchase Price by the Trust to Constellation. Subject to Section 3.3(e), upon the Settlement Date of an Automatic Exercise Event, the Eligible Treasury Assets will be delivered to Constellation by the Trust. Any Eligible Treasury Assets delivered to Constellation by the Trust pursuant to this Agreement will be credited (i) prior to the termination of the LC Agreement, to the Retained Eligible Treasury Assets Account or, if permitted pursuant to the terms of this Facility Agreement and the LC Agreement, to the Constellation Collateral Account, which has been, or in the case of the Constellation Collateral Account will be, pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement and (ii) at any time

after the termination of the LC Agreement, to such account of Constellation as Constellation may specify in a written notice to the Trust.

*Section 3.3. Settlement and Delivery.*

(a) Delivery of the Senior Notes (or the Cash Settlement Amount, in respect of any Senior Notes as to which Constellation has made a Cash Settlement Election) and the Notes Purchase Price, in respect of any exercise of the Issuance Right shall take place prior to 3:00 p.m. on the applicable Settlement Date. Unless otherwise changed by a prior written notice to the Trust by Constellation (including, without limitation, an Issuance Notice), on the applicable Settlement Date, subject to the receipt of the Senior Notes (or such Cash Settlement Amount), the Notes Purchase Price shall be delivered to or upon the order of Constellation according to the delivery instructions provided by Constellation. For the avoidance of doubt, any delay in delivery of any Senior Notes or Cash Settlement Amount or the Notes Purchase Price shall not extinguish the rights of Constellation or the Trust to receive the Notes Purchase Price or any Cash Settlement Amount or Senior Notes, as the case may be, following the exercise of the Issuance Right.

(b) Payment of the Notes Purchase Price shall be subject to set-off against any amounts due and unpaid by Constellation to the Trust on the applicable Settlement Date pursuant to this Agreement, the Trust Declaration or the Trust Expense Reimbursement Agreement and such set-off shall be deemed to satisfy the Trust's obligation to pay the Notes Purchase Price with respect to such set-off amounts (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such set-off based on the proceeds received therefor by the Trust). Except as set forth in the immediately preceding sentence, payment of the Notes Purchase Price by the Trust shall be made as provided in this ARTICLE III without set-off, claim, recoupment, deduction or counterclaim. For the avoidance of doubt, the delivery of Eligible Treasury Assets to the Collateral Agent in connection with a Collateral Enforcement Event shall constitute payment of the relevant portion of the Notes Purchase Price by the Trust for the issuance of Senior Notes in connection with the related Mandatory Exercise.

(c) Each of Constellation and the Trust hereby covenants and agrees that its delivery of the Senior Notes or the Notes Purchase Price, respectively, pursuant to this ARTICLE III shall be made free and clear of any adverse claims (other than (i) the claims of the Collateral Agent on the Note Purchase Price delivered to the Retained Eligible Treasury Assets Account or Constellation Collateral Account, as applicable, or (ii) that arise as a result of the actions of, or claims against, another party hereto), together with all transfer and registration documents (or all notices, instructions or other communications) as are necessary to convey title to the Senior Notes or the Notes Purchase Price to the Trust or Constellation (or its nominee), as the case may be and cause them to be a protected purchaser (within the meaning of the New York Uniform Commercial Code) of the Senior Notes or the Notes Purchase Price, as the case may be. Regardless of when they are issued and sold to the Trust, and whether they are issued and sold to the Trust pursuant to one exercise or several exercises, all Senior Notes issued shall consist of a single series of securities under the Notes Indenture.

(d) Prior to the termination of the LC Agreement, following any Mandatory Exercise or Automatic Exercise of the Issuance Right, in lieu of receiving the Eligible Treasury

Assets from the Trust, Constellation has the right to require the Trust to continue to hold such Eligible Treasury Assets subject to the terms of the Pledge Agreement as Retained Eligible Treasury Assets. However, the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible Treasury Assets or proceeds thereof.

(e) Notwithstanding anything to the contrary, prior to termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent pursuant to the Pledge Agreement shall only be delivered to Constellation by the Trust if, upon the delivery of such Eligible Treasury Assets to Constellation (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from the delivery of such Eligible Treasury Assets (any Eligible Treasury Assets retained by the Trust after the exercise of the Issuance Right pursuant to such limitation, the “*Blocked Eligible Treasury Assets*”). The Trust and the Trustee may conclusively rely on the statements of Constellation in any Issuance Notice or any Mandatory Exercise Notice as to whether any Eligible Treasury Assets are Retained Eligible Treasury Assets. Any Retained Eligible Treasury Assets shall be transferred by the Trust from the Trust Collateral Account to the Retained Eligible Treasury Assets Account.

#### **ARTICLE IV FACILITY FEE AND PURCHASE OF ELIGIBLE TREASURY ASSETS**

*Section 4.1. Facility Fee.* In consideration of the Trust’s agreement to purchase the Senior Notes upon the exercise of the Issuance Right in accordance with the terms of this Agreement, Constellation shall pay to the Trust, by wire transfer in immediately available funds, by 11:00 a.m. on each Distribution Date in arrears in respect of the Distribution Period ending on such Distribution Date, a premium (the “*Facility Fee*”) in an amount equal to 1.475% *per annum* applied to the Maximum Amount *minus* the aggregate principal amount of Senior Notes then outstanding and held by the Trust as of the close of business on the Business Day immediately preceding such Distribution Date, as applicable, calculated on a 30/360 Basis.

*Section 4.2. Special Facility Fee.* In the event (x) the Trust has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) and Constellation has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 by 5:00 p.m. on such Distribution Date or (y) Constellation has failed to pay any amount due under this Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes, by 5:00 p.m. on any Distribution Date (such amounts in clauses (x) or (y) above, the “*Overdue Amounts*”), Constellation shall pay to the Trust, by wire transfer in immediately available funds, the Special Facility Fee no later than 11:00 a.m. on the earliest of (i) the date on which the Trust is required to distribute any Overdue Amount pursuant to Section 5.8(d) of the Trust Declaration, (ii) the Settlement Date of the exercise of the entire Available Amount after such Distribution Date and (iii) the date on which any Overdue Amount is paid in respect of any amounts payable on the Trust Dissolution Date (the “*Special Facility Fee Payment Date*”).

*Section 4.3. Purchase of Defaulted Eligible Treasury Assets.* Constellation hereby agrees to purchase from the Trust on any Distribution Date any Defaulted Eligible Treasury

Assets (or the proceeds thereof) for an amount equal to their face amount by wire transfer in immediately available funds.

## **ARTICLE V OBLIGATIONS ABSOLUTE**

*Section 5.1. Obligations Absolute.* The Trust acknowledges that the obligations of the Trust undertaken under this Agreement are absolute, irrevocable and unconditional irrespective of any circumstances whatsoever, including any defense otherwise available to the Trust, in equity or at law, including the defense of fraud, any defense based on the failure of Constellation to disclose any matter, whether or not material, to the Trust or any other Person, and any defense of breach of warranty or misrepresentation, and irrespective of any other circumstance that might otherwise constitute a legal or equitable discharge or defense under any and all circumstances whatsoever. The enforceability and effectiveness of this Agreement and the liability of the Trust, and the rights, remedies, powers and privileges of Constellation under this Agreement shall not be affected, limited, reduced, discharged or terminated, and the Trust hereby expressly waives, to the fullest extent permitted by applicable law, any defense now or in the future arising by reason of:

- (i) the illegality, invalidity or unenforceability of all or any part of the Trust Declaration;
- (ii) any action taken, or omission to act, by Constellation;
- (iii) any change in the direct or indirect ownership or control of Constellation or of any shares or ownership interests thereof; and
- (iv) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of or for the Trust; *provided that*, notwithstanding the provisions of this Section 5.1, the Trust shall have no further obligations hereunder after this Agreement is terminated. The breach of any covenant, representation or warranty made in this Agreement by the Trust or Constellation shall not result in the termination of the Issuance Right or limit the rights of the Trust or Constellation hereunder.

Other than as specifically set forth herein, neither the Trust nor the Trustee shall be entitled to receive from Constellation any certificate, opinion or other document in connection with the exercise of the Issuance Right.

*Section 5.2. No Waiver.* For the avoidance of doubt, so long as the Issuance Right has not terminated, no failure or delay by Constellation in exercising its rights hereunder shall operate as a waiver of its rights hereunder except as specifically provided in this Agreement.

## **ARTICLE VI REPRESENTATIONS AND WARRANTIES**

*Section 6.1. Representations of the Trust.* The Trust represents and warrants to Constellation that, as of the date hereof:

(a) the Trust is duly organized and validly existing under the Statutory Trust Act and has the power and authority to own its assets and to conduct its activities;

(b) its entry into, exercise of its rights and performance of or compliance with its obligations under this Agreement do not and will not violate (i) any law to which it is subject, (ii) any of its constituent documents, or (iii) any agreement to which it is a party or which is binding on it or its assets;

(c) it has the power to enter into, and to exercise its rights and perform and comply with its obligations under, this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

(d) it will obtain and maintain in effect and comply with the terms of all necessary consents, registrations and the like of or with any government or other regulatory body or authority applicable to this Agreement;

(e) its obligations under this Agreement are valid, binding and enforceable at law, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law) (the "*Enforceability Exceptions*");

(f) it is not in default under any agreement to which it is a party or by which it or its assets is or are bound and no litigation, arbitration or administrative proceedings are current or pending, which default, litigation, arbitration or administrative proceedings would be material in the context of this Agreement; and

(g) no consent, approval, authorization or order of any court or governmental authority, agency, commission or commissioner or other regulatory authority is required for the consummation by the Trust of the transactions contemplated by this Agreement.

*Section 6.2. Representations of Constellation.* Constellation represents and warrants to the Trust that, as of the date hereof:

(a) it is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation, with power and authority (corporate and other) to own, lease and operate its properties and to conduct its business;

(b) its compliance with all of the provisions of this Agreement and the consummation of the transactions herein contemplated do not and will not result in any violation of the provisions of (i) the articles of incorporation or bylaws or other organizational documents, as applicable, of Constellation, (ii) any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over Constellation, any of its subsidiaries or any of its respective properties, or (iii) any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which Constellation or any Subsidiary is a party or by which Constellation or any Subsidiary is bound or to which any of the property or assets of Constellation or any Subsidiary is subject, which violation (in the case of clauses (ii) or (iii)) would be material relative to the expected benefits to the parties to this Agreement;

(c) it has the corporate power to enter into, and to exercise its rights and perform and comply with its obligations under, this Agreement and this Agreement has been duly authorized, executed and delivered by it;

(d) it will use commercially reasonable efforts to obtain and maintain in effect and comply with the terms of any necessary consents, registrations and the like of or with any government or other regulatory body or authority applicable to this Agreement;

(e) its obligations under this Agreement are valid, binding and enforceable against Constellation in accordance with the terms of this Agreement, subject to the Enforceability Exceptions;

(f) it is not in default under any agreement to which it is a party or by which it or its assets is or are bound and, other than as set forth in the Offering Memorandum, there are no legal or governmental proceedings pending to which Constellation or any of its Subsidiaries is a party or of which any property of Constellation or any of its Subsidiaries is the subject and, to the best of Constellation's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others, which default or legal or governmental proceedings would be material relative to the expected benefits to the parties to this Agreement;

(g) it is not necessary in order to ensure the validity, effectiveness, performance or enforceability of this Agreement that any document be filed, registered or recorded in any public office or elsewhere other than those that have been duly filed, registered or recorded and are in full force and effect;

(h) no consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body having jurisdiction over Constellation, any of its Subsidiaries or any of its or their respective properties is required for the execution and performance by Constellation of its obligations under this Agreement which consent, approval, authorization, order, registration or qualification would be material relative to the expected benefits to the parties to this Agreement, except such as have been, or will have been prior to the time of delivery of the Senior Notes, obtained and, assuming the accuracy of the representations, warranties and agreements of the Trust herein and in the Purchase Agreement, dated as of February 2, 2022, by and among Constellation, the Trust and Credit Suisse Securities (USA) LLC and RBC Capital Markets, LLC, as representatives of the several initial purchasers named in Schedule I thereto (the "*Purchase Agreement*"), it is not necessary in connection with the sale and delivery of the Senior Notes by Constellation to the Trust, pursuant to the terms hereof in accordance with and in the manner contemplated by the Notes Purchase Agreement, this Agreement and the Offering Memorandum, to register the Senior Notes under the Securities Act; and

(i) the Senior Notes have been duly authorized by Constellation and, when issued pursuant to the Notes Indenture and delivered pursuant to this Agreement, the Senior Notes will have been duly executed, authenticated, issued and delivered, and will constitute valid and legally binding obligations of Constellation, entitled to the benefits provided by the Notes Indenture, enforceable in accordance with their terms, subject to the Enforceability Exceptions.

**ARTICLE VII**  
**MISCELLANEOUS**

*Section 7.1. Inconsistency.* If there is any inconsistency between any provision of this Agreement and any other Transaction Agreement, the provisions of this Agreement shall prevail to the extent of such inconsistency but not otherwise.

*Section 7.2. Binding Effect.* All agreements contained in this Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Trust, Constellation, the Notes Trustee and the Holders of the Trust Securities.

*Section 7.3. Amendments.* This Agreement may be amended by Constellation and the Trust with the consent of at least a Majority of Holders, except that (x) the unanimous consent of the Holders of the Trust Securities is required for any change in the payment terms in the definition of "Special Facility Fee", Section 2.2, ARTICLE III or ARTICLE IV that would affect the timing or amount of any distribution by the Trust pursuant to the Trust Declaration and (y) the consent of the Collateral Agent is required for any amendment to Section 3.3(e). Notwithstanding the foregoing, no such consent of Holders shall be required for any amendment to this Agreement (a) to cure any ambiguity or correct any mistake or conform the terms of this Agreement to the description thereof in the Offering Memorandum, (b) to correct or supplement any provision of this Agreement that may be defective or inconsistent with any other provision of this Agreement or the Trust Declaration, (c) as determined in good faith by an Authorized Officer of Constellation in an Officer's Certificate delivered to the Notes Trustee, to make any change that does not adversely affect the rights of any Holder in any material respect or (d) to make any other change that may in the reasonable judgment of Constellation be necessary or appropriate to prevent the occurrence of any Investment Company Act Event or P-Caps Tax Event or that would not be adverse to the interests of the Holders, *provided* that such change would not change the timing or amount of any distribution to the Holders of the Trust Securities or the U.S. federal income tax treatment of the Holders as the owners of indebtedness of Constellation, either held directly or held through the Trust and would not otherwise reasonably be expected to have a material adverse effect on Holders. The consent of the Notes Trustee is required for any amendment that affects the rights, duties or immunities of the Notes Trustee under this Agreement or otherwise.

*Section 7.4. Assignment.* Neither the Trust nor Constellation may assign its rights or obligations under this Agreement to any other Person, except that Constellation may assign its rights and obligations under this Agreement to any Person to whom it assigns its rights and obligations under the Notes Indenture, which Person shall assume all of such rights and obligations under this Agreement either by operation of law or by express agreement. Any purported assignment in violation of this Section 7.4 shall be void. For the avoidance of doubt, this Agreement does not prohibit Constellation from entering into a merger, consolidation or sale of all or substantially all of its assets.

*Section 7.5. Third-Party Beneficiary.* The Collateral Agent is an intended third-party beneficiary of this Agreement and may enforce Section 3.3(e) and Section 7.3 of this Agreement as if it were a party hereto.



*Section 7.6. Notices.*

(a) Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor in person, by registered or certified mail, by nationally recognized overnight courier or as a pdf. attachment to an email, addressed as follows:

If to Constellation at:

Constellation Energy Generation, LLC  
200 Exelon Way  
Kennett Square, Pennsylvania 19348  
Attention: General Counsel

With a copy (which shall not constitute notice) to:

Ballard Spahr LLP  
1735 Market Street, 51st Floor  
Philadelphia, Pennsylvania 19103  
Attention: Patrick R. Gillard, Esq.

If to the Trust at:

Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

If to the Notes Trustee at:

Deutsche Bank Trust Company Americas, as Notes Trustee  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

(b) Any such notice shall be effective upon delivery, if delivered in person; upon acknowledgement of receipt (in writing or orally), if delivered by email; on the fifth day after deposited in the mail, postage prepaid, if delivered by registered or certified mail; and on the day after deposit with a nationally recognized overnight courier, if delivered by overnight courier.

(c) Any party hereto may change its address, email address or telephone number for notices and other communications hereunder by notice to the other parties hereto in accordance with this Section 7.6.

(d) The Notes Trustee agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured email or other similar unsecured electronic methods. The Notes Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Notes Trustee's reliance upon and compliance with such instructions or directions notwithstanding such instructions or directions conflict or are inconsistent with a subsequent written instruction or direction or if the subsequent written instruction or direction is never received. Subject to the standard of care applicable to the Notes Trustee under the Notes Indenture, the party providing instructions or directions by unsecured email or other similar unsecured electronic methods, as aforesaid, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Notes Trustee, including, without limitation, the risk of the Notes Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

*Section 7.7. Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

*Section 7.8. Jurisdiction.* Each of the parties hereto agrees that any legal suit, action or proceeding arising out of or in connection with or based upon this Agreement (“*Proceedings*”) may be instituted in any state or Federal court in the Borough of Manhattan, The City of New York, New York, United States of America; waives, to the extent it may effectively do so, any objection that it may have now or hereafter to the laying of the venue of any such suit, action or proceeding; and irrevocably submits to the exclusive jurisdiction of any such court in any such suit, action or proceeding. Each of the parties hereto agrees that process shall be deemed served if sent to it at the address given for notices under this Agreement and that nothing in this Agreement shall affect any party's right to serve process in any other manner permitted by law. Each of the parties hereto agree that final judgment against it in any Proceeding shall be enforceable in any other jurisdiction within or outside the United States by suit on the judgment. Each of the parties hereby irrevocably waives, to the extent permitted by law, any immunity to jurisdiction to which it may otherwise be entitled (including immunity to pre-judgment attachment, post-judgment attachment and execution) in any Proceeding. The provisions of this Section 7.8 are intended to be effective upon the execution of this Agreement without any further action by any of the parties and the introduction of a true copy of this Agreement into evidence shall be conclusive and final evidence as to such matters.

*Section 7.9. WAIVER OF TRIAL BY JURY.* EACH OF CONSTELLATION, THE TRUST AND THE NOTES TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SENIOR NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

*Section 7.10. Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. The words “execution”, “signed”, “signature”, and words of like import in this Agreement including, without limitation, with respect to addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications, shall include electronic signatures (including without

limitation, Diligent, DocuSign and AdobeSign or any other similar platform identified by Constellation and reasonably available at no undue burden or expense to the Notes Trustee, with respect to the signatures of the Notes Trustee) with respect to this Agreement and all notices or other documents to be delivered in connection herewith. The exchange of copies of this Agreement and of signature pages by facsimile or email transmission of PDF files shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement for all purposes. Signatures of the parties hereto transmitted by facsimile or email transmission of PDF files shall be deemed to be their original signatures for all purposes.

*Section 7.11. Severability.* If any one or more of the provisions contained herein, or the application thereof in any circumstances, is invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected, it being intended that all of the Trust's, Constellation's and the Notes Trustee's rights, immunities and privileges shall be enforceable to the fullest extent permitted by law, *provided* that, if the omission of such provision would alter the fundamental expectations of the parties hereto, such provision shall not be severable.

*Section 7.12. Limitation of Liability.* It is expressly understood that (i) this Agreement is executed and delivered by Deutsche Bank NY, as Trustee, not individually or personally but solely as Trustee, in the exercise of the powers and authority conferred and vested in it under the Trust Declaration, (ii) each of the representations, undertakings and agreements herein made on the part of the Trust is made and intended not as a personal representation, undertaking or agreement by Deutsche Bank NY, but is made and intended for the purpose for binding only the Trust, (iii) nothing herein contained shall be construed as creating any liability on Deutsche Bank NY, as Trustee, or Deutsche Bank DE, as Delaware Trustee, of the Trust, individually or personally, to perform any covenant either expressed or implied contained herein of the Trust, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, (iv) Deutsche Bank NY has made no investigation as to the accuracy or completeness of any representations and warranties made by the Trust in this Agreement and (v) under no circumstances shall Deutsche Bank NY be personally liable for the payment of any indebtedness or expenses of the Trust or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Trust under this Agreement or any other related documents. The Trustee shall not be responsible for making any calculation with respect to any matter under this Agreement and shall have no duty to monitor or investigate Constellation's compliance with any representation, warranty, covenant or agreement made by it under this Agreement or any other agreement relating hereto.

*Section 7.13. The Notes Trustee.*

(a) In entering into and performing its duties under this Agreement as Notes Trustee, Deutsche Bank NY is acting in its capacity as Notes Trustee under the Notes Indenture and shall be entitled to all of the exculpations, protections, immunities, indemnities and standard of care available to it thereunder. Without limiting the foregoing, the Notes Trustee (i) may conclusively rely and shall be protected in acting upon any Issuance Notice or Automatic Exercise Notice believed by it to be genuine and to have been signed or presented by the proper

party or parties and may conclusively rely on the truth and correctness of any statement contained therein, including, without limitation, as to the proper principal amount of Senior Notes to be authenticated and delivered, (ii) in authenticating and delivering any Senior Notes hereunder, shall not be responsible for determining whether the related Notes Purchase Price has been delivered by the Trust to Constellation or whether the Notes Purchase Price, when so delivered, is in the proper amount, (iii) undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants, duties or obligations shall be read into this Agreement against the Notes Trustee, (iv) shall not be charged with notice or knowledge of an Automatic Exercise Event unless notified of such event under Section 3.2, and (v) shall not be deemed to owe any fiduciary duty to the holders of the Trust Securities.

(b) The Notes Trustee shall not be responsible for making any calculation with respect to any matter under this Agreement and shall have no duty to monitor or investigate Constellation's or the Trust's compliance with any representation, warranty, covenant, or agreement made by either of them under this Agreement or any other agreement relating hereto.

*[Signature Pages Follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Facility Agreement to be duly executed as of the day and year first above written.

FELLS POINT FUNDING TRUST

By: DEUTSCHE BANK TRUST  
COMPANY AMERICAS, not in its  
individual capacity but solely as  
Trustee

By: /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By: /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

[Signature Page to Facility Agreement]

CONSTELLATION ENERGY  
GENERATION, LLC

By: /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

DEUTSCHE BANK TRUST COMPANY  
AMERICAS, not in its individual capacity  
but solely as Notes Trustee

By: /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By: /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

ANNEX A

**FORM OF ISSUANCE NOTICE**

To: Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

To: Deutsche Bank Trust Company Americas,  
as Notes Trustee under the Indenture Relating to the Senior Notes Referred to Below,  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

Date:

Re: Notice of Exercise of Right to Issue Constellation's 3.046% Senior Notes due January 31, 2027 (the "*Senior Notes*") under the Facility Agreement

Ladies and Gentlemen:

This notice is an Issuance Notice for the purposes of Section 3.1 of the Facility Agreement, dated as of February 9, 2022 (the "*Facility Agreement*"), among Constellation Energy Generation, LLC, Fells Point Funding Trust (the "*Trust*") and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

The exercise of the Issuance Right pursuant to this Issuance Notice [is][is not] a Mandatory Exercise.

The **Designated Amount** with respect to this exercise shall be \$\_\_\_\_\_,<sup>1</sup> and the remaining **Available Amount** immediately after giving effect to the exercise of the Issuance Right pursuant to this Issuance Notice shall be \$\_\_\_\_\_.

The **Settlement Date** with respect to this exercise shall be \_\_\_\_\_.<sup>2</sup>

<sup>1</sup> This must be an integral multiple of \$20,000,000 in the case of a Voluntary Exercise (or, in the event that the Available Amount is less than \$20,000,000, the Available Amount), and must be the entire Available Amount in the case of a Mandatory Exercise (other than as specified in the definition of "Mandatory Exercise Event").

<sup>2</sup> This must be a Business Day on or prior the Trust Dissolution Date under the Trust's Amended and Restated Trust Declaration of Trust and at least two Business Days after the date this Issuance Notice is received by the



*Include only for if a Cash Settlement Election is made* — [We hereby make a **Cash Settlement Election** with respect to \$\_\_\_\_\_ <sup>3</sup> principal amount of Senior Notes subject to this exercise.]

[The Removed Collateral is as follows:

<u>CUSIP No.</u>	<u>Face Amount</u>

We hereby certify that the Collateral Enforcement Amount is a principal amount of Senior Notes such that all of the Removed Collateral would be included in the Notes Purchase Price for the exercise of the Issuance Right with respect to the Collateral Enforcement Amount (assuming for purposes of determining the Notes Purchase Price that none of the Eligible Treasury Assets would be Blocked Eligible Treasury Assets)].<sup>4</sup>

[Upon the occurrence of a Mandatory Exercise Event, [the Eligible Treasury Assets will be delivered to Constellation by the Trust][the Eligible Treasury Assets will constitute Retained Eligible Treasury Assets and will continue to be held by the Trust]]<sup>5</sup>.

The Settlement Date [is][is not] the Trust Dissolution Date under the Trust’s Amended and Restated Declaration of Trust.<sup>6</sup>

We hereby direct the Trust and [Deutsche Bank NY], as trustee thereof (the “Trustee”), to deliver the Notes Purchase Price as provided in ARTICLE III of the Facility Agreement, to [the [Retained Eligible Treasury Assets Account][Constellation Collateral Account], which has been pledged in favor of the Collateral Agent in accordance with the terms of the LC Agreement]<sup>7</sup> [the following account: \_\_\_\_\_]<sup>8</sup>. [We hereby represent and warrant that (i) the Eligible Treasury Assets constituting the Notes Purchase Price to be delivered to the

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Trust and the Notes Trustee, or if a Cash Settlement Election is being made, at least 10 days but not more than 60 days following the date this Issuance Notice is received by the Trust and the Notes Trustee, or in the case of a Mandatory Exercise, the second Business Day after the date this Issuance Notice is received by the Trust and the Notes Trustee.

<sup>3</sup> In connection with a Mandatory Exercise pursuant to a Change of Control Triggering Event, this must be the Change of Control Offer Subject Amount.

<sup>4</sup> Include only for a Collateral Enforcement Event.

<sup>5</sup> Do not include if Eligible Treasury Assets are delivered in connection with a Collateral Enforcement Event.

<sup>6</sup> See Section 8.1(a) of the Amended and Restated Declaration of Trust

<sup>7</sup> Include if LC Agreement is still in effect. In the event the Constellation Collateral Account is designated, the representation in the following sentence must be included. The Constellation Collateral Account must be selected upon the exercise of the Issuance Right of a Mandatory Exercise pursuant to an Investment Company Act Event.

<sup>8</sup> Select if the LC Agreement is no longer in effect.

Constellation Collateral Account will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from the delivery of such Eligible Treasury Assets.]<sup>9</sup>

If the Settlement Date is not the Trust Dissolution Date and a Cash Settlement Election is not made with respect to the entire Designated Amount — [We hereby instruct Deutsche Bank Trust Company Americas, as Registrar under the Notes Indenture, to increase the outstanding principal amount of the Senior Notes registered in the name of the Trust on its books and records by \$ \_\_\_\_\_<sup>10</sup> on the Settlement Date.]

*If the Settlement Date is the Trust Dissolution Date* — [We hereby instruct Deutsche Bank Trust Company Americas, as Notes Trustee under the Notes Indenture, [to (i) transfer the principal balance and any accrued interest under the Initial Note Certificate to the Global Securities and cancel the Initial Note Certificate referred to in the Company Order, dated February [9], 2022, a copy of which is attached hereto as Exhibit 1, (ii) cause DTC to allocate the Global Securities to Holders of the Trust Securities and (iii) provide prompt written confirmation of such actions to the Trustee and Constellation ]<sup>11</sup>.]

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<sup>9</sup> Select if the LC Agreement is still in effect and Eligible Treasury Assets are to be delivered to the Constellation Collateral Account.

<sup>10</sup> Insert the Designated Amount less the principal amount of Senior Notes, if any, as to which a Cash Settlement Election is made.

<sup>11</sup> If, at the time this notice is delivered, Constellation determines that the Securities will not be eligible for delivery through DTC on the Trust Dissolution Date, substitute “to cancel the Initial Note Certificate and to authenticate and deliver individual Securities as provided in the Company Order accompanying this notice.”

CONSTELLATION ENERGY  
GENERATION, LLC

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT 1 TO ANNEX A**  
**COMPANY ORDER**

**ANNEX B**

**FORM OF WAIVER OF REPURCHASE RIGHT**

To: Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee,  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

To: Deutsche Bank Trust Company Americas,  
as Notes Trustee under the Indenture Relating to the Senior Notes Referred to Below,  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

Date:

Re: Notice of Waiver of the Repurchase Right under the Facility Agreement Ladies and  
Gentlemen:

We hereby irrevocably waive the Repurchase Right, as defined in and pursuant to the Facility Agreement, dated as of February 9, 2022, among Constellation Energy Generation, LLC, Fells Point Funding Trust, and Deutsche Bank Trust Company Americas, as Notes Trustee.

CONSTELLATION ENERGY  
GENERATION, LLC

By: \_\_\_\_\_  
Name:  
Title:

ANNEX C

**FORM OF REPURCHASE NOTICE**

To: Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

To: Deutsche Bank Trust Company Americas,  
as Notes Trustee under the Indenture Relating to the Senior Notes Referred to Below,  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

Date:

Re: Notice of the Exercise of the Repurchase Right under the Facility Agreement

Ladies and Gentlemen:

We refer to the Facility Agreement, dated as of February 9, 2022 (the “*Facility Agreement*”), among Constellation Energy Generation, LLC (“*Constellation*”), Fells Point Funding Trust (the “*Trust*”) and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

Pursuant to Section 2.2 of the Facility Agreement, we hereby exercise the Repurchase Right with respect U.S.\$ \_\_\_\_\_<sup>12</sup> principal amount of the 3.046% Senior Notes due January 31, 2027 (the “*Senior Notes*”) held by the Trust. The Repurchase Settlement Date shall be \_\_\_\_\_.<sup>13</sup>

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<sup>12</sup> Any repurchase of Senior Notes then outstanding and held by the Trust shall be made as to an integral multiple of \$20,000,000 principal amount of Senior Notes.

<sup>13</sup> This must be at least three Business Days after the date this notice is delivered to the Trust and the Notes Trustee.

We hereby instruct Deutsche Bank Trust Company Americas, as Registrar under the Notes Indenture, to reduce the outstanding principal amount of Senior Notes registered in the name of the Trust on its books and records by the above principal amount on the Repurchase Settlement Date.

Yours faithfully,

CONSTELLATION ENERGY  
GENERATION, LLC

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

ANNEX D

**FORM OF AUTOMATIC EXERCISE NOTICE**

To:<sup>14</sup> Deutsche Bank Trust Company Americas,  
as Notes Trustee under the Indenture Relating to the Senior Notes Referred to Below  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

To: Constellation Energy Generation, LLC  
200 Exelon Way  
Kennett Square, Pennsylvania 19348

To: Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee  
Deutsche Bank Trust Company Americas  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

Date:

Re: Notice of Automatic Exercise Event under the Facility Agreement Ladies and  
Gentlemen:

We refer to the Facility Agreement, dated as of February 9, 2022 (the “*Facility Agreement*”), among Constellation Energy Generation, LLC (“*Constellation*”), Fells Point Funding Trust and Deutsche Bank Trust Company Americas, as Notes Trustee. Capitalized terms used and not defined herein shall have the respective meanings given to such terms in the Facility Agreement.

**[If delivered by the Trust:** An Automatic Exercise Event as set forth in clauses [(i)/(ii)] of the definition thereof has occurred; therefore, the Issuance Right for the entire Available Amount (which is \$ \_\_\_\_\_) is automatically exercised pursuant to Section 3.2 of the Facility Agreement and the Settlement Date shall occur on [insert second Business Day following receipt of this notice by the Notes Trustee], unless otherwise determined pursuant to Section 3.2(b) of the Facility Agreement.]

**[If delivered by Constellation:** A Bankruptcy Event in respect of Constellation has occurred. The Settlement Date for the related Automatic Exercise will be determined pursuant to

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<sup>14</sup> Include the parties other than the undersigned.



Section 3.2(b) of the Facility Agreement [and the entire Available Amount (which is \$ \_\_\_\_\_) is automatically exercised pursuant to said Section 3.2(b)]<sup>15</sup>.]

**[If delivered by Constellation:** We hereby instruct Deutsche Bank Trust Company Americas, as Notes Trustee under the Notes Indenture, [to (i) transfer the principal balance and any accrued interest under the Initial Note Certificate to the Global Securities and cancel the Initial Note Certificate referred to in the Company Order, dated February 9, 2022, a copy of which is attached hereto as Exhibit 1, (ii) cause DTC to allocate the Global Securities to Holders of the Trust Securities and (iii) provide prompt written confirmation of such actions to the Trustee and Constellation]<sup>16</sup>.]

Upon the occurrence of an Automatic Exercise Event, the [Eligible Treasury Assets will be delivered to Constellation by the Trust][the Eligible Treasury Assets will constitute Retained Eligible Treasury Assets and will continue to be held by the Trust in the Retained Eligible Treasury Assets Account].

Yours faithfully,

FELLS POINT FUNDING TRUST,  
by Deutsche Bank Trust Company  
Americas, not in its individual capacity  
but solely as Trustee

By: \_\_\_\_\_  
Name:  
Title:

CONSTELLATION ENERGY  
GENERATION, LLC

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

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<sup>15</sup> Include bracketed language if all of the Senior Notes have not already been issued.

<sup>16</sup> If, at the time this notice is delivered, Constellation determines that the Securities will not be eligible for delivery through DTC on the Trust Dissolution Date, substitute “to cancel the Initial Note Certificate and to authenticate and deliver individual Securities as provided in the Company Order accompanying this notice.”



## LETTER OF CREDIT FACILITY AGREEMENT

This Letter of Credit Facility Agreement, dated as of February 9, 2022, is by and among CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (the “Applicant”), the financial institutions from time to time parties hereto, each in its capacity as the issuer of Letters of Credit issued by it hereunder (such financial institutions, together with their respective successors and permitted assigns, are referred to hereinafter each individually as an “Issuer” and collectively as the “Issuers”), Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the “Administrative Agent”) and as collateral agent for the Secured Parties (in such capacity, the “Collateral Agent”).

WHEREAS, each Issuer shall, subject to the terms and conditions set forth herein, issue one or more letters of credit denominated in U.S dollars, in a form reasonably satisfactory to such Issuer (each, as amended or otherwise modified from time to time, a “Letter of Credit”) for the account of the Applicant or for the account of any Subsidiary of the Applicant or any Minority Investment; provided that, in the case of a Subsidiary of the Applicant or any Minority Interest, (i) the Beneficiary of the Letter of Credit shall be Applicant, or (ii) such Subsidiary or Minority Interest shall have provided each applicable Issuer with “know your customer” or any other information or deliverables required by such Issuer in form and substance satisfactory to such Issuer and provided, further, that Applicant shall be a co-applicant, and be jointly and severally liable, with respect to each Letter of Credit issued for the account of a Subsidiary or Minority Investment) and for the benefit of one or more Persons (each, as defined below) (each, a “Beneficiary”);

WHEREAS, the Applicant will establish, and be the owner of, a securities account maintained with the Securities Intermediary (the “Constellation Securities Account”) and may elect to establish, and be the owner of, a deposit account holding cash maintained with the Securities Intermediary (the “Constellation Deposit Account”) and, together with the Constellation Securities Account, the “Constellation Collateral Accounts”);

WHEREAS, the Applicant shall, pursuant to the terms and conditions set forth herein, grant a security interest to the Collateral Agent, for the benefit of the Secured Parties, in the Constellation Collateral Accounts and all Collateral on deposit therein or credited thereto;

WHEREAS, the Applicant has entered into a Facility Agreement, dated as of the date hereof (the “Facility Agreement”) with Fells Point Funding Trust, a Delaware statutory trust (the “Trust”), and Deutsche Bank Trust Company Americas, pursuant to which the Trust has agreed to act as an unconditional source of liquid assets for the Applicant on the terms and conditions set forth therein;

WHEREAS, the Trust has established, and is the owner of, a securities account, Account No. SF7148.2, maintained with the Securities Intermediary (such account the “Trust Collateral Account”);

WHEREAS, the Applicant shall, pursuant to the terms and conditions set forth herein, direct and cause the Trust to grant a security interest to the Collateral Agent, for the benefit of the Secured Parties, in the Trust Collateral Account and all Collateral on deposit therein or credited thereto; and

WHEREAS, the Applicant and the Issuers desire to set forth the terms and conditions that shall apply to the foregoing Letters of Credit and certain related matters in connection therewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Applicant, the Collateral Agent and the Issuers hereby agree as follows:

1. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Administrative Agent” has the meaning specified in the preamble hereof.

“Agents” has the meaning specified in Section 17.

“Agent-Related Persons” means each Agent, together with its affiliates, and the officers, directors, employees, counsel, representatives, agents and attorneys-in-fact of each Agent and such affiliates.

“Aggregate Availability” means, at any time, the lesser of (a) an amount equal to sum of (i) 97.18% of the Net Asset Value of the Eligible Treasury Assets credited to the Collateral Accounts at such time and (ii) 99% of the Net Asset Value of all cash on deposit in the Collateral Accounts at such time and (b) the Facility Amount.

“Aggregate Collateral Amount” has the meaning specified in Section 5(a).

“Agreement” means this Letter of Credit Facility Agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Aggregate Collateral Amount” has the meaning specified in Section 5(a).

“Amendment” has the meaning specified in Section 3.

“Amendment Request” has the meaning specified in Section 3.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Applicant or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicant” has the meaning specified in the preamble hereof.

“Applicant Governing Body” has the meaning specified in Section 11(a)(ii).

“Authorized Officer” has the meaning specified in Section 11(a)(ii).

“Base Rate” means, with respect to any amount payable hereunder, for any day, a rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 1/2 of 1.00% and (c) the Daily Simple SOFR Rate for such day, plus 1.00%.

The Base Rate is an index rate and is not necessarily intended to be the lowest or best rate of interest charged to other customers in connection with extensions of credit to customers or to other banks. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Rate shall be effective as of the opening of business on the day of such change in the Prime Rate or the Federal Funds Rate, respectively.

“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Beneficiary” has the meaning specified in the recitals hereto.

“Board of Directors” means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board; (b) with respect to a partnership, the board of directors of the general partner of the partnership; (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

“Business Day” means a day other than a Saturday, a Sunday or any other day on which banks are authorized or required by law to close in New York City.

“Calculation Agency Agreement” means that certain Calculation Agency Agreement, dated as of the date hereof, between the Applicant and Credit Suisse Securities (USA) LLC, as the calculation agent.

“Capital Stock” means (a) in the case of a corporation, corporate stock; (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock; (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Change of Control” means the occurrence of any of the following:

(a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Applicant and its Subsidiaries taken as a whole to any “person” (as that term is used in Section 13(d) of the Exchange Act, but excluding any employee benefit plan of the Applicant or any of its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of such plan); or

(b) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” (as defined above), other than a corporation owned directly or indirectly by the stockholders of the Applicant in substantially the same proportion as their ownership of stock of the Applicant prior to such transaction, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Applicant, measured by voting power rather than number of shares.

“Change of Control Triggering Event” means (a) a Change of Control has occurred and (b) the P-Caps and/or the Senior Notes are downgraded by each of the Rating Agencies on any date during the 60-day period commencing after the earlier of (i) the occurrence of a Change of Control and (ii) public disclosure by the Applicant of the occurrence of a Change of Control or the Applicant’s intention to effect a Change of Control; provided that a particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Administrative Agent in writing at the Applicant’s or the Administrative Agent’s request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); provided, further, that no Change of Control Triggering Event shall occur if following such downgrade, (x) the P-Caps (or, in the event the P-Caps are not outstanding, the Senior Notes) are rated Investment Grade by each of the Rating Agencies or (y) the ratings of the P-Caps (or, in the event the P-Caps are not outstanding, the Senior Notes) by each of the Rating Agencies are equal to or better than their respective ratings on the issue date thereof.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” has the meaning given to the term “LC Facility Collateral” in the Pledge Agreement.

“Collateral Accounts” means, collectively, the Constellation Collateral Accounts and the Trust Collateral Account.

“Collateral Agent” has the meaning specified in the preamble hereof.

“Collateral Valuation Date” means (a) each date on which the Applicant delivers a Request or an Amendment Request to an Issuer, (b) the date that is three (3) Business Days prior to each L/C Roll Determination Date, in the case of clause (b) only, to the extent requested by the applicable Issuer on or before such date, (c) each date on which the Collateral Agent withdraws cash and/or Eligible Treasury Assets from one or more Collateral Accounts pursuant to Section 4(b), (d) the effective date of a Commitment reduction pursuant to Section 32(b), to the extent requested by Constellation, and (e) on the last Business Day of each of March, June, September and December.

“Commitment” means, at any time with respect to an Issuer, the amount set forth beside such Issuer’s name under the heading “Commitment” on Schedule I attached to this Agreement (as such Schedule shall be completed in connection with the execution and delivery of the Issuer Joinder Agreement and may be amended from time to time with respect to any Issuer with the written consent of the Applicant and such Issuer, it being understood and agreed that no other consent will be required hereunder to establish, increase or decrease the commitment of an Issuer and only the consent of the Applicant and such Issuer will be required to establish, increase or decrease such commitment).

“Commitments” means, collectively, the aggregate amount of the commitments of all the Issuers.

“Constellation Collateral Accounts” has the meaning specified in the recitals hereto.

“Constellation Deposit Account” has the meaning specified in the recitals hereto.

“Constellation Securities Account” has the meaning specified in the recitals hereto.

“Daily Simple SOFR Rate” means, for any day (a “SOFR Rate Day”), a rate per annum equal SOFR for the day (such day “SOFR Determination Date”) that is five (5) U.S. Government Securities Business Day prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Applicant.

“Defaulting Issuer” means, at any time, any Issuer that, at such time, has (a) notified the Applicant or the Administrative Agent, in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its Letter of Credit issuance, continuance or amendment obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Issuer’s good faith determination that a condition precedent thereto (specifically identified and, if available to such Issuer, supported by reasonable background information provided by such Issuer) cannot be satisfied) or generally its funding obligations under other agreements in which it commits to extend credit, (b) failed, within three Business Days after request by the Administrative Agent or Applicant, in each case, acting in good faith, to provide a certification in writing from an authorized officer of such Issuer that it will comply with its Letter of Credit issuance, continuance or amendment obligations, provided that such Issuer shall cease to be a Defaulting Issuer pursuant to this clause (b) upon receipt by the Administrative Agent or the Applicant of such written certification, or (c) taken any action or become the subject of an Issuer Insolvency Event with respect to such Issuer or its Parent Company; provided that an Issuer shall not be a Defaulting Issuer pursuant to this clause (c) solely by virtue of the ownership or acquisition of any equity interest in such Issuer or its Parent Company by a Governmental Authority or agency thereof. A determination, if any, by the Administrative Agent (it being understood

and agreed that (i) the Administrative Agent may, but shall be under no obligation to, make any such determination and (ii) a determination by the Administrative Agent shall not be required for an Issuer to become a Defaulting Lender if the requirements of this definition are otherwise satisfied) that an Issuer is a Defaulting Lender under any of clauses (a) through and including (c) above will be conclusive and binding absent manifest error, and, if any such a determination is made, such Issuer shall be deemed to be a Defaulting Lender upon notification of such determination by the Administrative Agent to the Applicant and the Issuers.

“Effective Date” has the meaning specified in Section 12.

“Eligible Treasury Assets” means a portfolio of principal and interest STRIPS of U.S. Government Obligations, each with a stated maturity date that is no later than January 31, 2027.

“Eligible Treasury Assets Cap” means, for each Issuer on any given date, with respect to each principal and interest STRIP, a face amount equal to (a) (i) the total face amount of such STRIP held in the Collateral Accounts on the Effective Date multiplied by (ii) a ratio equal to such Issuer’s Commitment on the Effective Date divided by the total Commitments on the Effective Date minus (b) the face amount of such STRIP previously withdrawn from the Collateral Accounts by the Collateral Agent to be monetized for such Issuer in accordance with Section 6(d).

“Event of Default” has the meaning specified in Section 16(a).

“Excess Eligible Treasury Assets” has the meaning given to such term in the Pledge Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Execution Date” has the meaning specified in Section 11.

“Facility Agreement” has the meaning specified in the recitals hereto.

“Facility Amount” means (a) prior to the Effective Date, \$971,000,000, and (b) at any time thereafter, the aggregate Commitments of the Issuers at such time (as such amount may be established, increased or reduced from time to time in accordance with the terms of Section 17 or 32); provided that, any such increase that will cause the Facility Amount to exceed \$971,000,000 shall be subject to the consent requirement set forth in clause (vii) of Section 17.

“Facility Documents” means, collectively, (a) this Agreement, (b) Requests, (c) Amendment Requests, (d) the Issuer Joinder Agreement and (e) the Pledge Agreement, together with any modification of, or any waiver with respect to, any of the foregoing.

“Federal Funds Rate” means, for any day, a fluctuating interest rate per annum equal for such day to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it; provided that, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Governmental Authority” means any nation or government, any state, province, territory or other political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, or any governmental or non-governmental authority regulating the generation and/or transmission of energy, including the Electric Reliability Council of Texas or any other entity succeeding thereto.

“Indebtedness” means with respect to the Applicant all obligations (a) in respect of money borrowed, (b) evidenced by notes, bonds, debentures or other similar instruments or letters of credit (or reimbursement agreements in respect thereof) and (c) in respect of banker’s acceptances, in each case, of the Applicant, and any guaranties by the Applicant of any of the foregoing of any other Person.

“Indemnified Parties” has the meaning specified in Section 10.

“Investment Company Act Event” has the meaning given to such term in the Facility Agreement.

“Issuance Period” means the period commencing on the Effective Date and ending on the Termination Date.

“Issuer” and “Issuers” have the meanings specified in the preamble hereof.

“Issuer Costs” has the meaning specified in Section 8(a).

“Issuer Insolvency Event” means that (a) an Issuer or its Parent Company is insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (b) such Issuer or its Parent Company is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been publicly appointed for such Issuer or its Parent Company, or such Issuer or its Parent Company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment.

“Issuer Joinder Agreement” means the joinder agreement dated on or prior to the Effective Date, in form and substance reasonably satisfactory to the Applicant, the Administrative Agent and the Issuers party thereto, executed by each Issuer party thereto, the Administrative Agent, the Collateral Agent, the Applicant and the Trust, pursuant to which the Issuer(s) establish the initial Commitments hereunder.

“L/C Fee” has the meaning specified in Section 8(b)(i).

“L/C Fee Payment Date” means the first day of each fiscal quarter (or, if such date is not a Business Day, the immediately succeeding Business Day), and the Termination Date.

“L/C Outstandings” means, at any time, an aggregate amount equal to the sum of (a) the Stated Amount of all outstanding Letters of Credit and (b) the aggregate amount of all unpaid L/C Reimbursement Amounts, in each case, at such time.

“L/C Reimbursement Amount” has the meaning specified in Section 4(a).

“L/C Roll Determination Date” has the meaning specified in Section 3(d).

“Letter of Credit” has the meaning specified in the recitals hereto.

“Lien” means, with respect to any asset, any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, restriction, collateral assignment, charge or security interest in, on or of such asset.

“Majority Issuers” means at any date of determination Issuers whose Pro Rata Shares aggregate more than 50.0%.

“Minimum Collateral Base” means, on any date as of which it is determined hereunder, the quotient obtained by dividing (a) the Facility Amount on such date, divided by (b) Minimum Collateral Percentage.



“Minimum Collateral Percentage” means a number, expressed as a percentage, equal to the sum of (a) the product of (i) a fraction, the numerator of which is the Net Asset Value of all cash on deposit in the Collateral Accounts and the denominator of which is the Net Asset Value of all Collateral on deposit in or credited to the Collateral Accounts, in each case, as determined in accordance with Section 6(a) and (ii) 99% and (b) the product of (i) a fraction, the numerator of which is the Net Asset Value of all Eligible Treasury Assets credited to the Collateral Accounts and the denominator of which is the Net Asset Value of all Collateral on deposit in or credited to the Collateral Accounts, in each case, as determined in accordance with Section 6(a) and (ii) 97.18%.

“Minority Investment” shall mean any Person (other than a Subsidiary) in which the Applicant or any Subsidiary owns Capital Stock.

“Moody’s” means Moody’s Investors Service, Inc. or any successor entity.

“Nationally Recognized Statistical Organization” means a nationally recognized statistical rating organization within the meaning of Section 3(a)(62) under the Exchange Act.

“Net Asset Value” has the meaning specified in Section 6(a).

“Non-Excluded Taxes” has the meaning specified in Section 9.

“Notice Date” has the meaning specified in Section 6(b).

“Obligations” means all of the Applicant’s obligations to pay fees, costs and expenses, to pay principal or interest and any L/C Reimbursement Amount, in each case, to any Agent or any Issuer under this Agreement and the other Facility Documents.

“OFAC” means the United States Treasury Department Office of Foreign Assets Control.

“Other Taxes” means any stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or any Facility Document, except with respect to an Issuer or the Administrative Agent, any such Taxes imposed with respect to an assignment (other than pursuant to a request by the Applicant under Section 9(c)) as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement or any Facility Document, or sold or assigned an interest in any Letter of Credit or Facility Document).

“Parent Company” shall mean, with respect to an Issuer, the bank holding company (as defined in Regulation Y of the Board of Governors of the Federal Reserve System of the United States of America), if any, of such Issuer, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Issuer.

“PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

“P-Caps” means the pre-capitalized trust securities issued by the Trust on the date hereof.

“Permitted Liens” means Liens on cash deposits and other funds maintained with a depository institution, in each case arising in the ordinary course of business by virtue of any statutory or common law provision relating to banker’s liens, including Section 4-210 of the UCC, and/or arising from customary contractual fee provisions, the reimbursement of funds advanced by a depository or

intermediary institution (and/or its Affiliates) on account of investments made or securities purchased, indemnity, returned check and other similar provisions “Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

“Pledge Agreement” means that certain Pledge and Control Agreement, dated as of the date hereof, among the Applicant, the Collateral Agent, the Trust and the Securities Intermediary.

“Primary Eligible Treasury Assets” has the meaning given to such term in the Pledge Agreement.

“Prime Rate” means, for any day, mean the rate of interest per annum publicly announced from time to time by The Wall Street Journal as the “prime rate” (or, if The Wall Street Journal ceases quoting a base rate of the type described, the highest per annum rate of interest published by the Federal Reserve Board in Federal Reserve statistical release H.15 (519) entitled “Selected Interest Rates” as the Bank prime loan rate or its equivalent); each change in the Prime Rate shall be effective as of the opening of business on the date such change is publicly announced as being effective; provided that in no event shall the “Prime Rate” at any time be less than 0.00% per annum. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually available.

“Proceeding” has the meaning specified in Section 27.

“Pro Rata Share” means, with respect to an Issuer, a fraction (expressed as a percentage), the numerator of which is the amount of such Issuer’s Commitment and the denominator of which is the sum of the amounts of all of the Issuers’ Commitments, or if no Commitments are outstanding, a fraction (expressed as a percentage), the numerator of which is the amount of Obligations owed to such Issuer and the denominator of which is the aggregate amount of the Obligations owed to the Issuers.

“Rating Agency” means (a) each of Moody’s and S&P and (b) if any of Moody’s or S&P ceases to rate the P-Caps or fails to make a rating of the P-Caps publicly available, a Nationally Recognized Statistical Rating Organization selected by the Applicant which shall be substituted for Moody’s or S&P, as the case may be with respect to the P-Caps.

“Related Parties” means, with respect to any specified person, such Person’s affiliates and the respective directors, officers, employees, trustees, agents and advisors of such Person and such Person’s affiliates.

“Request” has the meaning specified in Section 3.

“Retained Eligible Treasury Assets” has the meaning given to such term in the Facility Agreement.

“Retained Eligible Treasury Assets Account” has the meaning given to such term in the Pledge Agreement.

“S&P” means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

“Sanctioned Country” shall mean, at any time, a country, region or territory that is, or whose government is, subject to, or target of, Sanctions.

“Sanctioned Person” shall mean, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any

Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

“Sanctions” means economic or financial sanctions or trade embargoes or restrictive measures imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or any other relevant sanctions authority.

“Secured Parties” means the Issuers, the Administrative Agent and the Collateral Agent.

“Securities Intermediary” means Deutsche Bank Trust Company Americas in its capacities as a securities intermediary and a deposit bank, as applicable, in respect of the Collateral Accounts.

“Senior Notes” means the 3.046% Senior Notes due 2027 offered by Constellation Energy Generation, LLC.

“Shortfall Amount” has the meaning specified in Section 6(b).

“Shortfall Date” has the meaning specified in Section 6(b).

“Shortfall Notice” has the meaning specified in Section 6(b).

“SOFR” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SOFR Determination Date” has the meaning specified in the definition of “Daily Simple SOFR Rate”.

“SOFR Rate Day” has the meaning specified in the definition of “Daily Simple SOFR Rate”.

“Solvent” means, with respect to the Applicant on a particular date, that on such date, immediately after giving effect to all Letters of Credit (or any Amendment thereto) issued, continued or to be issued on such date, (a) the fair value of the property of the Applicant and its Subsidiaries, taken as a whole, at a fair valuation, taking into account the effect of any indemnities, contribution or subrogation rights, will exceed their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair salable value of the assets of the Applicant and its Subsidiaries, taken as a whole, taking into account the effect of any indemnities, contribution or subrogation rights, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured, (c) the Applicant and its Subsidiaries, taken as a whole, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, and (d) the Applicant and its Subsidiaries will not have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted.

“Stated Amount” means, at any time, with respect to any Letter of Credit or Letters of Credit, the total amount then available to be drawn under such Letter of Credit or Letters of Credit.

“STRIPS” means principal and interest strips of U.S. Treasury Securities created under the U.S. Treasury’s program for Separate Trading of Registered Interest and Principal of Securities (STRIPS) under 31 C.F.R. Section 356.31.

“Subsidiary” shall mean, with respect to any Person (herein referred to as the “parent”), any corporation, partnership, limited liability company, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled or held by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. In no event will the Trust constitute a Subsidiary of Constellation.

“Taxes” has the meaning specified in Section 9.

“Termination Date” has the meaning specified in Section 32(a).

“Total Assets” means the total consolidated assets of Constellation and its Subsidiaries determined on a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of Constellation.

“Total Unutilized L/C Commitment” means, at any time, an amount equal to the remainder of (a) the Facility Amount in effect at such time, less (b) the aggregate amount of all L/C Outstandings at such time.

“Trust” has the meaning specified in the recitals hereto.

“Trust Collateral Account” has the meaning specified in the recitals hereto.

“Trust Governing Body” has the meaning specified in Section 11(a)(ii).

“UCC” has the meaning specified in Section 14.

“U.S. Government Obligations” means U.S. Treasury securities that are direct obligations of the United States for payment of which its full faith and credit is pledged.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

2. Applicability of Agreement. This Agreement shall apply to each Letter of Credit (and any Amendments thereto) existing or requested by the Applicant and issued or continued pursuant to the terms and conditions hereof.

3. Issuance of Letters of Credit.

(a) During the Issuance Period and subject to the terms and conditions hereof, within three (3) Business Days (or such shorter period of time acceptable to the relevant Issuer) after receipt by an Issuer (with a copy to the Administrative Agent) of (i) the Applicant’s written request, submitted substantially in the form of Exhibit A attached hereto (a “Request”), that such Issuer issue (or continue) a Letter of Credit or Letters of Credit to one or more Beneficiaries, or (ii) the Applicant’s written request, submitted substantially in the form of Exhibit B attached hereto (an “Amendment Request”), for an amendment to an existing Letter of Credit (an “Amendment”), each Issuer severally agrees to issue (or

continue) such Letter of Credit or Letters of Credit (in each case, in a form reasonably satisfactory to such Issuer), or agree to such Amendment, as the case may be. If requested by the applicable Issuer, the Applicant also shall submit a letter of credit application on such Issuer's standard form in connection with any request for a Letter of Credit. Each Issuer's obligation to effect such issuance, continuance or Amendment shall be subject to the following conditions: (A) prior satisfaction by the Applicant of its obligations set forth in Section 5(a), (B) payment in full of the fees and expenses described in Section 8 hereof that are due and payable on or prior to the date of issuance (or continuance) or amendment of such Letter of Credit and (C) all representations and warranties contained in this Agreement being true and correct in all material respects as of the date of such issuance, continuance or Amendment, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects on and as of such earlier date (provided that, in each case, if any representation or warranty is already qualified by materiality, such representation or warranty must be true and correct in all respects) and that no Event of Default hereunder has occurred as of the date such Letter of Credit is issued (or continued) or amended, as applicable. Each issuance, continuance or Amendment of a Letter of Credit shall be deemed to constitute a representation and warranty by the Applicant on the date of such issuance, continuance or Amendment as to the matters specified in the preceding subclause (C). No Issuer shall be required or permitted to issue, continue, amend or renew any Letter of Credit (except to reduce the face amount thereof) if immediately after giving effect thereto, (x) the aggregate L/C Outstandings with respect to all Letters of Credit would exceed the Aggregate Availability or (y) the aggregate L/C Outstandings with respect to all Letters of Credit issued by such Issuer would exceed such Issuer's Commitment. For the avoidance of doubt, no Issuer will be required to provide documentary, trade or commercial letters of credit without its prior written consent (in each Issuer's sole discretion). However, documentary Letters of Credit calling for invoices or copies of invoices may be allowed, in each Issuer's sole discretion.

(b) Notwithstanding the foregoing, no Issuer is under any obligation to issue any Letter of Credit or Amendment thereto if: (i) at the time of such issuance any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms enjoin or restrain such Issuer from issuing such Letter of Credit or any requirement of law applicable to such Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuer shall prohibit, or request that such Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuer with respect to such Letter of Credit any restriction or reserve or capital requirement (for which such Issuer is not otherwise compensated hereunder) not in effect with respect to such Issuer on the Effective Date, or any unreimbursed loss, cost or expense that was not applicable or in effect with respect to such Issuer as of the Effective Date and which such Issuer reasonably and in good faith deems material to it, (ii) the proposed beneficiary is a Sanctioned Person or (iii) such issuance would violate any policies of such Issuer applicable to the issuance of letters of credit generally.

(c) Each Issuer, in its sole discretion, may issue (or continue) any Letter of Credit through one or more of its branches or affiliates.

(d) Notwithstanding anything to the contrary contained herein, in no event may a Request or Amendment Request be submitted to any Issuer, and no Letter of Credit (or Amendment thereto) shall be issued or continued, after the expiration of the Issuance Period unless expressly consented to in writing by the applicable Issuer. Furthermore, no Letter of Credit shall have an expiration date later than the earlier of (i) the date one year after the issuance of such Letter of Credit and (ii) the date that is five (5) Business Days prior to the last day of the Issuance Period; provided that a Letter of Credit may, upon the request of the Applicant, include a provision whereby such Letter of Credit shall be renewed automatically for additional consecutive periods of 12 months or less (but not beyond the date that is five (5) Business Days prior to the last day of the Issuance Period) unless the Issuer notifies the beneficiary thereof at least 30 days (or within such longer period as specified in such Letter of Credit) (the date on which any such notice is due, the "L/C Roll Determination Date") prior to the then-applicable expiration date that such Letter of Credit will not be renewed. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Applicant to, or entered into by the Applicant with, an Issuer relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(e) Unless otherwise expressly agreed by the applicable Issuer and the Applicant (including any such agreement applicable to an existing Letter of Credit), when a Letter of Credit is issued, the Letter of Credit shall be subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication Number 600 (“UCP 600”) and matters not governed by UCP 600 shall be governed and construed in accordance with the laws of New York.

(f) It is understood that (i) no Issuer shall be responsible for any failure by any other Issuer to perform its obligation to issue any Letter of Credit hereunder; nor shall any Commitment of any Issuer be increased or decreased as a result of any failure by any other Issuer to perform its obligation to issue any Letter of Credit hereunder, (ii) no failure by any Issuer to perform its obligation to issue any Letter of Credit hereunder shall excuse any other Issuer from its obligation to issue any Letter of Credit hereunder, and (iii) the obligations of each Issuer hereunder shall be several, not joint and several.

(g) As of the Business Day immediately preceding the requested issuance date of any Letter of Credit, the Administrative Agent shall determine the Total Unutilized L/C Commitment and Aggregate Availability and notify each Issuer thereof.

(h) Each Issuer shall promptly (i) notify the Administrative Agent in writing of the Stated Amount and expiry date of each Letter of Credit issued by it and (ii) provide the pertinent details of such Letter of Credit or amendment to the Administrative Agent. Each Issuer shall provide to the Administrative Agent, as per Administrative Agent’s request, an activity report in the form of Exhibit C attached hereto.

#### 4. Reimbursement.

(a) The Applicant shall reimburse the applicable Issuer for the amount of any drawing honored under a Letter of Credit and paid by such Issuer (the “L/C Reimbursement Amount”). The Applicant shall reimburse the applicable Issuer under this Section 4(a) in immediately available funds (i) no later than 3:00 p.m. on the day (which shall be a Business Day) on which payment is made by such Issuer under a Letter of Credit; provided that the Issuer notifies the Applicant by 12:00 p.m. on such date that such Issuer has made such payment under such Letter of Credit and the full amount of the L/C Reimbursement Amount, or (ii) if the Issuer notifies the Applicant after 12:00 p.m. on the date of such payment, by 11:00 a.m. on the next Business Day following receipt of such notice by the Applicant; provided that the failure of the Issuer to so notify the Applicant, and any delay in so notifying the Applicant, shall not relieve, limit or otherwise affect any obligation of the Applicant under this Agreement or any related document. Each Issuer shall simultaneously provide a copy of each reimbursement notice provided to the Applicant under this Section 4(a) to the Administrative Agent and the Collateral Agent.

(b) If the Applicant fails to reimburse the Issuer on the date and at the time required in accordance with Section 4(a), the Collateral Agent shall, following notice to the Collateral Agent from the applicable Issuer and upon not less than one (1) Business Days’ prior written notice from the Collateral Agent to the Applicant, withdraw from the Constellation Collateral Accounts (to the extent established) an amount of cash and/or Eligible Treasury Assets (in accordance with Section 6(d)) equal to the L/C Reimbursement Amount due to such Issuer and shall apply such amounts to repay such L/C Reimbursement Amount; provided that if there is not a sufficient amount of cash and/or Eligible Treasury Assets on deposit in or credited to the Constellation Collateral Accounts on any such date, the Collateral Agent shall withdraw from the Trust Collateral Account (in accordance with Section 6(d)) an amount of Eligible Treasury Assets equal to the amount of such shortfall and shall apply such amounts to repay the L/C Reimbursement Amount due to such Issuer. The Applicant (i) authorizes and directs the Collateral Agent to charge the Constellation Collateral Accounts (A) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount, to the extent the Applicant has failed to reimburse the applicable Issuer in accordance with Section 4(a), and (B) from time to time for any other Obligations not paid within five (5) Business Days after the due date thereof and (ii) confirms that it has irrevocably directed and caused the Trust to authorize and direct the Collateral Agent to charge the Trust Collateral Account (A) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount, to the extent the Applicant has failed to reimburse the applicable Issuer in

accordance with Section 4(a), and (B) from time to time for any other Obligations not paid within five (5) Business Days after the due date thereof.

(c) The Applicant shall pay to each Issuer, promptly upon demand, all Issuer Costs as more specifically set forth in Section 8(a).

5. Covenants.

(a) The Applicant will, and will direct the Trust in accordance with the Facility Agreement to, enter into the Pledge Agreement with the Securities Intermediary and the Collateral Agent, pursuant to which the Applicant and the Trust will grant to the Collateral Agent a Lien on the Collateral Accounts to secure the Obligations owed to the Secured Parties and the Applicant will, and will direct the Trust to, enter into an amendment to the Pledge Agreement, if necessary, to perfect the Lien granted to the Collateral Agent upon the establishment of any Collateral Accounts after the date hereof. Prior to the issuance (or continuance) by any Issuer of any Letter of Credit (or any Amendment thereto) hereunder and as a condition precedent thereto, the Applicant shall confirm that the sum of (i) the aggregate Net Asset Value of cash and Eligible Treasury Assets deposited in or credited to the Constellation Collateral Accounts and (ii) the aggregate Net Asset Value of Eligible Treasury Assets credited to the Trust Collateral Account (such aggregate amount, the "Aggregate Collateral Amount") is equal to or greater than the Minimum Collateral Base. In the event the Aggregate Collateral Amount exceeds the Minimum Collateral Base, upon the written request of Applicant, any such excess amount, as certified by the Applicant, shall be released from any Lien created under the Pledge Agreement and the Applicant shall be permitted to withdraw such excess funds from the Constellation Collateral Accounts, and shall be permitted to withdraw such excess assets from the Trust Collateral Account in connection with any permitted voluntary or mandatory exercise of issuance rights under the Facility Agreement (provided that any such release of Lien with respect to, and withdrawal of, Eligible Treasury Assets from the Trust Collateral Account shall be made pro rata across each interest and principal STRIP as determined in accordance with the Pledge Agreement), so long as no Event of Default has occurred and is continuing or would result therefrom; provided, further, that, in the case of any cancellation, termination or expiration of any Letter of Credit in connection therewith, the applicable Issuer shall have received reasonably satisfactory evidence of such cancellation, termination or expiration. The Applicant agrees to use commercially reasonable efforts to return such expired, terminated or cancelled Letter of Credit to the applicable Issuer within a reasonable period after such cancellation, termination or expiration. Upon release of any portion of the Collateral deposited by the Applicant in accordance with this Section 5(a), the Collateral Agent shall promptly execute and deliver to the Applicant, at the Applicant's expense, such documents as the Applicant shall reasonably request to evidence the release of such Collateral from any Lien granted to the Collateral Agent. Notwithstanding anything to the contrary herein, the Applicant shall at all times be permitted to withdraw Eligible Treasury Assets from the Trust Collateral Account and deposit such Eligible Treasury Assets into the Constellation Collateral Accounts pursuant to a mandatory exercise of the issuance right under the Facility Agreement that is triggered by an Investment Company Act Event.

(b) The Applicant shall use commercially reasonable efforts to establish the Constellation Securities Account within 14 days after the date hereof.

(c) The Applicant will (i) comply in all material respects with all applicable U.S. and foreign laws, regulations (including foreign exchange control regulations, foreign asset control regulations and other trade-related regulations) and rules now or later applicable to any Letter of Credit or this Agreement and the transactions contemplated thereunder and hereunder, or the Applicant's execution, delivery and performance under this Agreement, (ii) preserve and maintain in full force and effect its limited liability company existence and good standing under the laws of its jurisdiction of organization, and (iii) pay and discharge as the same shall become due and payable, all of its material Taxes, assessments and governmental levies, except as such are being contested in good faith by appropriate proceedings and for which adequate reserves are being maintained in accordance with U.S. generally accepted accounting principles or where failure to effect such payment is not adverse in any material respect to the Issuers.

(d) The Applicant will comply, in all material respects, with the PATRIOT Act. The Applicant will not, directly or, to the knowledge of the Applicant, indirectly, use any Letter of Credit: (i) to fund any activities or business of or with any Person that, at the time thereof, is the subject of Sanctions or in any country or territory that, at the time thereof, is the subject of comprehensive Sanctions, or (ii) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the transactions contemplated hereby, whether as an issuer, underwriter, investor, or otherwise).

(e) The Applicant will furnish to the Administrative Agent for distribution to each Issuer:

(i) within forty-five (45) days after the end of each of the first three quarters of each fiscal year of the Applicant beginning with the fiscal quarter ending on March 31, 2022, its unaudited consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition as of the close of such fiscal quarter of the Applicant and its consolidated Subsidiaries at such time and the results of its operations and the operations of such Subsidiaries during such fiscal quarter, certified by the chief financial officer or other responsible officer of the Applicant to the effect that such financial statements, while not examined by independent public accountants, reflect in the opinion of the Applicant all adjustments necessary to present fairly in all material respects the financial condition and results of operations of the Applicant and its consolidated Subsidiaries on a consolidated basis as of the end of and for such periods in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(ii) within ninety (90) days after the end of each fiscal year of the Applicant beginning with the fiscal year ending on December 31, 2022, the Applicant's consolidated balance sheet and related statements of income, stockholders' equity and cash flows showing the financial condition as of the close of such fiscal year of the Applicant and its consolidated Subsidiaries at such time and the results of its operations and the operations of such Subsidiaries during such year, all audited by PricewaterhouseCoopers LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants to the effect that such consolidated financial statements fairly present the financial condition and results of operations of the Applicant and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(iii) promptly upon the Applicant becoming aware of the occurrence of each Event of Default, a statement of the chief financial officer or other responsible officer of the Applicant setting forth details of such Event of Default and the action which the Applicant has taken and proposes to take with respect thereto;

(iv) information and documentation reasonably requested in writing by any Issuer for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act or other applicable anti-money laundering rules and regulations;

(v) prompt written notice of any change in the information provided in any Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification; and

(vi) such other information relating to the business, operations, assets, liabilities or condition, financial or otherwise, of the Applicant as any Issuer (acting through the Administrative Agent) may from time to time reasonably request promptly following such request.

Documents required to be delivered pursuant to Section 5(e)(i) and (ii) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which such materials are publicly



available as posted on the Electronic Data Gathering, Analysis and Retrieval system (EDGAR); or (ii) on which such documents are posted on the Applicant's behalf on an Internet or intranet website, if any, to which each Issuer and the Administrative Agent have access (whether a commercial, third-party website or whether made available by the Administrative Agent); *provided* that: (A) upon written request by the Administrative Agent (or any Issuer through the Administrative Agent) to the Applicant, the Applicant shall deliver paper copies of such documents to the Administrative Agent or such Issuer until a written request to cease delivering paper copies is given by the Administrative Agent or such Issuer and (B) the Applicant shall notify the Administrative Agent and each Issuer (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Applicant with any such request by an Issuer for delivery, and each Issuer shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such document to it and maintaining its copies of such documents.

(f) The Applicant shall cause each established Collateral Account at all times to be under the sole dominion and control (within the meaning of Sections 8-106, 9-104 and/or 9-106 of the UCC, as applicable) of the Collateral Agent, and the Collateral Agent shall have the exclusive right of withdrawal over such account except as set forth in the Facility Agreement (as in effect on the date hereof).

6. Collateral Accounts Monitoring and Shortfalls; Withdrawal of Eligible Treasury Assets from Collateral Accounts.

(a) The Applicant agrees that the value of assets on deposit in the Collateral Accounts will be monitored by the Collateral Agent (or its sub-agent), and that the value of assets in the Collateral Accounts (the "Net Asset Value") will be obtained according to the Collateral Agent's (or its sub-agent's) standard operating procedures on (i) each Collateral Valuation Date, and (ii) each other date as the Collateral Agent may be directed by the Majority Issuers in their discretion, in each case, in a commercially reasonable manner. For these purposes the value of any cash will be the face amount thereof and the value of any Eligible Treasury Assets will be obtained by reference to prices/quotes available on a reputable third party reporting or quotation service (such as Bloomberg, IDC or Reuters) or, if not so available, shall be their fair market value thereof as reasonably determined by the Collateral Agent or its sub-agent. The Collateral Agent shall have no liability for the value of any Eligible Treasury Assets obtained from a third party reporting service (or its sub-agent) and may, without further investigation, conclusively rely on such values. The Collateral Agent shall, no later than 12:00 p.m. on each Collateral Valuation Date, promptly provide notice to the Administrative Agent of the Net Asset Value.

(b) The Administrative Agent will, in the event that the aggregate Net Asset Value of the Collateral Accounts, as calculated on any Collateral Valuation Date, is less than the Minimum Collateral Base, on such day (a "Notice Date"), notify the Applicant and each Issuer of such shortfall by electronic mail transmission (a "Shortfall Notice"). If a Shortfall Notice is given prior to 10:00 a.m. on a Business Day, then such Business Day shall be the "Shortfall Date"; *provided* that if such notice is given after 10:00 a.m. on a Business Day or on a day that is not a Business Day, then the subsequent Business Day shall be the "Shortfall Date". The Shortfall Notice shall include (i) the aggregate Net Asset Value in each Collateral Account as of the Notice Date, (ii) the aggregate L/C Outstandings as of the Notice Date and (iii) a calculation showing the amount of cash or Eligible Treasury Assets that the Applicant would be required to provide to the Collateral Agent for contribution to the Constellation Collateral Accounts, as set forth in Section 6(c), such that the Net Asset Value of the Collateral Accounts would be equal to the Minimum Collateral Base on any such Shortfall Date (such amount, the "Shortfall Amount").

(c) On any Shortfall Date, the Applicant may, but shall not be required to, deposit an amount of cash in U.S. dollars and/or or Eligible Treasury Assets equal to the Shortfall Amount in the Constellation Collateral Accounts, with any such deposit to be made prior to 4:00 p.m. on the relevant Shortfall Date. If the Applicant has not made such deposit by such time, the Administrative Agent shall recalculate the Aggregate Availability and notify each Issuing Bank thereof. At any time thereafter, the

Applicant may in its sole discretion elect to deposit an additional amount of cash in U.S. dollars and/or Eligible Treasury Assets in the Constellation Collateral Accounts and shall provide the Administrative Agent notice of such deposit promptly after the deposit of such cash and/or Eligible Treasury Assets, and such amount shall be taken into account in the calculation of the Aggregate Net Asset Value of the Constellation Collateral Accounts on the following Collateral Valuation Date.

(d) In the event of any withdrawal by the Collateral Agent of Eligible Treasury Assets from any Collateral Account pursuant to Section 4(b), Section 16, or otherwise, the Collateral Agent and/or its sub-agent(s) shall (i) determine, in consultation with the Calculation Agent, the amount of Eligible Treasury Assets that would need to be monetized to satisfy the Obligations then due and payable, the selection of such Eligible Treasury Assets to be sold being at the sole discretion of the Collateral Agent (and its sub-agent) and in a manner consistent with the Pledge Agreement, (ii) sell such amount of Eligible Treasury Assets and (iii) apply the cash proceeds from such sale to satisfy the Obligations then due and payable in accordance with the terms hereof; provided that, in connection with the withdrawal by the Collateral Agent of Eligible Treasury Assets from the Collateral Accounts, the Collateral Agent shall use commercially reasonable efforts to select Eligible Treasury Assets to be monetized and sell such Eligible Treasury Assets on a pro rata basis across each principal and interest STRIP, selecting, to the extent practicable, (A) first from the Constellation Collateral Accounts (to the extent established), second from the Retained Eligible Treasury Assets Account and third from the Primary Eligible Treasury Assets, and (B) in each case, an equal percentage of each such principal and interest STRIP and, to the extent any such principal or interest STRIP to be selected would have a face amount less than \$100, rounding such face amount to be selected up to the nearest \$100. For the avoidance of doubt, in the event that a withdrawal by the Collateral Agent of Eligible Treasury Assets exceeds the amount necessary to satisfy the Obligations then due and payable, such excess proceeds from the monetization of the selected Eligible Treasury Assets will be deposited into the Constellation Collateral Account (or, if such account has not yet been established, into the Retained Eligible Treasury Assets Account, which proceeds shall be considered Retained Eligible Treasury Assets).

(e) Notwithstanding anything to the contrary herein, the Collateral Agent shall not withdraw, and each Issuer agrees that it shall not instruct the Collateral Agent to withdraw, a portion of any principal or interest STRIP to monetize in order to satisfy Obligations due to an Issuer if such withdrawal would exceed such Issuer's Eligible Treasury Assets Cap with respect to any such principal or interest STRIP; provided that, if each Issuer's Eligible Treasury Assets Cap has been reduced to zero and the Collateral Agent is permitted to withdraw additional Eligible Treasury Assets from the Collateral Accounts pursuant to Section 16, the Collateral Agent may withdraw, and any Issuer may instruct the Collateral Agent to withdraw, Eligible Treasury Assets from the Collateral Accounts to be monetized for the Issuers on a pro rata basis based on each Issuer's respective Commitment. The covenant set forth in this Section 6(e) is solely for the benefit of the respective Issuers, and the Applicant shall have no rights under, and agrees that it shall not take any action to enforce or object to, this Section 6(e).

7. Representations and Warranties. The Applicant represents and warrants to the Agents and the Issuers as follows on the date hereof and as of the date of issuance (or continuance) of each Letter of Credit (or as of the date of any Amendment thereto):

(a) (i) It is a limited liability company duly organized, validly existing and in good standing under the laws of the commonwealth of Pennsylvania and (ii) has (A) all the requisite powers and (B) all material government licenses, authorizations, consents and approvals required to carry on its business as now conducted, except, in the case of this clause (ii), to the extent the failure to do so could not reasonably be expected to result in a material adverse effect on the Applicant's business, operations, property, assets, liabilities or financial condition.

(b) The (i) execution, delivery and performance by it of this Agreement, (ii) granting of the Liens granted by it (including the first priority nature thereof, subject to Permitted Liens) pursuant to the Pledge Agreement, (iii) perfection or maintenance of the Liens created pursuant to the Pledge Agreement, and (iv) granting of authority to the Agents and the Issuers with respect to the exercise of their respective rights hereunder or under any other Facility Document or remedies in respect of the Collateral Accounts, (A) are within its limited liability company powers, (B) have been duly authorized

by all necessary limited liability company action, (C) require no action by or in respect of, or filing with, any governmental body, agency or official, except for any immaterial actions, consents, approvals, registrations or filings or such as have been made or obtained and are in full force and effect, (D) do not contravene, or constitute a default under, any provision of applicable material law or regulation or of constituent documents of the Applicant, as the case may be, or of any material agreement, judgment, injunction, order, decree or other material instrument binding upon the Applicant, as the case may be, or any of its subsidiaries, and (E) do not result in the creation or imposition of any Lien on any asset of the Applicant or any of its subsidiaries, except the Liens created pursuant to the Pledge Agreement.

(c) This Agreement and each other Facility Document have each been duly executed and delivered by the Applicant. Each of this Agreement and each other Facility Document constitutes a legal, valid and binding agreement of the Applicant, enforceable against it in accordance with its terms, except to the extent such enforceability may be limited by the effect of applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws affecting the enforcement of creditors' rights generally or by general principles of equity. The Applicant acknowledges that the Collateral Agent has control (within the meaning of Sections 8-106, 9-104 and/or 9-016, as applicable, of the UCC) over the Collateral Accounts now in existence and shall have control (within the meaning of Sections 8-106, 9-104 and/or 9-016, as applicable, of the UCC) over any Collateral Accounts established after the date hereof.

(d) The Collateral Agent, for the benefit of the Secured Parties, has a valid, first-priority perfected security interest in and lien on all of the Collateral granted by the Applicant, subject to no other Lien, other than Permitted Liens, securing all Obligations hereunder, and all filings and other actions necessary or desirable to perfect and protect such security interests granted by the Applicant have been duly taken. All funds, assets and property provided by the Applicant to the Collateral Agent pursuant to the Facility Documents are free and clear of any Lien, other than Permitted Liens, except for the liens and security interests created under the Pledge Agreement, and the Applicant was the legal and beneficial owner thereof at the time provided to the Collateral Agent.

(e) Both immediately before and immediately after the issuance (or continuance) of each Letter of Credit (or Amendment thereto), no Event of Default shall have occurred and be continuing.

(f) The Applicant is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended. Neither the issuance (or continuance) of the Letters of Credit (or any Amendment thereto) nor the transactions contemplated hereunder will violate any provision of such Act or any rule, regulation or order of the Securities and Exchange Commission thereunder.

(g) There is no action, suit, investigation, litigation or proceeding against the Applicant pending or, to the knowledge of the Applicant, threatened, before any court, tribunal, arbitrator or any other Governmental Authority or national securities exchange, that purports to affect the legality, validity or enforceability of this Agreement or as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, would reasonably be expected to result in a material adverse effect on the Applicant's business, operations, property, assets, liabilities or financial condition.

(h) The Applicant is Solvent.

(i) The information included in the Beneficial Ownership Certification is true and correct in all material respects.

(j) None of the Applicant, any of its Subsidiaries, or any of their respective directors or officers or, to the knowledge of the Applicant, any affiliate, agent or employee of the Applicant or any of its subsidiaries, is a Sanctioned Person None of the Applicant, any of its Subsidiaries, or any of their respective directors or officers or, to the knowledge of the Applicant, any affiliate, agent or employee of the Applicant or any of its subsidiaries, have engaged in any activity or conduct which would violate any applicable Anti-Corruption Laws or any applicable Sanctions and the Applicant has implemented and

maintains in effect policies and procedures designed to ensure compliance by the Applicant, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. No part of the proceeds of the Letters of Credit or payment or disbursement made pursuant thereto will be used directly or, to the knowledge of the Applicant, indirectly, in violation of Anti-Corruption Laws or violation of Section 5(c) hereof.

(k) The Facility Documents and the transactions contemplated thereby do not violate Regulations T, U or X of the Board of Governors of the Federal Reserve.

All representations and warranties made or deemed made in this Agreement shall survive the execution and delivery of this Agreement and the issuance (or continuance) of any Letter of Credit (or any Amendment thereto).

8. Issuance Fee / Issuer Costs; Application of Payments.

(a) The Applicant agrees to pay to the applicable Issuer, promptly upon demand, all reasonable and documented out-of-pocket costs and expenses (including attorney's fees of a single external counsel for all Issuers and Agents) (collectively, the "Issuer Costs") that the Issuer may pay or incur, or has already paid or incurred on or prior to the date hereof, in connection with the issuance (or continuance) of any Letter of Credit (or any Amendment thereto) and the negotiation, preparation, execution, performance and delivery of this Agreement and the transactions contemplated hereby and thereby, as well as in connection with the enforcement of, and preservation of the Issuer's rights hereunder and thereunder, including, without limitation:

(i) increased costs to the Issuer or any entity controlling the Issuer arising from the imposition or modification or effectiveness after the date hereof of any reserve, special deposit, insurance, or similar requirement by any Governmental Authority or from Taxes (other than (A) Non-Excluded Taxes that are imposed on any payments made hereunder or under any Facility Document, (B) Other Taxes, and (C) Taxes described in clauses (i) through (iv) in paragraph (a) of Section 9), including charges with respect to any Letters of Credit issued (or continued) by the Issuer;

(ii) increased costs to the Issuer or any entity controlling the Issuer for issuing, continuing or maintaining any Letter of Credit or a reduction in the yield or amount received or receivable by the Issuer or any entity controlling the Issuer for issuing, continuing or maintaining any Letter of Credit, arising from any change in any applicable law, rule, regulation, guideline, request or directive, or any change in the interpretation of any of the foregoing (whether or not having the force of law) imposed or becoming effective after the date hereof by any Governmental Authority or agency imposing on the Issuer or such entity or any other condition affecting this Agreement or any Letter of Credit (or any Amendment thereto) or its issuance or continuance (including as to liquidity or capital adequacy), in each case imposed or becoming effective after the date hereof by any Governmental Authority or agency that has jurisdiction over the Issuer or any such entity controlling the Issuer (notwithstanding anything herein to the contrary, (A) the Dodd-Frank Wall Street Reform and Consumer Protection Act, and (B) all requests, rules, guidelines, requirements and directives promulgated thereunder, and all requests, rules, guidelines, requirements and directives promulgated by the Bank of International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, are deemed to have been introduced or adopted after the date hereof, regardless of the date enacted, adopted, issued or implemented); and

(iii) all documented out-of-pocket sums expended by the Agents and the Issuers, including, without limitation, reasonable and documented attorney's fees, disbursements and court costs, in connection with the exercise of any right or remedy provided for herein, the preservation of the Collateral and the Issuer's interest therein and the defense or prosecution of any actions, suits or proceedings arising out of or relating to the Collateral.

(b) The Applicant shall pay the following fees:

(i) to the Administrative Agent, for the account of each Issuer, a fee (the “L/C Fee”) as follows:

(1) for the period from the Effective Date through and including June 30, 2022, in an amount equal to 0.40% of the Stated Amount of all outstanding Letters of Credit issued by such Issuer pursuant to this Agreement; and

(2) for the period from and after July 1, 2022 until the Termination Date, in an amount equal to 0.40% of such Issuer’s aggregate Commitment hereunder,

in each case, payable quarterly in arrears on each L/C Fee Payment Date; and

(ii) to the Administrative Agent, for its own account, an annual administration fee in the amount agreed in writing pursuant to that certain Fee Proposal dated as of January 25, 2022 by the Administrative Agent and accepted by the Applicant, or as otherwise agreed in writing from time to time between the Applicant and the Administrative Agent.

Once paid, none of the fees shall be refundable under any circumstances. For the avoidance of doubt, the fees shall be in addition to any reimbursements of the Issuer’s out-of-pocket expenses pursuant to Section 8. Notwithstanding anything contained herein to the contrary, during such period as an Issuer is a Defaulting Issuer, such Defaulting Issuer will not be entitled to any L/C Fee accruing during such period.

(c) If any Issuer becomes entitled to claim any additional amount pursuant to Section 8(a), it shall promptly notify the Applicant of the event by reason of which it has become so entitled. A certificate as to any additional amount payable pursuant to Section 8(a), showing in reasonable detail the determination of the additional amount claimed, submitted by the applicable Issuer to the Applicant shall be conclusive in the absence of manifest error. The agreements in this Section 8 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

(d) Failure or delay on the part of any Issuer to demand compensation pursuant to Section 8(a) shall not constitute a waiver of such Issuer’s right to demand such compensation; provided that the Applicant shall not be under any obligation to compensate any Issuer under pursuant to Section 8(a)(i) or (ii) with respect to any period prior to the date that is 270 days prior to such request.

(e) Payments of the Obligations shall be apportioned ratably among the Issuers (according to the aggregate unpaid Obligations owing to each Issuer) and payments of the fees shall, as applicable, be apportioned ratably among the Issuers (according to the Pro Rata Shares of each Issuer), except for fees payable solely to the Agents. All payments shall be remitted to the Administrative Agent and all such payments not constituting payment of specific fees shall be applied, ratably, subject to the provisions of this Agreement, first, to pay any fees, indemnities or expense reimbursements then due to the Agents from the Applicant; second, to pay any fees or expense reimbursements then due to the Issuers from the Applicant; third, to pay unpaid reimbursement obligations in respect of Letters of Credit; fourth, to the payment of any other Obligation; and fifth, to the extent of any excess, to the Applicant or to whosoever the Applicant may lawfully direct.

#### 9. Taxes.

(a) All payments made by or on account of the Applicant under any Facility Document shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, including interest and penalties with respect thereto (“Taxes”), except as required by

applicable law. If any Taxes, excluding the following Taxes (such non-excluded Taxes, “Non-Excluded Taxes”):

(i) net income taxes, franchise taxes (imposed in lieu of net income taxes), and branch profits taxes, in each case, imposed on the Administrative Agent or any Issuer as a result of (A) a present or former connection between the Administrative Agent or Issuer and the jurisdiction of the Governmental Authority imposing such Tax or political subdivision or taxing authority thereof or therein (other than any such connection arising from the Administrative Agent or any Issuer having executed, delivered or performed its obligations or received a payment under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced, this Agreement, any Letter of Credit, or any Facility Document) or (B) as a result of the Administrative Agent or Issuer being organized under the laws of, or having its principal office or, in the case of any Issuer, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof);

(ii) in the case of an Issuer, U.S. federal withholding Taxes imposed on a Letter of Credit or any Facility Document pursuant to a law in effect on the date on which (A) such Issuer acquires such interest in the Letter of Credit or Facility Document (other than pursuant to an assignment request or requirement by the Applicant under Section 9(c)) or (B) such Issuer changes its lending office (other than pursuant to a request by the Applicant under Section 9(c));

(iii) with respect to amounts to be received by an Issuer, Taxes attributable to such Issuer’s failure to comply with Section 9(b), and with respect to amounts to be received by the Administrative Agent, Taxes attributable to Administrative Agent’s failure to comply with Section 9(b); and

(iv) any U.S. federal withholding tax imposed under Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code (“FATCA”),

are required by applicable law to be deducted or withheld from any amounts payable to or for the account of the Administrative Agent or any Issuer hereunder or under any Facility Document, the amounts so payable shall be increased to the extent necessary in order that the Administrative Agent or Issuer (after deduction or withholding of all Non-Excluded Taxes) receives an amount equal to the sum it would have received had no such deduction or withholding been made. Whenever any Taxes are payable by the Applicant pursuant to this Section 9, as promptly as possible the Applicant shall send to the Administrative Agent a certified copy of an original official receipt received by the Applicant showing payment thereof (or if such document is not reasonably available to the Applicant, other documentary evidence of payment). The Applicant shall indemnify the Administrative Agent and each Issuer for (x) any Non-Excluded Taxes imposed on or with respect to any payment made by or on account of the Applicant under this Agreement or any Facilities Document and (y) any Other Taxes, in each case, payable or paid by the Issuer or Administrative Agent, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Applicant by an Issuer (with a copy to the Administrative Agent) shall be conclusive absent manifest error. The agreements in this Section 9 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

(b) Each Issuer shall deliver to the Applicant and the Administrative Agent, at the time or times reasonably requested by the Applicant or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Applicant or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. The Administrative Agent shall deliver to the Applicant, at the time or times reasonably requested by the

Applicant, such properly completed and executed documentation reasonably requested by the Applicant as will permit any payments to be made to the Administrative Agent without withholding. In addition, the Administrative Agent and any Issuer, if reasonably requested by the Applicant or the Administrative Agent (as applicable), shall deliver such other documentation prescribed by applicable law or reasonably requested by the Applicant or the Administrative Agent as will enable the Applicant or the Administrative Agent to determine whether or not such Issuer is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in this Section 9(b), the completion, execution and submission of such documentation (other than (A) an IRS Form W-9, (B) an applicable Form W-8, or (C) any documentation prescribed by FATCA (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Applicant or the Administrative Agent as may be necessary for the Applicant and the Administrative Agent to comply with their obligations under FATCA and to determine that such Issuer has complied with such Issuer's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment (provided that, solely for purposes of this clause (C), "FATCA" shall include any amendments made to FATCA after the date of this Agreement), in each case to the extent the Issuer is legally entitled to complete, execute and submit such documentation) shall not be required if in an Issuer's reasonable judgment such completion, execution or submission would subject such Issuer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Issuer.

(c) If any Issuer requests compensation under Section 8(a)(i) or (ii), or requires the Applicant to pay any Non-Excluded Taxes or Other Taxes or additional amounts to any Applicant or any Governmental Authority for the account of any Issuer pursuant to Section 9, then such Issuer shall (at the request of the Applicant) use reasonable efforts to designate a different lending office for funding or booking its Letters of Credit hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Issuer, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 8(a)(i) or (ii) or Section 9, as the case may be, in the future, and (ii) would not subject such Issuer to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Issuer. If any such Issuer has declined or is unable to designate a different lending office in accordance with this Section 9(c), then the Applicant may, at its sole expense and effort, upon notice to such Issuer and the Administrative Agent, require such Issuer to assign and delegate, without recourse, all of its interests, rights and obligations under this Agreement and the related Facility Documents to a permitted assignee that shall assume such obligations.

(d) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to Section 9 (including by the payment of additional amounts pursuant to this Section 9), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 9 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 9(d) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 9(d), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 9(d) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 9(d) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

10. Indemnity. The Applicant hereby agrees to indemnify and hold harmless each Agent, each Issuer and each Related Party of each Agent and each Issuer ("Indemnified Parties"), promptly upon demand and to the fullest extent legally permissible, and hold each of them harmless from and in respect of any and all losses, damages, liabilities, expenses (including, without limitation, expenses of investigation and defense and reasonable and documented out-of-pocket fees, charges and disbursements

of counsel), claims, liens or other obligations of any nature whatsoever (including, without limitation, the costs of enforcing this provision) that may arise out of any claim, litigation, investigation or proceeding in any connection whatsoever with this Agreement or a Letter of Credit, whether or not any Indemnified Parties are party to any such action and whether or not brought by third parties or the Applicant or its affiliates, other than losses, damages, liabilities, expenses, claims, liens or other obligations that (a) arise out of such Indemnified Party's gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a non-appealable final judgment or (b) arise out of any claim, litigation, investigation or proceeding brought by such Indemnified Party against another Indemnified Party (other than any claim, litigation, investigation or proceeding that is brought by or against an Agent, acting in its capacity as such) that does not involve any act or omission of the Applicant. The agreements in this Section 10 shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

11. Conditions to Effectiveness. The effectiveness of this Agreement is subject to the satisfaction or waiver of the following conditions precedent (such initial date of satisfaction of such obligations and receipt of such items being the "Execution Date"); provided that, the obligations of the Issuers to issue Letters of Credit hereunder shall be subject to the satisfaction or waiver of the conditions precedent set forth in Section 12 below:

(a) The Administrative Agent shall have received the following, each dated as of the Execution Date (unless otherwise specified) and in form and substance reasonably satisfactory to the Administrative Agent and the Issuers, in each case without reference to the Administrative Agent's determination thereof:

(i) an executed counterpart of (i) this Agreement from the Applicant, the Administrative Agent and the Collateral Agent and (ii) the Pledge Agreement from the Applicant, the Collateral Agent, the Trust and the Securities Intermediary;

(ii) (A) a certificate of the Secretary or Assistant Secretary of the Applicant dated as of the Execution Date attaching a true and complete copy of the resolutions of the board of directors (or equivalent governing body) of the Applicant (the "Applicant Governing Body") with respect to this Agreement, including, without limitation, (x) approving this Agreement and the transactions contemplated hereby and (y) authorizing each applicable officer of the Applicant (or each other responsible Person) (each, an "Authorized Officer") during the Issuance Period to take all such actions, to arrange for, execute and deliver any Request or Amendment Request with respect to Letters of Credit in an aggregate amount of up to the Facility Amount, supplemental agreements, instruments, amendments, extensions or other modification in the name and on behalf of the Applicant, which the applicable Authorized Officer determines in his/her sole judgment to be necessary, proper or advisable in connection with or in order to perform the Applicant's obligations under any Facility Document or in connection with this Agreement, with the performance of any such act by any Authorized Officer during the Issuance Period to be conclusive evidence that the same has been authorized and approved by the Applicant and the Applicant Governing Body in every respect and (B) a certificate of the Secretary, Assistant Secretary or another responsible officer of the Applicant, dated as of the Execution Date attaching a true and complete copy of the Amended and Restated Declaration of Trust, dated as of the date hereof, among Constellation Energy Generation, LLC, as Depositor and in its individual capacity, Deutsche Bank Trust Company Americas, as Trustee, and Deutsche Bank Trust Company Delaware, as Delaware Trustee, including, without limitation, (x) approving the transactions contemplated by this Agreement and (y) authorizing the Trustee to take all such actions, to arrange for, execute and deliver any supplemental agreements, instruments, amendments, extensions or other modification in the name and on behalf of the Trust, which the Trustee determines in its sole judgment to be necessary, proper or advisable in connection with or in order to perform the Trust's obligations under any Facility Document to which it is a party, including in connection with this Agreement, with the performance of any such act by the Trustee during the Issuance Period to be conclusive evidence that the same has been authorized and approved by the Trust and the Trust Governing Body in every respect;



(iii) true, complete and accurate copies of the constituent documents of the Applicant and the Trust and an incumbency certificate with respect to the Authorized Officers for the Applicant, in each case, certified by an Authorized Officer, as in effect on the Execution Date;

(iv) a certificate as to the good standing of each of the Applicant and the Trust, in each case, as of a recent date from the Secretary of State of the state of its organization;

(v) to the extent requested by the Administrative Agent or any potential Issuer at least five (5) Business Days prior to the Execution Date, documentation and other information required under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the PATRIOT Act and, to the extent the Applicant qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a Beneficial Ownership Certification in relation to the Applicant, in each case, at least two (2) Business Days prior to the Execution Date;

(vi) (A) a favorable written opinion of counsel to the Applicant, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein, (B) a favorable written opinion of counsel to the Trust, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein and (C) a favorable written opinion of counsel to the Trustee, in form and substance reasonably satisfactory to the Administrative Agent, relating to such matters with respect to this Agreement and the transactions contemplated hereby as the Administrative Agent may reasonably request and which are customary for transactions of the type contemplated herein;

(vii) a certificate of a responsible officer of the Applicant, dated as of the Execution Date, confirming compliance with the condition set forth in Section 11(c) below; and

(viii) an executed counterpart of the Pledge Agreement from each of the Applicant, the Trust, the Securities Intermediary and the Collateral Agent.

(b) The Trust shall have established the Trust Collateral Account, and substantially concurrently with the Execution Date, Eligible Treasury Assets in an aggregate face amount at least equal to the Minimum Collateral Base shall have been deposited in or credited to the Trust Collateral Account. All costs, fees, expenses (including, without limitation, reasonable and documented out-of-pocket legal fees and expenses) and other compensation, due and payable to the Agents and/or the Issuers shall have been paid to the extent due and invoiced at least one (1) Business Day prior to the Execution Date.

(c) The representations and warranties of the Applicant contained in each Facility Document to which it is a party shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the Execution Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects (or if applicable, in all respects) as of such earlier date).

12. Conditions to LC Issuances. The obligations of the Issuers to issue Letters of Credit hereunder shall be subject to the satisfaction or waiver of the following conditions precedent (such initial date of satisfaction of such obligations being the "Effective Date"):

(a) The Administrative Agent shall have received an executed counterpart to the Issuer Joinder Agreement from each Issuer party thereto, the Applicant, the Administrative Agent, the Collateral Agent and the Trust.

(b) Concurrently with the execution and delivery of the Issuer Joinder Agreement, the Administrative Agent shall have received (A) a favorable written opinion of counsel to the Applicant, in form and substance reasonably satisfactory to the Issuers, relating to such matters with respect to the Issuer Joinder Agreement and the transactions contemplated thereby as the Issuers or the Administrative Agent may reasonably request, (B) a favorable written opinion of counsel to the Trust, in form and substance reasonably satisfactory to the Issuers, relating to such matters with respect to the Issuer Joinder Agreement and the transactions contemplated thereby as the Issuers or the Administrative Agent may reasonably request and (C) a favorable written opinion of counsel to the Trustee, in form and substance reasonably satisfactory to the Issuers, relating to such matters with respect to the Issuer Joinder Agreement and the transactions contemplated thereby as the Issuers or the Administrative Agent may reasonably request.

(c) Eligible Treasury Assets in an aggregate face amount at least equal to the Minimum Collateral Base shall be deposited in or credited to the Trust Collateral Account.

(d) The representations and warranties of the Applicant contained in each Facility Document to which it is a party shall be true and correct in all material respects (and in all respects if any such representation or warranty is already qualified by materiality) on and as of the Execution Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties shall be true and correct in all material respects (or if applicable, in all respects) as of such earlier date).

13. **Obligation Absolute.** To the fullest extent permitted by applicable law, the obligations of the Applicant under this Agreement shall be absolute, unconditional and irrevocable, and shall be paid or performed strictly in accordance with the terms of this Agreement under any and all circumstances, including, without limitation, the following circumstances:

(a) the use of any Letter of Credit;

(b) any lack of validity, correctness, genuineness, or enforceability of any Letter of Credit or any statement or other document relating to or presented under any Letter of Credit, even if such document should in fact prove to be invalid, insufficient, untrue, inaccurate, fraudulent or forged in any respect;

(c) any amendment or waiver of or any consent to departure from the terms of this Agreement or any Letter of Credit (except to the extent of such amendment, waiver, consent or departure);

(d) (i) the acts or omissions of the Beneficiary of any Letter of Credit, including the application of any payment made to such Beneficiary, and/or (ii) the existence of any claim, set-off, defense or other right which the Applicant, any other party guaranteeing, or otherwise obligated with, the Applicant, any Subsidiary or other affiliate thereof or any other Person may have at any time against any Beneficiary or any transferee of any Letter of Credit (or any Persons for whom such Beneficiary or any such transferee may be acting), the applicable Issuer, or any other Person, whether in connection with this Agreement or otherwise;

(e) payment by the Issuer under any Letter of Credit against presentation of a draft or certificate which does not conform to the terms of such Letter of Credit;

(f) the failure of any document or instrument to bear any reference or adequate reference to any Letter of Credit;

(g) any failure to note the amount of any draft on any Letter of Credit or on any related document or instrument;

(h) the failure by the Issuer to honor any drawing under any Letter of Credit, or to make any payment demanded under such Letter of Credit, on the ground that the demand for such payment does not conform to the terms and conditions of such Letter of Credit; provided that such failure shall not have constituted the gross negligence or willful misconduct of the Issuer;

(i) any failure by the Issuer to make payment under any Letter of Credit as a result of any requirement of law, control or restriction rightfully or wrongfully exercised or imposed by any Governmental Authority;

(j) any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit or a related draft or documents, except for errors or omissions caused by the Issuer's gross negligence or willful misconduct;

(k) any dispute or claim between or involving the Applicant and any Beneficiary;

(l) any failure of the Beneficiary of any Letter of Credit to meet the obligations of such Beneficiary to either the Applicant or to any other person;

(m) any lack of validity or enforceability of the obligation of the Applicant to any Beneficiary for which a Letter of Credit has been provided as security; or

(n) any other act or omission to act or delay of any kind of the Issuer or any other Person or any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section 13, constitute a legal or equitable discharge of the Applicant's obligations hereunder.

The foregoing shall not be construed to excuse any Issuer from liability to the Applicant to the extent of any direct damages suffered by the Applicant that are caused by such Issuer's gross negligence or willful misconduct, as determined by a court of competent jurisdiction by final and nonappealable judgment, in determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. It is understood that each Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary and, in making any payment under any Letter of Credit (x) the Issuer's exclusive reliance on the documents presented to it under such Letter of Credit as to any and all matters set forth therein, including reliance on the amount of any draft presented under such Letter of Credit, whether or not the amount due to the Beneficiary thereunder equals the amount of such draft and whether or not any document presented pursuant to such Letter of Credit proves to be insufficient in any respect, if such document on its face appears to be in order, and whether or not any other statement or any other document presented pursuant to such Letter of Credit proves to be forged or invalid or any statement therein proves to be inaccurate or untrue in any respect whatsoever, and (y) any noncompliance in any immaterial respect of the documents presented under such Letter of Credit with the terms thereof shall, in each case, be deemed not to constitute bad faith, willful misconduct or gross negligence of the Issuer.

14. Standard of Care. Notwithstanding other provisions of this Agreement or applicable law, no Issuer shall be liable to the Applicant for any action taken or omitted by such Issuer under or in connection with this Agreement, any Letter of Credit (or any Amendment thereto) or a related draft or documents, if done in the absence of gross negligence and willful misconduct and in accordance with any mandatory standard of care applicable under the Uniform Commercial Code of the State of New York, as in effect from time to time (the "UCC") and the International Standby Practices 1998 (ISP98), as in effect from time to time (provided that in the event of a conflict, the applicable provisions of the UCC shall govern to the extent of such conflict).

15. Payments.

(a) Any payments not made by the Applicant when due under this Agreement shall bear interest for each day until paid at a rate per annum equal to the sum of (i) the Base Rate plus

(ii) 2.00% per annum. All interest (as applicable) and fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days, except with respect to interest (as applicable) or fees calculated based upon the Base Rate, which shall be computed on the basis of the actual number of days elapsed in a year of 365 days.

(b) All amounts due from the Applicant to any Issuer or Agent shall be paid to such Issuer or Agent by wire transfer in U.S. Dollars and in same day funds pursuant to wire transfer instructions delivered in writing to the Administrative Agent on or prior to the Effective Date, or pursuant to such other wire transfer instructions as each party may designate for itself by written notice to the Administrative Agent.

(c) If at any time or times any Issuer shall receive (i) by payment, foreclosure, setoff or otherwise, any proceeds of Collateral or any payments with respect to the Obligations of the Applicant to such Issuer arising under, or relating to, this Agreement or the other Facility Documents, except for any such proceeds or payments received by such Issuer from the Administrative Agent or the Applicant pursuant to the terms of this Agreement, or (ii) payments from any Agent in excess of such Issuer's ratable portion of all such distributions by such Agent, such Issuer shall promptly turn the same over to such Agent, in kind, and with such endorsements as may be required to negotiate the same to the applicable Agent, or in same day funds, as applicable, for the account of all of the Issuers and for application to the Obligations in accordance with the applicable provisions of this Agreement.

16. Events of Default.

(a) Each of the following shall be an "Event of Default" hereunder:

(i) the Applicant shall fail to pay, or cause to be paid, any amount payable under Section 4(a) in full when due (provided that there shall be no Event of Default for failure to pay such amount if the Collateral Agent is able to satisfy such payment obligation pursuant to Section 4(b) within five (5) Business Days after such amount was due), or shall fail to pay, or cause to be paid, within five (5) Business Days after the due date thereof any other amount payable hereunder;

(ii) the Applicant shall fail to observe or perform its obligations pursuant to Section 5(a) of this Agreement and such failure shall continue unremedied for a period of three (3) Business Days from the earlier of (x) notice thereof from and (y) the Applicant Borrower obtaining knowledge thereof;

(iii) the Applicant shall fail to observe or perform any term of any of its covenants or agreements contained in this Agreement (other than those covered by Section 16(a)(i) and (ii) above) and such failure shall continue unremedied for a period of 45 days after notice thereof from the Administrative Agent, the Collateral Agent, or any Issuer to the Applicant;

(iv) any representation, warranty, certification or statement made (or deemed made) by the Applicant in this Agreement shall prove to have been incorrect or misleading in any material respect when made (or deemed made);

(v) any Lien created pursuant to any Facility Document shall at any time for any reason not constitute a valid and perfected Lien, subject to no other Lien other than Permitted Liens, or the Applicant or the Trust shall so assert in writing, except as permitted by this Agreement or as a result of any action or inaction of the Collateral Agent;

(vi) a Change of Control Triggering Event shall occur;

(vii) (A) dissolution of the Applicant or failure to maintain and preserve its limited liability company existence, (B) commencement by the Applicant of a voluntary case in

bankruptcy or any other action or proceeding for any other relief under any law affecting creditors' rights that is similar to a bankruptcy law or (C) consent by the Applicant, by answer or otherwise, to the commencement against it of an involuntary case in bankruptcy or any other such action or proceeding;

(viii) the Applicant shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or a court of competent jurisdiction enters an order for relief or a decree in an involuntary case in bankruptcy or any other such action or proceeding, or a receiver, trustee or similar official is appointed, in respect of the Applicant or any of its property, and such order or decree is not dismissed or stayed, and such appointment is not terminated, on or before the day that is sixty (60) days after the entry thereof or if any such dismissal or stay ceases to be in effect;

(ix) (A) the Applicant shall fail to pay any principal of or interest or premium, if any, in each case in excess of \$100.0 million payable in respect of, any Indebtedness of the Applicant when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness, or (B) any other default shall occur under any agreement or instrument relating to any Indebtedness of the Applicant outstanding in an aggregate principal amount in excess of \$100.0 million and shall continue after the applicable grace period and receipt of any required notice, if any, specified in such agreement or instrument, if the effect thereof is to accelerate the maturity of such Indebtedness or otherwise to cause such Indebtedness to mature, or any such Indebtedness shall be declared to be due and payable or required to be prepaid or redeemed, purchased or defeased, or an offer to prepay, redeem, purchase or defease such Indebtedness shall be required to be made, in each case prior to the stated maturity thereof and other than by a regularly scheduled required prepayment or redemption other than (1) pursuant to customary asset sale provisions or (2) delivery of a notice of voluntary prepayment or redemption; or

(x) any provision of this Agreement or any other Facility Document shall at any time for any reason cease to be valid and binding on the Applicant, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Applicant, or a final decision by a court, any governmental agency or other authority having jurisdiction over the Applicant shall establish the invalidity or unenforceability thereof, or the Applicant shall deny that it has any or further liability or obligation under this Agreement.

(b) Upon the occurrence and during the continuance of an Event of Default, and upon every such occurrence and during such continuance, in addition to all rights and remedies set forth in this Agreement and/or otherwise available under applicable law, (x) the unused Commitments of the Issuers hereunder shall automatically terminate and (y) the Agents may and, at the direction of any Issuer, shall:

(i) declare all amounts (whether direct or contingent) payable hereunder to be, and such amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Applicant;

(ii) apply, sell or otherwise liquidate and realize upon any and all funds, assets or property in the Collateral Accounts in satisfaction of the Obligations;

(iii) do any acts which it deems proper to protect the Collateral as security hereunder, and collect and sue upon the Collateral and receive any payments due thereon or any damages thereunder, and apply all sums received in connection with the Collateral to the payment of the Obligations in such order as the Administrative Agent shall determine;

(iv) require the Applicant to deliver to the Collateral Agent all documents in the possession of the Applicant relating to the Collateral, and the Applicant shall promptly take such actions and furnish to the Collateral Agent such documents as the Issuer deems necessary or appropriate, in its sole discretion, to enforce its rights with respect to the Collateral;

(v) direct the Securities Intermediary to make all payments and deliveries under the Collateral directly to the Collateral Agent or its designee, and the Applicant shall, and shall direct the Trust to, upon request by the Collateral Agent and as applicable, execute and consent to all notices and directions given by the Collateral Agent to the Securities Intermediary, including transferring all Collateral to accounts maintained solely in the name of the Collateral Agent. For avoidance of doubt, the Collateral Agent may exercise remedies against the Constellation Collateral Accounts (including any Collateral on deposit therein or credited thereto) and the Trust Collateral Account (including any Collateral on deposit therein or credited thereto) in such order as the Collateral Agent shall decide in its sole discretion and shall have no duty to marshal any Collateral;

(vi) exercise, or cause the exercise of, the Applicant's rights under or in respect of any Collateral; and/or

(vii) exercise or cause the exercise of any other rights or remedies provided herein, in any document or instrument delivered pursuant hereto, under any other agreement or under applicable law (including, without limitation, any rights or remedies under the UCC).

(c) each Agent may enforce its rights and remedies hereunder without prior judicial process or hearing, and the Applicant hereby expressly waives, to the fullest extent permitted by law, any right the Applicant might otherwise have to require any Agent to enforce its rights by judicial process. The Applicant also waives, to the fullest extent permitted by law, any defense the Applicant might otherwise have to the Obligations secured hereby arising from use of nonjudicial process, enforcement and sale of all or any portion of the Collateral or from any other election of remedies, in each case, to the extent permitted under the UCC.

(d) If the Collateral is insufficient to cover the payment in full of all Obligations, the Applicant shall remain liable for any deficiency.

(e) The powers conferred on each Agent hereunder are solely for its benefit and for the benefit of the Issuers and do not impose any duty on any Agent to exercise any such powers. Following an Event of Default, the Collateral Agent shall have no duty of care as a secured party hereunder to the Applicant as to any Collateral or with respect to the taking of any necessary steps to preserve rights against other parties or any other obligations pertaining to the Collateral, other than as may be expressly required by the UCC. The Applicant waives all rights whatsoever against each Agent for any loss, expense, liability or damage suffered by the Applicant as a result of actions taken by any such Agent as secured party pursuant to this Agreement or any other Facility Document, except to the extent caused by the gross negligence or willful misconduct of such Agent, as determined by a court of competent jurisdiction in a non-appealable final judgment.

(f) The Applicant hereby expressly waives, to the fullest extent permitted by law, every statute of limitation, right of redemption, any moratorium or redemption period, any limitation on a deficiency judgment, and any right which it may have to direct the order in which any of the Collateral shall be disposed of in the event of any disposition pursuant hereto.

(g) Each of the Issuers agrees that it shall not, unless specifically requested to do so by the Administrative Agent or the Collateral Agent, take or cause to be taken any action to enforce its rights under this Agreement or any Facility Document or against the Applicant.

17. Amendments; Waivers. Any provision of this Agreement may be amended, supplemented or waived if, but only if, such amendment, supplement or waiver is in writing and signed by each of the

Applicant, the Administrative Agent and the Majority Issuers, and shall be effective only in the specific instance and for the specific purpose for which it is given; provided that no such amendment, supplement or waiver shall increase or extend the Commitment of any Issuer without the written consent of such Issuer (it being understood that such increase may be effected solely with the consent of the Applicant and such Issuer); provided, further, that no such amendment, supplement or waiver shall, unless in writing and signed by all of the affected Issuers, the Administrative Agent and the Applicant, do any of the following:

- (a) postpone or delay any date fixed by this Agreement or any other Facility Document for any payment of interest, fees or other amounts due to the Issuers (or any of them) hereunder or under any other Facility Document or amend Section 8 or Section 15 of this Agreement;
- (b) reduce the principal of, or the rate of interest specified herein on any Obligation, or any fees or other amounts payable hereunder or under any other Facility Document;
- (c) change the percentage of the Commitments or of the aggregate unpaid amount of the Obligations which is required for the Issuers or any of them to take any action hereunder;
- (d) amend this Section or any provision of this Agreement providing for consent or other action by all Issuers;
- (e) change the definitions of "Aggregate Availability", "Eligible Treasury Assets Cap", "Majority Issuers", "Minimum Collateral Base", "Minimum Collateral Percentage" or "Net Asset Value";
- (f) amend Sections 5(a), 6, 16(b), 16(d) 16(g) or any provisions related to pro rata sharing; or
- (g) increase the Facility Amount;

provided that no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent or the Collateral Agent, as applicable, affect the rights or duties of the Administrative Agent or the Collateral Agent under this Agreement or any other Facility Document.

Notwithstanding the foregoing, (i) the consent of the Issuers shall not be required for any amendment (A) to cure any mutually identified ambiguity or correct any mutually identified mistake or (B) to correct or supplement any provision of this Agreement that may be defective or inconsistent with any other provision of this Agreement, the Facility Agreement or the Trust Declaration and (ii) after the execution and delivery of the Issuer Joinder Agreement, Schedule I attached hereto may be amended from time to time with respect to any Issuer solely with the written consent of the Applicant and such Issuer (and notice thereof to the Administrative Agent), and no other consent will be required hereunder to establish, increase or decrease the Commitments of such Issuer; it being understood that the Applicant and the Administrative Agent shall be permitted to make technical amendments to this Agreement as may be necessary or appropriate in the reasonable opinion of the Applicant and the Administrative Agent to reflect any such newly established or increased Commitments of an Issuer; provided that, if any amendment to Schedule I attached hereto shall cause the Facility Amount to exceed the amount set forth in the proviso to the definition of Facility Amount, such amendment shall be subject to the consent requirement under clause (g) above.

In the case of any waiver, the Applicant and the Issuers shall be restored to their former positions and rights hereunder and any Event of Default waived shall be deemed to be cured and not continuing, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

Notwithstanding anything herein to the contrary, during such period as an Issuer is a Defaulting Issuer, to the fullest extent permitted by applicable law, such Defaulting Issuer shall not be entitled to

vote in respect of waivers, amendments or modifications to any Facility Document and the Commitment and the Obligations of such Defaulting Issuer hereunder shall not be taken into account in determining whether the Majority Issuers or all of the Issuers, as required by this Section 17 or otherwise, have approved any such waiver, amendment or modification (and the definition of "Majority Issuers" will automatically be deemed modified accordingly for the duration of such period); provided that any such waiver, amendment or modification that would increase or extend the Commitment of such Defaulting Issuer, extend the date fixed for the payment of interest or other amounts owing to such Defaulting Issuer hereunder, reduce the principal amount of any Obligation owing to such Defaulting Issuer, reduce the rate of interest on any Obligation owing to such Defaulting Issuer or of any fee payable to such Defaulting Issuer hereunder, or alter the terms of this proviso, shall require the prior written consent of such Defaulting Issuer.

18. The Agents.

(a) Appointment and Authorization. Applicant requests the Administrative Agent and Collateral Agent to enter into this Agreement and the Pledge Agreement prior to the Issuer Joinder Agreement and authorizes the Administrative Agent to enter into the Issuer Joinder Agreement. Each Issuer hereby designates and appoints each of the Administrative Agent and the Collateral Agent (the Administrative Agent and the Collateral Agent are referred to collectively as the "Agents") as its agent under this Agreement and the other Facility Documents, and each Issuer hereby irrevocably authorizes the Agents to take such actions on its behalf under the provisions of this Agreement and each other Facility Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Facility Document, together with such powers as are reasonably incidental thereto. Each Agent is hereby authorized to execute, deliver and perform each of the Facility Documents to which the Administrative Agent or the Collateral Agent, as the case may be, is a party. Each Agent agrees to act as such on the express conditions contained in this Section 18. The provisions of this Section 18 are solely for the benefit of the Agents and the Issuers and the Applicant shall not have any rights as a third party beneficiary of any of the provisions contained herein. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Facility Document, no Agent shall have any duties or responsibilities, except those expressly set forth herein, nor shall any Agent have or be deemed to have any fiduciary relationship with any Issuer, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Facility Document or otherwise exist against any Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Notwithstanding the foregoing, prior to the execution and delivery of the Issuer Joinder Agreement, each Agent shall be entitled to rely on instructions delivered to such Agent by the Applicant in connection with the taking of any actions under the provisions of this Agreement and each other Facility Document; provided that immediately upon the execution and delivery of the Issuer Joinder Agreement, each Agent shall thereafter act hereunder as directed by the Issuers as set forth herein.

(b) Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by it and shall not be liable for the negligence or misconduct of a sub-agent appointed with due care. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 18 shall apply to any such sub-agent and to the Related Parties of each Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. The parties hereto acknowledge that as of the Execution Date, the Collateral Agent has appointed Credit Suisse Securities (USA) LLC, in its capacity as Calculation Agent (as defined in the Calculation Agency Agreement), as sub-agent for purposes of (i) determining the fair market value of Eligible Treasury Assets under Section 6(a), if necessary, (ii) the duties under Section 6(d)(i) and Section 6(d)(ii) of this Agreement, including the determination of the pro rata amount of each interest and principal STRIP as set forth in the provision of such Sections and (iii) any determination of a Percentage



Pro Rata Basis under the Pledge Agreement, together with such powers as are reasonably incidental thereto.

(c) Liability of Agents. None of the Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Facility Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Issuers for any recital, statement, representation or warranty made by the Applicant or affiliate of the Applicant, or any officer thereof, contained in this Agreement or in any other Facility Document, or in any certificate, report, statement or other document referred to or provided for in, or received by any Agent under or in connection with, this Agreement or any other Facility Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Facility Document, or for any failure of the Applicant or any other party to any Facility Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Issuer to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Facility Document, or to inspect the properties, books or records of the Applicant. The Agents shall not be responsible for and make no representation as to the existence, genuineness, value or protection of any Collateral, for the legality, effectiveness or sufficiency of the Pledge Agreement or for the creation, perfection, priority, sufficiency or protection of any liens securing the Obligations. Nothing herein shall require the Agents to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created as described herein (except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder or under any other Facility Document) and such responsibility shall be solely that of the Applicant. No Agent shall incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of such Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, pandemic, epidemic, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility). The Agents shall not be required to expend or risk any of its own funds or otherwise incur any liability, financial or otherwise, in the performance of any of its duties hereunder or under any other Facility Document.

(d) Reliance by Agent. Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex, electronic mail or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Applicant), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action or exercising any discretion or right under this Agreement or any other Facility Document unless it shall first receive such advice or concurrence of the Majority Issuers as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Issuers against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action; provided, that the Agents shall not be required to take any action that would violate any Facility Document or applicable law. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Facility Document in accordance with a request or consent of the Majority Issuers (or all Issuers if so required by Section 17) and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Issuers. The Agents may consult with legal counsel of its own choosing, at the expense of the Applicant, as to any matter relating to the Facility Documents, and the Agents shall not incur any liability in acting in good faith in accordance with any advice from such counsel.

(e) Notice of Default. No Agent shall be deemed to have knowledge or notice of the occurrence of any Event of Default, unless such Agent shall have received written notice from an Issuer or the Applicant in accordance with the provisions of Section 19, referring to this Agreement, describing such Event of Default and stating that such notice is a "notice of default." The applicable Agent will notify the Issuers of its receipt of any such notice. The Agents shall take such action with respect to such Event of Default as may be requested by the Majority Issuers in accordance with Section 16; provided,

however, that unless and until the Agents have received any such request, the Agents may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable.

(f) Credit Decision. Each Issuer acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by any Agent hereinafter taken, including any review of the affairs of the Applicant and its Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Issuer. Each Issuer represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Applicant, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Applicant. Each Issuer also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Facility Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Applicant. Except for notices, reports and other documents expressly herein required to be furnished to the Issuers by an Agent, no Agent shall have any duty or responsibility to provide any Issuer with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Applicant which may come into the possession of any of the Agent-Related Persons.

(g) Indemnification. Whether or not the transactions contemplated hereby are consummated, the Issuers shall indemnify upon demand the Agent-Related Persons (to the extent not reimbursed by or on behalf of the Applicant and without limiting the obligation of the Applicant to do so), in accordance with their Pro Rata Shares, from and against any and all indemnified liability pursuant to Section 10: provided, however, that no Issuer shall be liable for the payment to the Agent-Related Persons of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Issuer shall reimburse each Agent upon demand for its Pro Rata Share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Facility Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Applicant. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of the applicable Agent.

(h) Agent in Individual Capacity. Deutsche Bank Trust Company Americas and its affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Applicant and its Subsidiaries and affiliates as though Deutsche Bank Trust Company Americas were not an Agent hereunder and without notice to or consent of the Issuers. Deutsche Bank Trust Company Americas or its affiliates may receive information regarding the Applicant and its affiliates (including information that may be subject to confidentiality obligations in favor of the Applicant) and acknowledge that the Agents and Deutsche Bank Trust Company Americas shall be under no obligation to provide such information to them.

(i) Successor Agent. Any Agent may resign as Administrative Agent and/or Collateral Agent, as applicable, upon at least thirty (30) days' prior written notice to the Issuers and the Applicant, such resignation to be effective upon the acceptance of a successor agent to its appointment as Administrative Agent or Collateral Agent, as applicable. Subject to the foregoing, if any Agent resigns under this Agreement, the Majority Issuers shall appoint from among the Issuers a successor agent for the Issuers. If no successor agent is appointed prior to the effective date of the resignation of the Agent, the Agent may appoint, after consulting with the Issuers and the Applicant, a successor agent from among the Issuers, or, at the expense of the Applicant, apply to a court of competent jurisdiction for the appointment

of a successor. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Administrative Agent" and/or "Collateral Agent", as applicable, shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 18 shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

19. Notices. All notices, requests and demands to or upon the respective parties hereto shall be in writing (including as a ".pdf" attachment to an electronic mail) and shall be deemed to have been duly given or made (a) on the date of receipt if delivered by hand or overnight courier service or sent by fax, (b) on the date five Business Days after dispatch by certified or registered mail if mailed, and (c) upon acknowledgement of receipt (in writing or orally), if delivered by electronic mail or any other telecommunications device, in the case, addressed as follows, or to such other address as may be hereafter notified by the respective parties hereto:

Address for communications to the Applicant:

Constellation Energy Generation, LLC  
200 Exelon Way  
Kennett Square, Pennsylvania 19348  
Attention: General Counsel

With a copy (which shall not constitute notice) to:

Ballard Spahr LLP  
1735 Market Street, 51st Floor  
Philadelphia, Pennsylvania  
Attention: Patrick R. Gillard, Esq.

Address for communications to the Administrative Agent:

Deutsche Bank Trust Company Americas  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

20. Costs and Expenses. The Applicant agrees to pay, from time to time, promptly upon demand, all reasonable and documented out-of-pocket costs and expenses of the Agents and the Issuers (including reasonable fees and disbursements of Holland & Knight LLP, counsel to the Agent, Richards, Layton & Finger, P.A., counsel to the Trustee, Ballard Spahr LLP, counsel to the Applicant, Winston & Strawn LLP, as counsel to the Issuers, and Sullivan & Cromwell LLP, as special product counsel), in connection with the negotiation, preparation, execution and delivery of this Agreement and all Letters of Credit, as well as in connection with the enforcement of, and preservation of rights under, and ongoing advice, administration, and any modifications or amendments with respect to, this Agreement.

21. No Waiver; Remedies Cumulative. No failure to exercise, and no delay in exercising any right, power or remedy under this Agreement or any other document executed and delivered in connection herewith shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, remedies, powers and privileges provided under this Agreement are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law or in equity. No waiver or approval by any Agent or any Issuer shall, except as may be otherwise stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder. The remedies herein provided are

cumulative and not exclusive of any remedies provided by law. None of any Agent, any Issuer nor any of their respective Related Parties shall be liable for any loss of any or all of the Collateral in the absence of gross negligence, fraud or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision) on the part of any such person or entity.

22. Successors and Assigns. This Agreement shall be binding upon each party hereto and its successors and permitted assigns and shall inure to the benefit of and be enforceable by each party hereto, its successors and permitted assigns. The Applicant shall not transfer or otherwise assign any of its obligations under this Agreement and any assignment in violation of this Section 22 shall be null and void. Each Issuer may transfer or otherwise assign its rights and obligations under this Agreement to one or more assignees (other than any natural person, the Applicant or any of the Applicant's affiliates); provided that each of the Administrative Agent and the Applicant must give its prior written consent to such assignment (which consent shall not be unreasonably withheld or delayed); provided, further, that the consent of the Applicant shall not be required to any such assignment (a) during the continuance of any Event of Default or (b) to any affiliate of such Issuer or to any other Issuer or any affiliate of another Issuer.

The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Applicant, shall maintain at one of its offices in the United States a copy of each assignment delivered to it and a register for the recordation of the names and addresses of the Issuers, and principal amounts (and stated interest) of the drawings on each Letter of Credit issued by, each Issuer pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Applicant, the Administrative Agent and the Issuers shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as an Issuer hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Applicant and any Issuer, at any reasonable time and from time to time upon reasonable prior notice.

Notwithstanding the foregoing, each Issuer may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure its obligations, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this paragraph shall not apply to any such pledge or assignment of a security interest.

23. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

24. Right of Set-off. If an Event of Default shall have occurred and be continuing, each Issuer is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set-off and apply any and all deposits (general or special, time or demand, provisional or final, including, without limitation, any amount held by the Issuer pursuant to this Agreement or otherwise) at any time held and other indebtedness at any time owing by the Issuer to or for the credit or the account of the Applicant against any and all of the Obligations (now or hereafter existing) that are due and payable hereunder or under any related document. The rights of the Issuers under this Section 24 are in addition to other rights and remedies (including, without limitation, other rights of set-off) that any Issuer may have.

25. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement or any notice or other document delivered in connection herewith may be delivered by electronic mail (including pdf) or any electronic signature complying with the Electronic Signatures in Global and National Commerce Act, the New York Electronic Signature and Records Act or the Uniform Electronic Transaction Act, or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be

valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement.

Each party hereto represents and warrants to the other party hereto that it has the corporate (or limited liability company) capacity and authority to execute this Agreement through electronic means and that there are no restrictions for doing so in that party's constitutive documents.

26. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

27. Submission to Jurisdiction. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS ("PROCEEDING") RELATING TO THIS AGREEMENT OR ANY LETTER OF CREDIT, EACH OF THE APPLICANT, EACH AGENT AND EACH ISSUER IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT LOCATED IN THE BOROUGH OF MANHATTAN IN NEW YORK CITY AND WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDINGS BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT SUCH PROCEEDINGS HAVE BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDINGS, THAT SUCH COURT DOES NOT HAVE ANY JURISDICTION OVER SUCH PARTY. EACH PARTY HEREBY AGREES THAT PROCESS SHALL BE DEEMED SERVED IF SENT TO ITS ADDRESS GIVEN FOR NOTICES UNDER THIS AGREEMENT AND THAT NOTHING IN THIS AGREEMENT SHALL AFFECT ANY AGENT'S OR ANY ISSUER'S RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. THE APPLICANT HEREBY AGREES THAT FINAL JUDGMENT AGAINST IT IN ANY ACTION OR PROCEEDING SHALL BE ENFORCEABLE IN ANY OTHER JURISDICTION WITHIN OR OUTSIDE THE UNITED STATES BY SUIT ON THE JUDGMENT.

28. Waiver of Jury Trial. **THE APPLICANT, EACH AGENT AND EACH ISSUER EACH HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY PROCEEDING RELATING TO THIS AGREEMENT OR ANY LETTER OF CREDIT OR ANY COUNTERCLAIM THEREIN.**

29. Waiver of Special, Punitive or Exemplary Damages. Each party waives, to the maximum extent not prohibited by law, any right it may have to claim or recover any special, indirect, exemplary, punitive or consequential damages (as opposed to direct or actual damages) in any Proceeding relating to this Agreement or any Letter of Credit.

30. PATRIOT Act and Beneficial Ownership Regulation Notice. Each Issuer hereby notifies the Applicant that pursuant to the requirements of the PATRIOT Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Applicant (and related information), which information includes the name and address of the Applicant and other information that will allow it to identify the Applicant in accordance with the PATRIOT Act and the Beneficial Ownership Regulation. The Applicant shall, and shall cause each of its Subsidiaries to, provide to the extent commercially reasonable, such information and take such actions as are reasonably requested by any Issuer in order to assist it in maintaining compliance with the PATRIOT Act and the Beneficial Ownership Regulation.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("Applicable AML Law"), the Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Agents. Accordingly, each of the parties agree to provide to the Agents, upon their request from time to time such identifying information and documentation as may be available for such party in order to enable the Agents to comply with Applicable AML Law.

31. Time. All references in this Agreement to a time of day refer to the time in New York City.

32. Termination.

(a) This Agreement shall terminate upon the earlier of (i) January 31, 2027 and (ii) at any time after the first anniversary of the Effective Date, the Applicant terminating this Agreement upon ten (10) days' prior written notice to the Administrative Agent if there are no L/C Outstandings with respect to which arrangements satisfactory to the applicable Issuer have not been made (the "Termination Date"); provided that in any event, Sections 8, 9, 10, 14, 16(c)-(f), 19, 20, 21, 23, 26, 27, 28 and 29 shall survive the termination of this Agreement. Upon termination of this Agreement, an amount equal to the excess of (A) cash and Eligible Treasury Assets provided by the Applicant on deposit in the Collateral Accounts (including all interest thereon and, with respect to Eligible Treasury Assets, as determined based on their Net Asset Value) on the date of such termination, over (B) any outstanding Obligations of the Applicant, including, without limitation, L/C Outstandings and outstanding fees and expenses, shall be promptly returned to the Applicant; provided, further, that, with respect to any Eligible Treasury Assets in the Trust Collateral Account, the Eligible Treasury Assets to be retained in the Trust Collateral Account pursuant to this sentence shall be determined on a pro rata basis across each principal and interest STRIP, selecting, to the extent practicable, an equal percentage of each such principal and interest STRIP and, to the extent any such principal or interest STRIP to be retained would have a face amount less than \$100, rounding such face amount to be retained to the nearest \$100.

(b) Upon not less than three (3) Business Days' prior written notice to the Administrative Agent, the Applicant shall have the right, at any time or from time to time, without premium or penalty to permanently terminate the Total Unutilized L/C Commitment in whole, or reduce it in part, pursuant to this Section 32(b), in integral multiples of \$10,000,000 in the case of partial reductions to the Total Unutilized L/C Commitment; it being understood and agreed upon such termination the Facility Amount shall be reduced in an amount equal to amount of the Total Unutilized L/C Commitment termination or reduction. Each termination or reduction of the Total Unutilized L/C Commitment pursuant to this Section 32(b) shall be applied to the Commitments of one or more Issuers as directed by the Applicant. Any notice of termination or reduction of the Total Unutilized L/C Commitment pursuant to this Section 32(b) may state that such termination or reduction is conditioned upon the effectiveness of other credit facilities, liquidity facilities or any other event, in which case such notice may be revoked by the Applicant (by notice to the Administrative Agent on or prior to the specified termination or reduction date) if such condition is not satisfied.

33. Entire Agreement. This Agreement, together with the exhibits hereto and all documents delivered pursuant to Section 3, as the case may be, represents the agreement of the parties hereto with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Agents, the Issuers or the Applicant relative to subject matter hereof not expressly set forth or referred to herein.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed, all as of the day and year first above written.

**DEUTSCHE BANK TRUST COMPANY AMERICAS,**  
as Administrative Agent and Collateral Agent

By: /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By: /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

[Signature Page to Letter of Credit Facility Agreement]

**CONSTELLATION ENERGY GENERATION, LLC,**  
as the Applicant

By: /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

[Signature Page to Letter of Credit Facility Agreement]



**SCHEDULE I  
COMMITMENTS<sup>1</sup>**

Issuers	Commitment
[ ]	\$( )
[ ]	\$( )
[ ]	\$( )
[ ]	\$( )
[ ]	\$( )
[ ]	\$( )
[ ]	\$( )

<sup>1</sup> NTD: To come in connection with Issuer joinders.

**EXHIBIT A  
FORM OF REQUEST FOR LETTER OF CREDIT**

[NAME OF ISSUER]

[\_\_\_\_\_]

[\_\_\_\_\_]

Attention: [\_\_\_\_\_]

Facsimile No.: [\_\_\_\_\_]

E-Mail: [\_\_\_\_\_] [INSERT DATE]

Ladies and Gentlemen:

Reference is hereby made to the Letter of Credit Facility Agreement (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Agreement"), dated as of February 9, 2022, by and among Constellation Energy Generation, LLC, a Pennsylvania limited liability company (the "Applicant"), the financial institutions from time to time parties thereto each in the capacity as the issuer of Letters of Credit thereunder, including [ ] (the "Issuer"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent"). All capitalized terms used but not defined herein have the respective meaning assigned thereto in the Agreement.

Pursuant to Section 3 of the Agreement, the undersigned hereby requests that the Issuer (or any of the Issuer's affiliates or branches) issue (or continue) for the account of the Applicant [and \_\_\_\_\_]<sup>2</sup> [\_\_\_\_\_] Letter(s) of Credit, in the aggregate principal amount of \$[ ] and in the form(s) attached hereto, for the benefit of the Beneficiary(ies) and in the amount set forth in such form(s).

The Applicant hereby agrees and acknowledges the Issuer's obligation to effect such issuance (or continuance) shall be subject in all events to satisfaction of the conditions precedent set forth in Section 3 of the Agreement, including without limitation, satisfaction of the Applicant's obligation set forth in Section 5(a) of the Agreement.

This notice shall be deemed part of the Agreement and shall be subject to all the terms and conditions set forth therein.

[Signature page follows]

<sup>2</sup> Insert name of Subsidiary(ies) or Minority Investment(s) that would be co-applicant, if desired by Constellation.

<sup>3</sup> Insert number of Letters of Credit being requested.

[Request for Letter of Credit]

**CONSTELLATION ENERGY GENERATION, LLC,**  
as the Applicant

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Request for Letter of Credit]

**EXHIBIT B**  
**FORM OF REQUEST FOR AMENDMENT TO EXISTING LETTER OF CREDIT**

[NAME OF ISSUER]

[\_\_\_\_\_]

[\_\_\_\_\_]

Attention: [\_\_\_\_\_]

Facsimile No.: [\_\_\_\_\_]

E-Mail: [\_\_\_\_\_]

[INSERT DATE]

Ladies and Gentlemen:

Reference is hereby made to:

(a) the Letter of Credit Facility Agreement (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Agreement"), dated as of February 9, 2022, by and among Constellation Energy Generation, LLC, a Pennsylvania limited liability company (the "Applicant"), financial institutions from time to time parties thereto each in the capacity as the issuer of Letters of Credit thereunder, including [ ] (the "Issuer"), and Deutsche Bank Trust Company Americas, as administrative agent for the Issuers (in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, the "Collateral Agent"); and

(b) Letter of Credit No. [\_\_\_\_\_], issued on [\_\_\_\_\_] in the aggregate principal amount of \$[ ] for the benefit of [ADD BENEFICIARY INFORMATION] [, as amended on [\_\_\_\_]]<sup>4</sup> (the "Letter of Credit").

Pursuant to Section 3 of the Agreement, the undersigned hereby requests that the Issuer (or any of the Issuer's affiliates or branches) amend the Letter of Credit as follows:

[INSERT REQUESTED AMENDMENTS]

The Applicant hereby agrees and acknowledges that the Issuer may elect to so amend the Letter of Credit in a form reasonably satisfactory to the Issuer, and that, if the Issuer so elects, the Issuer's obligation to effect such amendment shall be subject in all events to satisfaction of the conditions precedent set forth in Section 3 of the Agreement, including without limitation, satisfaction of the Applicant's obligation set forth in Section 5(a) of the Agreement.

All capitalized terms used but not defined herein have the meaning assigned thereto in the Agreement.

This notice shall be deemed part of the Agreement and shall be subject to all the terms and conditions set forth therein.

[Signature page follows]

<sup>4</sup> Include this information if the referenced Letter of Credit has been previously amended.

**CONSTELLATION ENERGY GENERATION, LLC,**  
as the Applicant

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT C**  
**FORM OF ACTIVITY REPORT**  
[See attached]

**FORM OF ACTIVITY REPORT**

<b>Activity for Week Of:</b>											
<b>Issuing Bank Name</b>	<b>LC Number</b>	<b>Beneficiary Name</b>	<b>Issue Date (mm/dd/yy)</b>	<b>New Issue (Y/N)</b>	<b>Expiry Date (mm/dd/yy) or "1/1/2999"</b>	<b>Cancellation (Y/N)</b>	<b>Extension Date (mm/dd/yy)</b>	<b>Existing Notional Amount</b>	<b>New Notional Amount</b>	<b>Notional Increase / (Decrease)</b>	<b>New Total USD Equiv.</b>

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**AMENDED AND RESTATED**  
**DECLARATION OF TRUST**  
**OF**  
**FELLS POINT FUNDING TRUST**

**Dated as of February 9, 2022**

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**AMENDED AND RESTATED**  
**DECLARATION OF TRUST**  
**OF**  
**FELLS POINT FUNDING TRUST**

This AMENDED AND RESTATED DECLARATION OF TRUST is made as of February 9, 2022 (this “*Declaration*”), among CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (“*Constellation*”), individually and as depositor (in such capacity, the “*Depositor*”), Deutsche Bank Trust Company Americas (“*Deutsche Bank*”), a New York banking corporation, as trustee (the “*Trustee*”), and Deutsche Bank Trust Company Delaware, a Delaware banking corporation, as Delaware trustee (the “*Delaware Trustee*” and together with the Trustee, the “*Trustees*”).

WHEREAS, the Depositor and the Trustees have heretofore duly declared and established Fells Point Funding Trust, a statutory trust established pursuant to the Statutory Trust Act (as defined herein) (the “*Trust*”), by entering into a Declaration of Trust, dated as of January 28, 2022 (the “*Original Declaration*”), and by the execution by the Trustees and the filing by the Trustees with the Secretary of State of the State of Delaware (the “*Secretary of State*”) of the Certificate of Trust, filed on January 28, 2022 in the form attached as *Exhibit A* (the “*Certificate of Trust*”); and

WHEREAS, the parties hereto desire to amend and restate the Original Declaration in its entirety as set forth herein to provide for, among other things, (i) the issuance and sale of the Trust Securities to the Initial Purchasers pursuant to the Trust Securities Purchase Agreement; (ii) the investment of the proceeds of such issuance in Eligible Treasury Assets; (iii) the execution and performance by the Trust of the Facility Agreement with Constellation; (iv) the pledge of Eligible Treasury Assets in favor of the Collateral Agent for the benefit of the LC Issuers, to secure Constellation’s reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of Constellation to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right, in each case pursuant to the Pledge Agreement and (v) all other actions deemed necessary or desirable in connection with the transactions contemplated by this Declaration, including entering into and performing the other Transaction Agreements to which it is a party.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Original Declaration is hereby amended and restated in its entirety and it is agreed as follows:

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## ARTICLE I

### DEFINITIONS AND INTERPRETATION

#### *Section 1.1 Definitions.*

(a) Unless the context otherwise require, in this Declaration (including in the Recitals):

“*30/360 Basis*” means a calculation for the relevant Distribution Period or other period on the basis of a year of 360 days consisting of twelve 30-day months.

“*Affiliate*” means, with respect to a specified Person, any other Person that directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such specified Person. For purposes of this definition, “*control*” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term “*controlling*” and “*controlled*” have meanings correlative to the foregoing.

“*Business Day*” means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which (i) banking institutions in The City of New York or the State of Delaware are authorized or obligated by law or executive order to close or (ii) the Federal Reserve Bank of New York is closed.

“*Calculation Agency Agreement*” means the Calculation Agency Agreement, dated February 9, 2022, between Constellation, as Depositor, and the Calculation Agent.

“*Calculation Agent*” means Credit Suisse Securities (USA) LLC, in its capacity as calculation agent under the Calculation Agency Agreement, or any successor thereto in such capacity.

“*Certificate*” means a trust certificate in the form attached as *Exhibit B*, which shall evidence the Trust Securities identified thereon.

“*Change in Law*” means any adoption (including any announced prospective adoption) of, change (including any announced prospective change) in or amendment to the laws of the United States or any regulations or rulings promulgated by any regulatory authority or agency thereof (including without limitation any authority or agency thereunder or therein affecting taxation), or any adoption of or change in official position regarding the application or interpretation of such laws, regulations or rulings (including a holding by a court of competent jurisdiction), which adoption, change or amendment is announced or becomes effective on or after the original date of issuance of the Trust Securities.

“*Change of Control Triggering Event*” means (i) a Change of Control has occurred and (ii) the Trust Securities and/or the Senior Notes are downgraded by each of the Rating Agencies on any date during the 60-day period commencing after the earlier of (a) the occurrence of a Change of Control and (b) public disclosure by Constellation of the occurrence of a Change of Control or Constellation’s intention to effect a Change of Control; *provided, however*, that a

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particular reduction in rating will not be deemed to have occurred in respect of a particular Change of Control (and thus will not constitute a Change of Control Triggering Event) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Trustee in writing at Constellation's or the Trustee's request that such downgrade was the result of the applicable Change of Control (whether or not the applicable Change of Control has occurred at the time of such downgrade); *provided further* that no Change of Control Triggering Event shall occur if following such downgrade, (x) the Trust Securities are rated Investment Grade by each of the Rating Agencies or (y) the ratings of the Trust Securities by each of the Rating Agencies are equal to or better than their respective ratings on February 9, 2022.

“*Change of Control Offer Expiration Date*” means the third Business Day preceding the Change of Control Payment Date.

“*Code*” means the United States Internal Revenue Code of 1986.

“*Collateral Agent*” means Deutsche Bank, in its capacity as collateral agent under the Pledge Agreement, and any successor to Deutsche Bank in such capacity.

“*Constellation Payment*” means (i) with respect to an Optional Redemption of Senior Notes, the Optional Redemption Price payable, together with accrued interest payments, to the holders thereof upon such redemption pursuant to the Senior Notes, (ii) with respect to a Change of Control Triggering Event, the Change of Control Payment and (iii) with respect to any Senior Notes as to which Constellation has made a Cash Settlement Election, the Cash Settlement Amount.

“*Constellation Payment Date*” means (i) with respect to an Optional Redemption of Senior Notes, the Optional Redemption Date, (ii) with respect to a Change of Control Payment, the Change of Control Payment Date and (iii) with respect to any Senior Notes as to which Constellation has made a Cash Settlement Election, the Settlement Date with respect to the relevant exercise of the Issuance Right.

“*Corporate Trust Office*” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of the execution of this instrument is located at (i) for purposes of surrender, transfer or exchange of any P-Cap Certificate, Deutsche Bank Trust Company Americas, c/o DB Services Americas, Inc., 5022 Gate Parkway, Suite 200, Jacksonville, FL 32256, Attn: Transfer Department and (ii) for all other purposes, at the address of the Trustee specified in Section 12.1(a) or such other address as to which the Trustee may give written notice to the Depositor, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Depositor).

“*Defaulted Eligible Treasury Assets*” means, with respect to any Distribution Date, all Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust that are due and unpaid on such Distribution Date.

“*Delaware Trustee*” has the meaning specified in the preamble hereto, initially Deutsche Bank Trust Company Delaware, a Delaware banking corporation having its principal place of



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business in the State of Delaware, not in its individual capacity but solely as Delaware Trustee under this Declaration until a successor or assignee shall have become Delaware Trustee pursuant to Section 4.3(d), and thereafter “Delaware Trustee” shall mean or include each Person who is then a Successor Delaware Trustee hereunder.

“*Depository*” means DTC or any successor clearing agency registered under the Exchange Act that is designated to act as Depository for the Trust Securities as contemplated by Section 5.16.

“*Distribution*” means a distribution made by the Trust, of and from its assets, to a Holder on account of the Holder’s ownership of a Trust Security.

“*Distribution Date*” means each January 31 and July 31, commencing on July 31, 2022, and ending on January 31, 2027, or if any such day is not a Business Day, the following Business Day.

“*Distribution Period*” means each period from and including 5:00 p.m. on July 31 to, but excluding, 5:00 p.m., on January 31 and each period from and including 5:00 p.m. on January 31 (or from and including 5:00 p.m. on the date of initial issuance of the Trust Securities, as applicable) to but excluding 5:00 p.m. on July 31.

“*DTC*” means The Depository Trust Company.

“*Eligible Bank*” means a commercial bank organized under the laws of the United States or a state thereof, the deposits of which are insured by the Federal Deposit Insurance Corporation, which commercial bank has total assets of at least \$10 billion and which has a long-term debt rating of not less than investment grade as assigned by Moody’s and Standard & Poor’s.

“*Eligible Treasury Assets*” means a portfolio of principal and/or interest STRIPS of U.S. Treasury Securities that are selected in accordance with Section 2.9(a) or delivered by Constellation to the Trust as part of the Repurchase Price upon a Repurchase of Senior Notes pursuant to Section 2.2(c) of the Facility Agreement.

“*ERISA*” means the United States Employee Retirement Income Security Act of 1974.

“*Exchange Act*” means the United States Securities Exchange Act of 1934.

“*Facility Agreement*” means the Facility Agreement, dated as of February 9, 2022, among the Trust, Constellation and the Notes Trustee, in substantially the form attached as *Exhibit D*.

“*Fitch*” means Fitch Ratings, Inc.

“*Global Certificate*” means a Certificate registered in the name of a Depository (or a nominee of a Depository) and that is held through such Depository as part of its system for the holding, clearance and settlement of book-entry interests in such Certificate.

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“*Holder*” means, with respect to any Trust Security, the Person in whose name such Trust Security is registered on the Register maintained for that purpose by the Trustee.

“*Indenture*” means the Indenture, dated as of February 9, 2022, between Constellation and the Notes Trustee, as amended and supplemented by the Supplemental Indenture.

“*Investment Company Act*” means the United States Investment Company Act of 1940.

“*Investment Company Act Event*” means the receipt by Constellation of an opinion of nationally recognized counsel to the effect that, as a result of a Change in Law, the Trust will be required to, or there is a reasonable likelihood that the Trust will be required to, register under the Investment Company Act.

“*Investment Grade*” means a rating of (i) Baa3 or better by Moody’s, (ii) BBB - or better by S&P, (iii) the equivalent of such rating by such organization or (iv) if another Rating Agency has been selected by Constellation, the equivalent of such rating by such other Rating Agency.

“*IRS*” means the United States Internal Revenue Service.

“*LC Agreement*” means the Letter of Credit Facility Agreement, dated February 9, 2022, and any joinder agreements thereto, among Constellation, Deutsche Bank, as administrative agent, the Collateral Agent and certain financial institutions party thereto as LC Issuers for the issuance of letters of credit for the account of Constellation, its subsidiaries or its minority investments.

“*LC Issuers*” means the financial institutions that issue letters of credit pursuant to the LC Agreement.

“*Like Amount*” means (i) with respect to a redemption of any Trust Securities, Trust Securities having an initial purchase price equal to the principal amount of Senior Notes to be contemporaneously redeemed in accordance with the Indenture or as to which a Cash Settlement Election has been made in accordance with the Facility Agreement, the proceeds of which will be used to pay the Redemption Price of such Trust Securities and (ii) with respect to any exchange of Trust Securities for Senior Notes pursuant to Section 5.4(e), Senior Notes having a principal amount equal to the aggregate initial purchase price of the Trust Securities to be exchanged.

“*Majority of Holders*” means Holders of Outstanding Trust Securities constituting more than 50% of the Outstanding Trust Securities.

“*Moody’s*” means Moody’s Investors Service, Inc., or any successor entity.

“*Notes Trustee*” means Deutsche Bank, in its capacity as trustee under the Indenture, and any successor to Deutsche Bank, in such capacity.

“*Offering Memorandum*” means the Offering Memorandum, dated February 2, 2022, of the Trust relating to the Trust Securities.

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“*Officer’s Certificate*” means, with respect to any Person that is not an individual, a certificate signed by the chairman of the board, the president, the chief executive officer, the chief financial officer, a vice president, the treasurer, an assistant treasurer, the secretary, an assistant secretary or the comptroller of such Person or, if such Person is a trust, any trustee of the trust. Any Officer’s Certificate delivered with respect to compliance with a condition or covenant provided for in this Declaration shall include:

- (i) a statement that each officer signing the Officer’s Certificate has read the covenant or condition and the definitions relating thereto;
- (ii) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officer’s Certificate;
- (iii) a statement that each such officer has made such examination or investigation as, in such officer’s opinion, is reasonably necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (iv) a statement as to whether, to the best knowledge of each such officer, such condition or covenant has been complied with.

“*Opinion of Tax Counsel*” means an opinion of independent nationally recognized tax counsel experienced in the matter that is the subject of the opinion.

“*Optional Redemption*” means, with respect to any Senior Notes, the redemption of such Senior Notes pursuant to the Indenture.

“*Optional Redemption Date*” means, with respect to any Senior Notes called for redemption, the date upon which such Senior Notes are redeemed as provided in the Indenture.

“*Optional Redemption Price*” means, with respect to any Senior Notes called for redemption, the redemption price for such Senior Notes as provided in the Indenture.

“*Outstanding*” means, when used with respect to any Trust Securities as of any date, Trust Securities theretofore issued by the Trust except, without duplication, (i) any Trust Securities theretofore cancelled or delivered to the Trustee for cancellation, (ii) any Trust Securities as to which the Trust, Constellation or any Affiliate thereof shall be the beneficial owner, or (iii) any Trust Securities represented by any Certificate in lieu of which a new Certificate has been executed and delivered by the Trust.

“*P-Caps Tax Event*” means the receipt by Constellation of an Opinion of Tax Counsel to the effect that, as a result of a Change in Law (other than any amendment or change to section 163(j) of the Code (“section 163(j)”), including any issuance of, or change to, regulations or another official administrative pronouncement under section 163(j) unless, in the opinion of such independent nationally recognized tax counsel, the change of tax law under section 163(j) limits, defers or prohibits the deduction of interest in respect of the Trust Securities in a manner or to an extent different from interest on Constellation’s senior debt obligations), Constellation will be

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prevented from, or there is reasonable likelihood that Constellation will be prevented from, deducting as interest (or other ordinary) expense for United States federal income tax purposes an amount equal to the payments in respect of the Trust Securities.

“*Paying Agent*” has the meaning set forth in Section 2.6(e), and shall initially be the Trustee.

“*Person*” means any individual, corporation, partnership, joint venture, association, limited liability or joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“*Pledge Agreement*” means the Pledge and Control Agreement, dated as of February 9, 2022, among the Trust, Deutsche Bank, as collateral agent, Deutsche Bank, as securities intermediary and Constellation, in substantially the form attached as *Exhibit C*.

“*Rating Agencies*” means each of Moody’s and S&P.

“*Record Date*” means with respect to each Distribution Date, the close of business on each January 15 and July 15 preceding such Distribution Date.

“*Redemption Date*” means, with respect to any Trust Security to be redeemed, the date fixed for such redemption by or pursuant to this Declaration.

“*Redemption Price*” means, with respect to the redemption of the Trust Securities, the Optional Redemption Price of a Like Amount of Senior Notes plus accrued and unpaid interest on such Senior Notes, to but excluding the Redemption Date.

“*Register*” means the list of Persons in whose name the Trust Securities are registered, which list is maintained by or on behalf of the Trust pursuant to Section 5.3.

“*Responsible Officer*” means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Declaration.

“*S&P*” means S&P Global Ratings, a division of S&P Global Inc., or any successor entity.

“*Securities Act*” means the United States Securities Act of 1933.

“*Securities Intermediary*” means Deutsche Bank, in its capacity as such under the Pledge Agreement and under this Declaration, and any successor to Deutsche Bank in such capacity.

“*Senior Notes*” means up to the Maximum Amount of Constellation’s 3.046% Senior Notes due 2027, to be issued by Constellation from time to time under the Indenture, that

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Constellation may require the Trust to purchase from time to time pursuant to the Facility Agreement.

“*Statutory Trust Act*” means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. Section 3801 *et seq.*

“*STRIPS*” means principal and interest strips of U.S. Government Obligations created under the U.S. Treasury’s program for Separate Trading of Registered Interest and Principal of Securities (STRIPS) under 31 C.F.R. Section 356.31.

“*Supplemental Indenture*” means the First Supplemental Indenture, dated as of the date hereof, to the Indenture.

“*Transaction Agreements*” means, collectively, this Declaration, the Trust Securities Purchase Agreement, the Facility Agreement, the Pledge Agreement, the Calculation Agency Agreement, the LC Agreement, the Trust Expense Reimbursement Agreement, the Indenture and the Senior Notes.

“*Trust Expense Reimbursement Agreement*” means the Trust Expense Reimbursement Agreement, dated as of February 9, 2022, between Constellation and the Trust, substantially in the form attached as *Exhibit E*.

“*Trust Expenses*” means (i) all of the reasonable and documented expenses of the Trust, including the Trustee, Securities Intermediary, Collateral Agent and Delaware Trustee fees, accountants’ or auditors’ fees, ongoing rating agency fees, brokerage or transaction fees and expenses related to transactions for Eligible Treasury Assets, reasonable and documented out-of-pocket legal fees and expenses of a single lead external counsel, a single Delaware counsel and any special subject-matter counsel, if necessary, consulted in the ordinary course by any of the foregoing in their respective capacities as such, tax preparation fees, banking fees, expenses relating to communications, and any other fees or expenses inherent in the operation or liquidation and termination of the Trust and incurred without gross negligence, willful misconduct or bad faith on any of their part and (ii) indemnification payments made by the Trust to the Trustee, Securities Intermediary, the Delaware Trustee or the Collateral Agent.

“*Trust Income*” for any Distribution Period means (i) any Facility Fee paid by Constellation under the Facility Agreement, with respect to the unexercised portion of the Issuance Right, if any, (ii) any amounts paid by Constellation under the Trust Expense Reimbursement Agreement, (iii) any Special Facility Fee paid by Constellation under the Facility Agreement, (iv) any cash payments received by the Trust on the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust, (v) any purchase price paid by Constellation for any Defaulted Eligible Treasury Assets for an amount equal to the face amount of such Defaulted Eligible Treasury Assets and (vi) any interest paid by Constellation on any Senior Notes held by the Trust.

“*Trust Indenture Act*” means the United States Trust Indenture Act of 1939.

“*Trust Property*” means, as of any particular time, any and all property that shall have been transferred, conveyed or paid to the Trust or to the Trustee (in its capacity as such) on

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behalf thereof, and all interest, dividends, income, earnings, profits and gains therefrom, and proceeds thereof, including any proceeds derived from the sale, exchange or liquidation thereof, and any funds or payments derived from any reinvestment of such proceeds in whatever form the same may be, and which at such time is owned or held by, or for the account of, the Trust or the Trustee on behalf of the Trust.

“*Trust Securities*” means the pre-capitalized trust securities to be issued by the Trust in the form of the Certificates evidencing undivided beneficial interests in the assets of the Trust in accordance with the terms of this Declaration and designated as the “Pre-Capitalized Trust Securities Redeemable January 31, 2027”.

“*Trust Securities Purchase Agreement*” means the Trust Securities Purchase Agreement, dated February 2, 2022, among the Trust, Constellation, Credit Suisse Securities (USA) LLC and RBC Capital Markets, LLC, on behalf of the initial purchasers named therein.

“*Trustee*” has the meaning specified in Section 4.1(a), and shall initially be Deutsche Bank not in its individual capacity but solely as trustee under this Declaration, and any Successor Trustee to Deutsche Bank in such capacity.

“*U.S. Government Obligations*” means U.S. Treasury securities that are direct obligations of the United States for the payment of which its full faith and credit is pledged.

(b) As used herein, each of the following terms shall have the meaning set forth in the Section of this Agreement or in the other document set forth opposite such term in the table below, unless otherwise required:

Applicable AML Law	Section 4.9
Authorized Officer	Pledge Agreement
Automatic Exercise	Facility Agreement
Automatic Exercise Event	Facility Agreement
Automatic Exercise Notice	Facility Agreement
Available Amount	Facility Agreement
Bankruptcy Event	Facility Agreement
Blocked Eligible Treasury Assets	Section 2.10(b)
Cash Settlement Amount	Facility Agreement
Cash Settlement Election	Facility Agreement
Certificate of Trust	Recitals
Change of Control	Supplemental Indenture
Change of Control Offer	Section 5.10(a)
Change of Control Offer Issuance Amount	Facility Agreement
Change of Control Offer Subject Amount	Facility Agreement
Change of Control Payment	Section 5.10(a)
Change of Control Payment Date	Section 5.10(a)
Change of Control Redemption Amount	Section 5.10(a)
Collateral Enforcement Event	Facility Agreement
Constellation	Preamble
Declaration	Preamble

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Depositor	Preamble
Depositor Affiliated Owner/Holder	Section 5.4(e)
Deutsche Bank	Preamble
Eligible Purchaser	Section 5.5(a)
Entitlement Holder	Pledge Agreement
Entitlement Order	Pledge Agreement
Exchanged Notes	Section 5.4(e)
Exchanged Trust Securities	Section 5.4(e)
Facility Fee	Facility Agreement
Indemnified Person	Section 9.1(c)
Initial Purchasers	Trust Securities Purchase Agreement
Issuance Right	Facility Agreement
Issuance Notice	Facility Agreement
Legal Action	Section 2.6(a)(xii)
Liquidation Distribution Date	Section 8.2(c)
List of Holders	Section 5.14(a)
Mandatory Exercise	Facility Agreement
Maximum Amount	Facility Agreement
Notes Purchase Price	Facility Agreement
Original Declaration	Recitals
Overdue Amounts	Section 5.8(d)
P-Caps Tendered Amount	Facility Agreement
Paying Agent	Section 2.6(f)
Permitted Liens	LC Agreement
Pledged Property Accounts	Pledge Agreement
Remaining Amounts	Section 2.9(b)
Repurchase	Facility Agreement
Repurchase Right	Facility Agreement
Repurchase Settlement Date	Facility Agreement
Retained Eligible Treasury Assets	Section 2.10(b)
Retained Eligible Treasury Assets Account	Pledge Agreement
SEC	Facility Agreement
Secretary of State	Recitals
Security Registrar	Indenture
Settlement Date	Facility Agreement
Special Facility Fee	Facility Agreement
Similar Laws	Section 5.5(a)
Successor Trustee	<b>Error! Reference source not found.(A)</b>
Transfer Agent	Section 2.6(a)(xvii)
Trust	Recitals
Trust Collateral Account	Section 2.6(c)(i)
Trust Dissolution Date	Section 8.1(a)
Trust Notes Account	Section 2.6(c)(iii)

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Trust Property Account	Section 2.6(c)
Trustees	Preamble
Trustee's Fee	Section 4.1(d)
Voluntary Exercise	Facility Agreement

*Section 1.2 Interpretation.* Unless the context otherwise requires, in this Declaration:

(a) any reference to this Declaration or any other agreement or document shall be construed as a reference to this Declaration or such other agreement or document, as applicable, as the same may have been, or may from time to time be, amended, varied, novated or supplemented in accordance with its terms;

(b) any reference to a statute or regulation shall be construed as a reference to such statute or regulation or any successor or replacement statute or regulation, in each case as the same may have been, or may from time to time be, amended, varied or supplemented in accordance with its terms;

(c) any reference to time shall be to New York City time;

(d) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Declaration as a whole and not to any particular section, clause or other subdivision, and references to “Articles”, “Sections” and “Exhibits” refer to Articles or Sections of and Exhibits to this Declaration;

(e) the word “including” shall be deemed to be followed by the words “without limitation”;

(f) any definition shall be equally applicable to both the singular and plural forms of the defined terms;

(g) headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof; and

(h) whenever in this Declaration any Person is named or referred to, the successors and assigns of such Person shall be deemed to be included, and all covenants and agreements in this Declaration by the Depositor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether or not so expressed.

## **ARTICLE II**

### **ORGANIZATION**

*Section 2.1 Name.* The trust continued hereby shall be known as “*Fells Point Funding Trust*”, as such name may be modified from time to time by the Trustee with the consent of a Majority of Holders, following written notice to the Delaware Trustee.



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*Section 2.2 Office.* The principal office of the Trust shall be the Corporate Trust Office of the Trustee. The principal office of the Trust in the State of Delaware is the office of the Delaware Trustee in Delaware, which as of the date hereof is located at 1011 Centre Road, Suite 200, Wilmington, Delaware 19805, Attention: Fells Point Funding Trust. Each of the Trustee and the Delaware Trustee may designate another principal office of the Trust after not less than 10 Business Days' written notice to the Holders.

*Section 2.3 Nature and Purpose of the Trust.*

(a) The Trust shall be a "statutory trust" as defined in the Statutory Trust Act and this Declaration shall constitute its governing instrument. The Certificate of Trust has been duly filed with the Secretary of State. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the Trust shall be enforceable only against the assets of the Trust.

(b) The purposes and functions of the Trust are, and, subject to the provisions set forth in Section 2.7, the Trust shall have the power and authority to, subject to the Depositor's performance of its obligations pursuant to Article III hereof:

(i) issue the Trust Securities, with each Trust Security representing an undivided beneficial interest in the Trust's assets, and enter into the Trust Securities Purchase Agreement with the Initial Purchasers and Constellation for that purpose;

(ii) invest the net proceeds from the issuance and sale of the Trust Securities in Eligible Treasury Assets as directed by Constellation;

(iii) enter into the Facility Agreement with Constellation and the Notes Trustee, in substantially the form of *Exhibit D*;

(iv) enter into the Pledge Agreement with the Collateral Agent, the Securities Intermediary and Constellation, in substantially the form of *Exhibit C*, for the benefit of the Collateral Agent for the LC Issuers, to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets that are not required to be pledged to the Collateral Agent for the benefit of the LC Issuers, in favor of Constellation to secure the obligations of the Trust to pay the Notes Purchase Price under the Facility Agreement;

(v) enter into the Trust Expense Reimbursement Agreement with Constellation in substantially the form of *Exhibit E* pursuant to which Constellation will agree to advance or reimburse the Trust for the Trust's obligations relating to the Trustee's Fee and Trust Expenses;

(vi) execute, deliver and perform its obligations under the foregoing agreements and the other Transaction Agreements to which it is intended to be a party and comply with the terms thereof;

(vii) upon the exercise of the Issuance Right, in whole or in part, delivering to Constellation all or the applicable portion of the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) as identified by Calculation Agent (in the amounts

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identified by the Calculation Agent), less any Eligible Treasury Assets then subject to a Collateral Enforcement Event, in exchange for the Senior Notes being sold or the cash payment that Constellation elects to make in lieu of such Senior Notes, *provided* that prior to the termination of the LC Agreement, in lieu of receiving the Eligible Treasury Assets from the Trust, Constellation has the right to require the Trust to continue to hold such Eligible Treasury Assets subject to the terms of the Pledge Agreement (however, the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible Treasury Assets or proceeds thereof);

(viii) upon a Repurchase, deliver to Constellation Senior Notes held by the Trust and receive Eligible Treasury Assets from Constellation in exchange therefore, in accordance with the Facility Agreement;

(ix) upon an Optional Redemption or a Voluntary Exercise, receive from Constellation the Constellation Payment and use it to redeem a Like Amount of Trust Securities pursuant to Section 5.10, subject to the priorities of distribution set forth in Section 8.2(c);

(x) purchase Trust Securities tendered for purchase pursuant to a Change of Control Offer in accordance with Section 5.10;

(xi) on each Distribution Date, distribute its Trust Income for the related Distribution Period to the Holders, after payment of any expenses and other amounts payable by the Trust, as provided in Section 5.8, and subject to its other obligations under the Transaction Agreements;

(xii) in accordance with, and subject to, Article VIII, distribute any Senior Notes it holds subject to its other obligations under the Transaction Agreements;

(xiii) on each date that the Trustee is required to make a distribution in accordance with Section 5.8(d)(i) or Section 5.8(d)(ii), distribute all Overdue Amounts together with the applicable Special Facility Fee in accordance therewith;

(xiv) hold the Eligible Treasury Assets and the other assets of the Trust (including holding any Senior Notes that may be sold to it) and sell any Defaulted Eligible Treasury Assets to Constellation at their face amount;

(xv) liquidate all or a portion of its Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) and distribute any Senior Notes in accordance with the terms hereof;

(xvi) hold the Retained Eligible Treasury Assets in accordance with the Pledge Agreement;

(xvii) acquire, hold, manage, pledge, invest, dispose of and otherwise deal with the Trust Property, subject to the terms of the Transaction Agreements;

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(xviii) acknowledge the addition of any LC Issuers to the LC Agreement by executing any joinder agreement thereto that has been signed by Constellation; and

(xix) except as otherwise set forth herein, engage in other activities necessary or incidental to the foregoing.

*Section 2.4 Authority.* Subject to the limitations provided in this Declaration, the Trustee shall have the power and authority to carry out the purposes of the Trust. An action taken by the Trustee in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustee acting on behalf of the Trust, no Person shall be required to inquire into the authority of the Trustee to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Trustee as set forth in this Declaration.

*Section 2.5 Title to Property.* Legal title to all assets attributable to the Trust shall be vested at all times in the Trust as a separate legal entity, except where applicable law in any jurisdiction requires title to any part of the assets to be vested in a trustee or trustees, in which case legal title shall be deemed to be vested in the Trustee.

*Section 2.6 Powers and Duties of the Trustee.*

(a) The Trustee shall have the power and authority to, and subject to Article IV, shall, cause the Trust to engage in the following activities:

(i) to issue and sell the Trust Securities in accordance with this Declaration and the Trust Securities Purchase Agreement at the direction of the Depositor; *provided* that (A) the Trust may issue no more than one class of Trust Securities; and (B) there shall be no equity interests in the Trust other than the Trust Securities;

(ii) to purchase Eligible Treasury Assets identified by the Calculation Agent in consultation with Constellation with the proceeds from the sale of the Trust Securities and to hold the same, subject to the provisions of this Declaration and the Trust's obligations under the Transaction Agreements;

(iii) to enter into the Facility Agreement with Constellation and the Notes Trustee in substantially the form attached as *Exhibit D* and the Pledge Agreement with the Collateral Agent, the Securities Intermediary and Constellation, in substantially the form attached as *Exhibit C*, and thereby pledge the Eligible Treasury Assets and the proceeds thereof to the Collateral Agent for the benefit of the LC Issuers to secure reimbursement obligations under the LC Agreement and, with respect to any Eligible Treasury Assets not required to be pledged to the Collateral Agent, in favor of Constellation, to secure the obligations of the Trust to pay the Notes Purchase Price under the Issuance Right and, in each case, perform the Trust's obligations, and exercise its rights, thereunder;

(iv) to purchase and hold the Senior Notes, if and to the extent that Constellation exercises the Issuance Right (including a Mandatory Exercise) or upon an Automatic Exercise, until (A) such Senior Notes are repurchased or redeemed pursuant to a Repurchase Right or Optional Redemption, (B) the Trust is liquidated pursuant to Article VIII or

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(C) the Trustee is required to liquidate any such Senior Notes pursuant to Section 5.8(d), Section 5.9 or Section 8.2 or any other provision of this Declaration;

(v) to exercise voting rights with respect to any Senior Notes held by the Trust, if and when any Senior Notes are issued to the Trust upon Constellation's exercise of the Issuance Right, including a Mandatory Exercise or an Automatic Exercise, until such time as such Senior Notes may be redeemed or the Trust is liquidated, in the same manner and proportion as directed by the Holders of the Trust Securities providing direction (and absent such direction the Trustee shall take no action);

(vi) upon a Repurchase, to deliver to Constellation all or a portion of the Senior Notes then held by the Trust and to receive Eligible Treasury Assets in exchange for the Senior Notes in accordance with the Facility Agreement;

(vii) to redeem all or a portion of the Trust Securities upon an Optional Redemption or Voluntary Exercise as to which Constellation has made a Cash Settlement Election and receipt of the Constellation Payment, subject to the priorities set forth in Section 8.2(c), or if a Trust Dissolution Date occurs pursuant to Section 8.1(a)(i);

(viii) to tender Senior Notes for repurchase and purchase tendered Trust Securities, in each case in accordance with Section 5.10, and receive the corresponding Constellation Payment from Constellation;

(ix) to enter into the Trust Expense Reimbursement Agreement with Constellation, and to collect from Constellation any amounts due thereunder;

(x) to establish a record date with respect to all actions to be taken hereunder that require a record date be established (*provided* that the record date with respect to regular income Distributions and distributions in connection with any dissolution of the Trust shall be determined in accordance with the definition of the term "*Record Date*"), including voting rights, exchanges and final distributions, and to issue relevant notices to the Holders as to such actions and applicable record dates;

(xi) to give prompt written notice to the Holders of any event set forth in Section 8.1(a) and of any Change of Control Triggering Event upon a Responsible Officer receiving a written notice thereof;

(xii) to bring or defend, pay from the Trust Property, collect, compromise, resort to legal action, or otherwise adjust claims or demands of or against the Trust (each such action, a "*Legal Action*"), or take any other Legal Action that arises out of or in connection with the duties of the Trustee under this Declaration;

(xiii) to sell Defaulted Eligible Treasury Assets at their face amount to Constellation;

(xiv) to take all actions and perform such express duties as may be required of the Trustee pursuant to the terms of this Declaration or the Trust Securities;

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(xv) to employ or otherwise engage agents, brokers, managers, contractors, advisors and consultants and pay from the Trust Property reasonable compensation for such services, subject to Section 4.1(d);

(xvi) to incur expenses that are necessary to carry out any of the purposes of the Trust described in Section 2.3(b) or the Trustee's duties set forth in this Declaration;

(xvii) to act as, or appoint another Person to act as, registrar and transfer agent (the "*Transfer Agent*") for the Trust Securities;

(xviii) to execute and deliver each other Transaction Agreement to which it is intended to be a party, and to perform the Trust's obligations and exercise its rights thereunder;

(xix) to the extent directed in writing by Constellation, to execute all other documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing;

(xx) to the extent directed in writing by Constellation, to take all action that may be necessary or appropriate for the preservation and continuation of the Trust's valid existence, rights, franchises and privileges as a statutory trust under the laws of the State of Delaware;

(xxi) to take any action, or to decline to take any action, not in violation of this Declaration, the Transaction Agreements or applicable law, in carrying out the activities of the Trust as set forth in this Section 2.6, including (A) upon advice of counsel, at the direction of Depositor, taking any action to cause the Trust not to be deemed to be an investment company required to be registered under the Investment Company Act, *provided* that such action does not adversely affect any of the rights, preferences and privileges of the Holders, and (B) declining to take any action that would be reasonably likely to cause the Trust to be characterized as an association or publicly traded partnership taxable as a corporation for United States federal income tax purposes; provided that the foregoing shall not alter any right or obligation of the Trust to comply with an Issuance Notice or any direction or instruction of the Holders provided hereunder (subject to Section 10.4);

(xxii) to take all actions with respect to tax forms and tax returns as set forth in Section 7.1 and subject to Depositor's and the Trust's accountants' obligations thereunder;

(xxiii) to provide information to Holders or prospective purchasers as set forth in Section 7.2(b);

(xxiv) to hold Retained Eligible Treasury Assets in accordance with the Pledge Agreement;

(xxv) to execute on behalf of the Trust the engagement letter of the accounting firm of Cover & Rossiter in the form attached hereto as *Exhibit F*, relating to the

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preparation of financial statements and tax filings for the Trust (for the avoidance of doubt, such accounting firm shall be an independent contractor of the Trust and shall not be considered an agent of the Trustee or the Delaware Trustee nor under their supervision and control; and neither the Trustee nor the Delaware Trustee shall be liable for any claims, liabilities or expenses relating to such accounting firms' engagement, any advice or work of the Trust's accountants or any report or filing issued, prepared or made by, such accounting firm in connection with such engagement);

(xxvi) to execute any joinder agreement to the LC Agreement that has been signed by Constellation;

(xxvii) to file any report or make any other disclosure required by the Corporate Transparency Act of 2019 or any rules or regulations thereunder on behalf of the Trust; and

(xxviii) to engage in other activities necessary or incidental to the foregoing.

(b) On the date of this Declaration (and on an annual basis thereafter until the Trust Dissolution Date), the Trustee shall execute the engagement letter referenced in Section 2.6(a)(xxv) of this Declaration, each of the Transaction Agreements to which the Trust is intended to be a party and the initial Certificates on behalf of the Trust and shall thereafter cause the Trust to perform its obligations thereunder.

(c) The Trustee shall establish and maintain with the Securities Intermediary (and keep records of) a segregated, non-interest-bearing trust account (the "*Trust Property Account*") in the name of and under the exclusive control of the Trustee on behalf of the Trust, and upon the receipt of payments of funds representing Trust Income or any other payments of funds made under or in respect of the Trust Property, deposit such funds into the Trust Property Account until such cash balances are required to be distributed, invested or applied to any obligation of the Trust in accordance with this Declaration or any other Transaction Agreement. The Trust Property Account shall be a non-interest-bearing trust account at an Eligible Bank (which may include the Trustee). Money held by the Trustee shall be segregated from its funds and other funds held by it. The Trustee shall also establish with the Securities Intermediary (and keep records of) segregated, non-interest bearing Dollar-denominated accounts, which accounts shall be maintained until the termination of the Pledge Agreement:

(i) Account # SF7148.2 entitled "Trust Collateral Account;"

(ii) Account # SF7148.4 entitled "Retained Eligible Treasury Assets Account;"

(iii) Account # SF7148.4 entitled "Trust Notes Account;"

(d) The Trust Property Account and the Trust Notes Account shall not be subject to any liens in favor of the Collateral Agent or Constellation and the Trust shall remain the sole Entitlement Holder thereof and shall be the only party that may deliver Entitlement Orders on such accounts. For administrative purposes, additional sub-accounts within the

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Pledged Property Accounts or the Trust Property Account may be established and created by Securities Intermediary from time to time, each of which shall be, and shall be treated as, an account of the same type as the account within which such sub-account was created.

(e) Subject to Article IV, the Trustee shall take all actions and perform such duties as may be required of the Trustee as it may be directed from time to time in writing by a Majority of Holders to protect the interests of the Trust and the Holders.

(f) The Trustee may authorize one or more Persons (each, a “*Paying Agent*”) to pay expenses of the Trust, Distributions, dissolution payments or other amounts on behalf of the Trust with respect to the Trust Securities. The initial Paying Agent shall be the Trustee. Any Paying Agent may be removed by the Trustee at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Trustee.

(g) Notwithstanding any other provision in this Declaration or elsewhere, the Trustee shall not have any duty or obligation to manage, control, use, make any payment in respect of, register, record, insure, inspect, sell, dispose of (except in accordance with Section 2.6(a)) or otherwise deal with the Trust Property or to otherwise take or refrain from taking any action under, or in connection with, this Declaration or any other document to which the Trust is a party, except for (i) duties expressly required to be performed by the Trustee by the terms of this Declaration or the Transaction Agreements to which the Trust is a party or in accordance with written instructions from a Majority of Holders, and (ii) duties required to be performed by the Trust by any Transaction Agreement to which is it a party, or any other agreement authorized by this Declaration.

(h) The Trustee shall exercise the powers set forth in this Section 2.6 in a manner that is consistent with the purposes and intentions of the Trust set forth in Section 2.3, and the Trustee shall not take, nor shall the Holders, including a Majority of Holders, instruct the Trustee to take, any action that is inconsistent with the purposes and functions of the Trust set forth in Section 2.3.

*Section 2.7 Prohibition of Actions by the Trust and the Trustee.* The Trust shall not, and the Trustee shall cause the Trust not to, nor shall the Holders, including a Majority of Holders, direct the Trustee to, engage in any activity other than as expressly required or authorized by this Declaration or the other Transaction Agreements. In particular, the Trust shall not and the Trustee shall cause the Trust not to:

(a) re-invest any distributions received on the Trust Property, but the Trust shall, subject to Section 5.8 and Section 8.2, distribute all such proceeds, after satisfying any obligations of the Trust, to the Holders pursuant to the terms of this Declaration;

(b) acquire any assets other than as expressly provided herein;

(c) possess Trust Property for any purpose other than the purposes of the Trust, as described in Section 2.3;

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(d) make any loans or incur any indebtedness or acquire any property other than Eligible Treasury Assets, the Senior Notes, the Trust Property Account and the rights of the Trust under the Transaction Agreements to which the Trust is a party;

(e) incur any lien or encumbrance on any Trust Property, other than the security interest created pursuant to the Pledge Agreement and Permitted Liens;

(f) except as expressly set forth herein, act in such a way as to vary the terms of the Trust Securities in any way whatsoever;

(g) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Trust Securities;

(h) (i) direct the time, method and place of conducting any proceeding for any remedy available to the Trust as the holder of Trust Property or exercising any power conferred upon holders of any Trust Property, (ii) waive any past default or violation that is waivable under the terms of any Trust Property, or (iii) consent to any amendment or modification of the terms of any Trust Property where such consent shall be required, except in each case after receiving instructions from the Holders pursuant to Article X; *provided* that this paragraph shall not limit the authority and obligation of the Trustee to take any action expressly contemplated by this Declaration or any Transaction Agreement to which it is a party, and no instructions from the Holders shall be required in connection therewith;

(ii) file a certificate of cancellation of the Trust or take any other action to terminate the Trust, except in connection with a dissolution of the Trust pursuant to Article VIII;

(h) permit any Trust Securities to be included on (or recognize any purchases or sales of any Trust Securities through) (i) any national, non-U.S., regional, local or other securities exchange, or (ii) any over-the-counter market (including an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise);

(i) exercise any voting rights in respect of the Senior Notes without first obtaining directions from the Holders as provided in Section 4.7(a)(xii);

(j) object or seek to restrain or prohibit, temporarily or permanently, whether upon occurrence of a Bankruptcy Event or otherwise, Constellation from issuing the Senior Notes and selling such Senior Notes to the Trust in exchange for the Eligible Treasury Assets in accordance with the Facility Agreement, including but not limited to, upon the occurrence of an Automatic Exercise or Mandatory Exercise; or

(k) raise any defense expressly waived pursuant to Section 5.1 of the Facility Agreement.

*Section 2.8 Execution of Documents.* Except as otherwise required by the Statutory Trust Act, the Trustee is authorized to execute, deliver and perform on behalf of the Trust any



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documents that the Trustee has the power and authority to cause the Trust to execute pursuant to Section 2.6.

*Section 2.9 Investment in Eligible Treasury Assets.*

(a) Promptly following the receipt of the proceeds from issuance of the Trust Securities, the Trustee shall invest such proceeds in Eligible Treasury Assets that are scheduled to make payments (i) with respect to each Distribution Date, in an aggregate amount equal to 1.571% *per annum* applied to (for each Distribution Period) the initial Maximum Amount, calculated on a 30/360 Basis, and (ii) in an amount equal to the initial Maximum Amount on January 31, 2027. For the avoidance of doubt, *Exhibit G* sets forth the CUSIP, face amount and purchase price of each U.S. Treasury STRIP comprising the Eligible Treasury Assets in which the Trustee shall invest on the date hereof (without limiting the composition of the Eligible Treasury Assets as of any date thereafter).

(b) If any proceeds of the issuance of the Trust Securities remain after the purchase of the required amount of Eligible Treasury Assets pursuant to Section 2.9(a) (the “*Remaining Amounts*”), the Trustee shall apply such Remaining Amounts to pay the Trustee’s Fee and the Trust Expenses and shall not request Constellation to reimburse it for such amounts.

*Section 2.10 Exercise of the Issuance Right; Facility Agreement.*

(a) Subject to clause (b) below and Section 5.8(b) and Section 5.8(d)(ii), upon receipt by a Responsible Officer of the Trustee of an Issuance Notice from Constellation (including in the event of a Mandatory Exercise) or an Automatic Exercise Notice, Constellation will sell the Senior Notes to the Trust, and in exchange the Trust will deliver to Constellation the Notes Purchase Price not later than 3:00 p.m. on the applicable Settlement Date in accordance with the terms and conditions set forth in the Facility Agreement.

(b) Following any exercise of the Issuance Right, the Trust will hold any Senior Notes so sold to it and any remaining Eligible Treasury Assets. Pursuant to the Facility Agreement, prior to the termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent shall only be delivered to Constellation by the Trust if, upon the delivery of such Eligible Treasury Assets to Constellation (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement, subject to no other liens (other than Permitted Liens) and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from such delivery of the Eligible Treasury Assets (any Eligible Treasury Assets retained by the Trust after exercise of the Issuance Right pursuant to such limitation, the “*Blocked Eligible Treasury Assets*”). Prior to the termination of the LC Agreement, following any Mandatory Exercise or Automatic Exercise of the Issuance Right, in lieu of receiving the Eligible Treasury Assets from the Trust, Constellation shall have the right to require the Trust to continue to hold such Eligible Treasury Assets subject to the terms of the Pledge Agreement (such Eligible Treasury Assets held by the Trust after a Mandatory Exercise or Automatic Exercise of the Issuance Right, together with any Blocked Eligible Treasury Assets, “*Retained Eligible Treasury Assets*”); *provided however* that the Holders of the Trust Securities will have no interest in and no rights to receive delivery of any Retained Eligible

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Treasury Assets or proceeds thereof. The Trust shall transfer Eligible Treasury Assets that shall be Retained Eligible Treasury Assets into the Retained Eligible Treasury Assets Account.

(c) The Trustee shall deliver, in exchange for the Senior Notes being issued pursuant to the Issuance Right (or, in respect of any Senior Notes as to which Constellation has made a Cash Settlement Election, in exchange for the applicable Cash Settlement Amount), the Notes Purchase Price in respect of such exercise pursuant to the Facility Agreement and shall credit such Senior Notes (or Cash Settlement Amount) to the Trust Notes Account (or the Trust Property Account) upon receipt, less any Eligible Treasury Assets then subject to a Collateral Enforcement Event. Any Eligible Treasury Assets delivered to Constellation by the Trust will be credited or delivered in accordance with Section 3.1 of the Facility Agreement.

(d) Upon receipt by a Responsible Officer of the Trustee of a notice of exercise of the Repurchase Right, the Trustee shall take such action as may be required to cause the Trust to deliver to Constellation the Senior Notes held by the Trust in exchange for the Eligible Treasury Assets on the Repurchase Settlement Date in accordance with the Facility Agreement and shall credit such Eligible Treasury Assets to the Trust Property Account upon receipt.

(e) The Trustee shall deliver the Automatic Exercise Notice to Constellation after a Responsible Officer of the Trustee becomes aware of any Automatic Exercise Event set forth in clause (i) of the definition thereof in the Facility Agreement in accordance with the Facility Agreement.

*Section 2.11 Mergers.* The Trust may not consolidate, amalgamate, merge or convert with or into, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any Person, except to a trust organized as such under the laws of any state of the United States and with the unanimous consent of the Holders or, in connection with the transfer of Eligible Treasury Assets as expressly permitted under this Declaration. The Trust shall provide written notice of any of the foregoing events to each Rating Agency.

*Section 2.12 Limitation on Directions to the Trustee.* Neither the Holders, including a Majority of Holders, nor the Depositor shall direct the Trustee to take or refrain from taking any action if such action or inaction would be contrary to any obligation of the Trust or the Trustee under this Declaration or any of the Transaction Agreements to which the Trust is a party or would be contrary to Section 2.3, nor shall the Trustee be obligated to follow any such direction, if given.

*Section 2.13 Duration of the Trust.* The Trust shall be dissolved, liquidated and terminated pursuant to the provisions of Article VIII.

*Section 2.14 Notices to the Trust and Trustee under the Facility Agreement.* Other than as specifically set forth in the Facility Agreement or herein, neither the Trust nor the Trustee shall be entitled to receive from Constellation any certificate, opinion or other document in connection with the exercise of the Issuance Right.

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## ARTICLE III

### RESPONSIBILITIES OF THE DEPOSITOR

*Section 3.1 Responsibilities of the Depositor.* The Depositor's execution and delivery on behalf of the Trust of the Trust Securities Purchase Agreement with the Initial Purchasers and Constellation is hereby ratified. In connection with the issue and sale of the Trust Securities, the Depositor shall have the exclusive right and responsibility to engage in the following activities:

(a) to take appropriate action to qualify or register for sale all or part of the Trust Securities in such States as directed by the Initial Purchasers under the Trust Securities Purchase Agreement and to do any and all such acts as the Depositor deems necessary or advisable in order to comply with the applicable laws of any such States, other than actions that must be taken by the Trust, and advise the Trustee, or its Affiliates or agents, of actions the Trust must take, and prepare for execution and filing any documents to be executed and filed by the Trust;

(b) subject to the terms of the Trust Securities Purchase Agreement, to advise the Trustee, or its Affiliates or agents, of actions the Trust must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Depositor deems necessary or advisable in order to comply with any applicable rules and regulations of the SEC promulgated under the Securities Act, the Exchange Act, the Trust Indenture Act, the Investment Company Act or any other applicable law or to obtain or maintain exemptions therefrom or other forms of relief thereunder or to make any filings or take any actions required thereby or deemed necessary or advisable with respect to the Trust, the Trust Securities or any Trust Property or the offering of the Trust Securities;

(c) to take all reasonable actions necessary to enable each Rating Agency to provide its respective rating with respect to the Trust Securities;

(d) cause a Calculation Agent to be available at all times pursuant to the terms of the Calculation Agency Agreement;

(e) assist the Trust with its accounting and tax compliance obligations and financial reporting requirements, including directing the retention of a nationally recognized accounting firm as the Trust's accountants; and

(f) prepare any Change in Control Offer and related notices required in connection with a Change in Control Triggering Event.

*Section 3.2 Financing Statements.*

It shall be the Depositor's responsibility (and not that of the Trustee) to cause the Trust or a third-party to file all financing statements (including on Form UCC-1 and Form UCC-3) and such other security documents to be executed by the Trust in such offices and locations as are necessary, including those financing statements contemplated in the Pledge Agreement.

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## ARTICLE IV

### THE TRUSTEES

#### *Section 4.1 Trustees; Eligibility.*

(a) There shall at all times be one primary trustee which shall act as trustee of the Trust and which shall:

(i) not be an Affiliate of Constellation; and

(ii) be a Person organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, authorized under such laws to exercise corporate trust power, having a combined capital and surplus of at least \$50,000,000, and subject to supervision or examination by Federal, state, territorial or District of Columbia authority.

If any such Person publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to herein, then for the purposes of this Section 4.1(a), the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Trustee shall cease to be eligible to so act under Section 4.1(a), the Trustee shall immediately resign upon the request of the Majority of Holders in the manner and with the effect set forth in Section 4.3.

(c) Notwithstanding the fact that neither the Trust nor the Trust Securities are subject to the Trust Indenture Act, if the Trustee has or shall acquire any “conflicting interest” within the meaning of Section 310(b) of the Trust Indenture Act, the Trustee shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The initial Trustee shall be Deutsche Bank. Such Trustee shall be entitled to receive an annual administration fee (the “*Trustee’s Fee*”) for the services it is performing as Trustee in an amount agreed in writing between Constellation and the Trustee. Any Trust Expenses (unless paid out of any Remaining Amounts as required pursuant to Section 2.9(b)) shall be advanced or reimbursed by Constellation under the Trust Expense Reimbursement Agreement and may be paid out of the Trust Property in accordance with Section 5.8(d)(ii), Section 5.9 or Section 8.2. All Remaining Amounts shall be applied to pay Trust Expenses prior to the Trustee seeking advancement or reimbursement for such expenses from Constellation.

(e) In accepting the trust hereby created, the Trustee agrees to act solely as trustee hereunder and not in its individual capacity, except as expressly provided herein and in the other Transaction Agreements to which the Trust is intended to be a party. All Persons having any claim against the Trustee in its capacity as such by reason of the transactions contemplated by the documents to which the Trust is a party shall look only to the Trust Property (or the applicable part thereof, as the case may be) and not to the Trustee in its individual capacity. Without limiting the generality of the foregoing, the Trustee in its capacity as such or individually shall not be responsible or liable for or in respect of the validity or sufficiency of

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this Declaration or for the due execution hereof by the Depositor, or for the form, character, genuineness, sufficiency, value or validity of the Trust Property, and the Trustee makes no representations as to, and shall have no duty to monitor (x) the value or condition of the Trust Property or any part thereof, or (y) the validity or sufficiency of this Declaration, the Transaction Agreements or the Trust Securities.

(f) The Trustee shall not be required to provide, on its own behalf, any surety bond or other kind of security in connection with the execution of any of its trusts or powers under this Declaration or any other Transaction Agreement or the performance of its duties hereunder.

*Section 4.2 Delaware Trustee.* At all times required by Section 3807(a) of the Statutory Trust Act, the Trust shall have a trustee meeting the requirements of such Section. The duties and responsibilities of the Delaware Trustee shall be limited solely to (a) accepting legal process served on the Trust in the State of Delaware and (b) the execution and delivery of all documents, and the maintenance of all records, necessary to form and maintain the existence of the Trust under the Statutory Trust Act. The Delaware Trustee, in such capacity, shall not be entitled to exercise any powers, nor have any of the duties and responsibilities, of the Trustee described in this Declaration but shall be entitled to all of the protections, immunities, rights and exculpations provided to the Trustee. The Delaware Trustee shall (i) in the case of a natural person, be a resident of the State of Delaware, or in all other cases, have its principal place of business in the State of Delaware and (ii) not be an Affiliate of the Depositor. The Delaware Trustee shall initially be Deutsche Bank Trust Company Delaware. The Delaware Trustee shall be entitled to receive a fee for the services it is performing as Delaware Trustee in an amount agreed to in writing between Constellation and the Trustee on behalf of the Delaware Trustee. If at any time the Delaware Trustee shall cease to be eligible to so act under this Section 4.2, the Delaware Trustee shall promptly resign in the manner and with the effect set forth in Section 4.3.

*Section 4.3 Appointment, Removal and Resignation of Trustees.*

(a) Subject to the provisions of this Section 4.3, the Trustee or the Delaware Trustee may be removed without cause at any time by the vote of a Majority of Holders.

(b) If the Delaware Trustee is the Trustee or an Affiliate of the Trustee, then, subject to the provisions of this Section 4.3, the Delaware Trustee shall be removed from such capacity simultaneously with the removal of the Trustee as Trustee.

(c) Subject to Section 4.3(d) and Section 4.3(f), any Trustee or Delaware Trustee may resign from office (without need for prior or subsequent accounting) by giving written notice to the other Trustee, all of the Holders and Constellation of such intention on its part, specifying the date on which its desired resignation shall become effective; *provided* that such date shall not be less than 60 days from the date on which such notice is given, unless the other Trustee agrees to accept shorter notice.

(d) No resignation or removal of a Trustee shall be effective until:

(i) (A) a successor Trustee possessing the qualifications to act as Trustee under Section 4.1 (a “*Successor Trustee*”) has been appointed by the vote of a Majority

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of Holders and has accepted such appointment by written instrument executed by such Successor Trustee and delivered to the Delaware Trustee and the resigning Trustee; and

(B) if the Trustee is also the Delaware Trustee, and if the Successor Trustee is not the Delaware Trustee, a Successor Delaware Trustee is appointed and has accepted such appointment in accordance with Section 4.3(e); or

(ii) the Trust has been completely dissolved, the proceeds of the dissolution have been distributed to the Holders pursuant to the terms of the Trust Securities and the Trust has been terminated in accordance with Article VIII.

(e) No resignation or removal of a Delaware Trustee shall be effective until:

(i) a successor Delaware Trustee possessing the qualifications to act as Delaware Trustee under Section 4.2 (a “*Successor Delaware Trustee*”) has been appointed by the vote of a Majority of Holders or appointed by the Successor Trustee selected pursuant to Section 4.3(d) and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Trustee and the resigning Delaware Trustee; or

(ii) the Trust has been completely dissolved, the proceeds of the dissolution have been distributed to the Holders pursuant to the terms of the Trust Securities and the Trust has been terminated in accordance with Article VIII.

(f) If no Successor Trustee or Successor Delaware Trustee shall have been appointed and accepted appointment as provided in this Section 4.3 within 90 days after delivery to the Holders of an instrument of resignation by the applicable Trustee, the resigning Trustee may (i) petition, at the expense of the Trust, any court of competent jurisdiction for appointment of a Successor Trustee or Successor Delaware Trustee, as applicable, or (ii) select a Successor Trustee and/or Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Trustee or Successor Delaware Trustee, as the case may be.

(g) No Trustee or Delaware Trustee shall be liable for the acts or omissions to act of any Successor Trustee or Successor Delaware Trustee, as the case may be.

(h) Any Successor Delaware Trustee shall cause an amendment to the Certificate of Trust to be filed with the Secretary of State in accordance with the provisions of Section 3810 of the Statutory Trust Act, indicating that such Successor Delaware Trustee is the Delaware Trustee of the Trust.

*Section 4.4 Delegation of Power.* The rights, duties and powers of the Trustee as set forth in this Declaration may be delegated to one or more Affiliates of the Trustee, *provided* that each such delegee meets the eligibility requirements set forth in Section 4.1; and *provided further* that, as a condition to any such delegation, the delegee shall expressly agree to be jointly and severally liable with the Trustee for any liability arising out of or in connection with such delegation. The Trustee may, by power of attorney consistent with applicable law, delegate to

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any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 2.6.

*Section 4.5 Merger, Conversion, Consolidation or Succession to Business.* Any Person into which the Trustee or the Delaware Trustee, as applicable, may be merged or converted or with which either may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee or the Delaware Trustee shall be a party, or any Person succeeding to all or substantially all the corporate trust assets and business of the Trustee or the Delaware Trustee (including administration of this Declaration), shall be the successor of the Trustee or the Delaware Trustee, as the case may be, hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that (a) if such Person is not otherwise qualified and eligible under this Article IV, it shall promptly resign as provided in Section 4.1(b) or Section 4.3, as applicable, and with the effect specified therein, and (b) any Successor Delaware Trustee shall file an amendment to the Certificate of Trust (at the expense of the Trust) if required by the Statutory Trust Act.

*Section 4.6 Regarding the Trustee.*

(a) The duties, responsibilities and obligations of the Trustee shall be limited to those expressly set forth in this Declaration and the other Transaction Agreements to which the Trustee is party. Neither the Trustee nor any of its officers, directors, employees, agents or Affiliates shall have any implied duties (including fiduciary duties) or liabilities otherwise existing at law or in equity with respect to the Trust, which implied duties and liabilities are hereby eliminated. Every provision of this Declaration relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

(b) The Trustee shall not be personally liable to any Person under any circumstances in connection with any of the transactions contemplated by this Declaration, except that such limitation shall not relieve the Trustee of any personal liability it may have to the Trust or the beneficial owners for the Trustee's own bad faith, willful misconduct or gross negligence in the performance of its express duties under this Declaration. In particular, but not by way of limitation of the foregoing:

(i) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(ii) subject to Section 10.4(a), the Trustee shall not be liable with respect to any action it takes, or any action it refrains from taking, in good faith in accordance with the direction of a Majority of Holders relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Declaration;

(iii) no provision of this Declaration shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers;

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(iv) the Trustee's sole duty with respect to the custody, safe keeping and physical preservation of Trust Property, including the Trust Property Account, shall be to deal with such property in the same manner as the manner in which the Trustee deals with similar property for its own account or for the account of other trusts for which it acts as trustee, subject to the protections, benefits, privileges, immunities and limitations on liability afforded to the Trustee under this Declaration;

(v) the Trustee shall have no duty or liability for or with respect to the value, genuineness, existence or sufficiency of the Trust Property or the payment of any taxes or assessments levied thereon or in connection therewith or for or in respect of the validity or sufficiency of the documents to which the Trust or the Trustee is a party and the Trustee shall in no event assume or incur any liability, duty or obligation to any Person other than as expressly provided for herein; and

(vi) the Trustee shall have no obligation to monitor the value of Eligible Trust Assets.

(c) In no event shall the Trustee or the Delaware Trustee be responsible or personally liable (i) for special, indirect, consequential or punitive damages, however styled, including, without limitation, lost profits, (ii) for the acts or omissions of its correspondents, clearing agencies or securities depositories, (iii) for the acts or omissions of any nominee, brokers or dealers selected by it with reasonable care, or (iv) for any failure or delay in the performance of its obligations under this Declaration, or losses, arising out of or caused, directly or indirectly, by circumstances beyond its control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics or pandemics; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software), the unavailability of the Federal Reserve Bank wire or facsimile or other communication services, including Internet services; accidents; labor disputes; acts of civil or military authority and governmental action (it being understood that the Trustee or the Delaware Trustee, as applicable, shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances). Neither the Trustee nor the Delaware Trustee shall have responsibility for the accuracy of any information provided to the Holders or any other Person that has been obtained from, or provided to the Trustee or the Delaware Trustee by, any other Person, so long as the Trustee or the Delaware Trustee, as applicable, faithfully reproduces such information.

*Section 4.7 Certain Rights of the Trustee.*

(a) The Trustee shall have the following rights under this Declaration (which list shall in no way limit other rights the Trustee has as expressly set forth in other provisions of this Declaration):

(i) the Trustee may conclusively rely on and shall be fully protected in acting or refraining from acting upon any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document whether in its original form or in the form of a PDF



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reasonably believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Depositor acting on behalf of or in connection with the Trust as contemplated by this Declaration shall be sufficiently evidenced by an Officer's Certificate of the Depositor;

(iii) whenever in the administration of this Declaration, the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee (unless other evidence is herein specifically prescribed) may request and, in the absence of bad faith on its part, conclusively rely upon an Officer's Certificate of the Person charged with such proof or establishment;

(iv) except as expressly set forth in Section 7.1, the Trustee (in its capacity as such) shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any re-recording, re-filing or re-registration thereof;

(v) the Trustee may consult with counsel or other experts of its own selection and the advice or opinion of such counsel and experts with respect to legal matters or advice within the scope of such experts' area of expertise shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in accordance with such advice or opinion; such counsel may be counsel to the Depositor or any of its Affiliates, and may include any of its employees;

(vi) the Trustee shall have the right at any time to seek instructions concerning the administration of this Declaration from any court of competent jurisdiction;

(vii) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Declaration or at the request or direction of any Holder or the Depositor, unless (A) such Holder or the Depositor shall have provided to the Trustee security and indemnity, reasonably satisfactory to the Trustee, against the costs, expenses (including reasonable attorneys' fees and expenses and the reasonable expenses of the Trustee's agents, nominees or custodians), disbursements and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Trustee, and (B) the Trustee has been provided with the legal opinions, if any, required by this Declaration (the cost of which shall be paid by the Holder or the Depositor directing the Trustee to act);

(viii) the Trustee shall not be bound to make any investigation into the facts or matters stated in any signature, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document. The Trustee need not investigate any fact or matter stated in any such document, including verifying the correctness of any numbers or calculations, but the Trustee, in its reasonable discretion, may make such further inquiry or investigation into such facts or matters as it may deem necessary at the expense of the Trust and shall incur no liability of any kind by reason of such inquiry or investigation;

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(ix) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder (so long as any such agent is not an Affiliate of the Trustee);

(x) the Trustee shall be under no obligation to supervise or monitor, and shall assume no personal liability for, the actions of the Depositor in connection with its duties under this Declaration, the Transaction Agreements or in connection with the Trust generally;

(xi) any action taken by the Trustee or its agents hereunder shall bind the Trust and the Holders, and the signature of the Trustee or its agents alone shall be sufficient and effective to perform any such action and no third party shall be required to inquire as to the authority of the Trustee to so act or as to its compliance with any of the terms and provisions of this Declaration, both of which shall be conclusively evidenced by the Trustee's or its agent's taking such action;

(xii) subject to Section 10.4, whenever in the administration of this Declaration the Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder or exercising any discretion (by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Trustee), the Trustee (A) shall request instructions from a Majority of Holders (unless another provision of this Declaration requires the consent of a greater proportion of the Holders, in which case it shall request instructions from such greater proportion of the Holders), (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (C) shall be fully protected and shall be treated as acting reasonably in conclusively relying on or acting in accordance with such instructions and in not acting, to the extent instructions are not received within a specified period;

(xiii) except as otherwise expressly provided by this Declaration, the Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Declaration;

(xiv) the Trustee shall not be required to take any action if the Trustee shall reasonably determine, or shall be advised by counsel, that such action is likely to result in personal liability for the Trustee or is contrary to applicable law or the terms of this Declaration or the Transaction Agreements;

(xv) under no circumstances shall the Trustee be liable for indebtedness evidenced by or arising under any of the documents to which the Trust or the Trustee is a party, including the Trust Securities;

(xvi) the Trustee shall have no obligation or liability to perform the obligations of the Trust under this Declaration or any other document to which the Trust or the Trustee is a party that are required to be performed by other Persons, including the Depositor;

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(xvii) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder; and

(xviii) the Trustee may request that the Depositor deliver a certificate setting forth the names of individuals and titles of officers authorized at such time to take specified actions on behalf of the Depositor pursuant to this Declaration, which certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(b) No provision of this Declaration or any Transaction Agreement shall be deemed to impose any duty or obligation on the Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation.

(c) Under no circumstance shall the Trustee be personally liable for any representation, warranty, covenant, obligation or indebtedness of the Trust.

(d) Each of the parties hereto hereby agrees and, as evidenced by its acceptance of any benefits hereunder, each Holder or beneficial owner of the Trust Securities agrees that the Trustee in any capacity (i) has not provided and shall not provide in the future, any advice, counsel or opinion regarding the tax, financial, investment, securities law or insurance implications and consequences of the formation, funding and ongoing administration of the Trust, including, but not limited to, income, gift and estate tax issues, insurable interest issues, risk retention issues, doing business or other licensing matters and the initial and ongoing selection and monitoring of financing arrangements and (ii) has not made any investigation as to the accuracy of any representations, warranties or other obligations of the Trust under the Transaction Agreements.

(e) The Trustee shall not be deemed to have knowledge of an event of default in respect of the Trust Securities or the Senior Notes, or of any Mandatory Exercise Event, Automatic Exercise Event or Change in Control Trigger Event, until one of its Responsible Officers has received written notice thereof. The Trustee shall not be deemed to have knowledge of any other fact or event unless a Responsible Officer of the Trustee has received a written notice of such fact or event.

(f) The responsibility of the Trustee related to corporate actions for the Trust Securities shall be limited to timely forwarding any notices it receives to the Holders and acting at the direction of such Holders.

(g) The Trustee has not prepared or verified, and shall not be responsible or liable for, any information, disclosure or other statement in any disclosure or offering document, including the Offering Memorandum and the Trust Securities Purchase Agreement, or in any other document issued or delivered in connection with the sale or transfer of the Trust Securities.

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*Section 4.8 Multiple Roles.* The parties expressly acknowledge and consent to Deutsche Bank acting in the capacity of Trustee, as Collateral Agent under the Pledge Agreement, as Securities Intermediary, as the Notes Trustee under the Indenture and as Administrative Agent under the LC Facility Agreement. Each of the Trustee, the Securities Intermediary, the Collateral Agent, the Administrative Agent and the Notes Trustee may, in such capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent any such conflict or breach arises from the performance by the Trustee of express duties set forth in this Declaration, the Administrative Agent under the LC Facility Agreement, the Collateral Agent and Securities Intermediary of express duties set forth in the Pledge Agreement or the Notes Trustee of express duties set forth in the Facility Agreement and in the Indenture, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto and the Holders.

*Section 4.9 Anti-Money Laundering Laws.* In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States (“*Applicable AML Law*”), the Trustees are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustees. Accordingly, each of the parties hereto agree to provide to the Trustees, upon their request from time to time such identifying information and documentation as may be available for such party in order to enable the Trustees to comply with Applicable AML Law.

## ARTICLE V

### THE TRUST SECURITIES

*Section 5.1 Description of the Trust Securities.*

(a) The specific rights, powers and terms of the Trust Securities shall be as set forth in this Declaration. Each Trust Security shall represent an undivided beneficial interest in the Trust Property, and distributions shall be made in respect of the Trust Securities at the times and in the amounts specified in this Declaration.

(b) Each Trust Security shall have an initial purchase price of \$1,000, with a minimum purchase amount of \$100,000. Unless otherwise specified in this Declaration, the Trust Securities shall be issued as definitive Trust Securities in substantially the form attached as *Exhibit B* with appropriate insertions, modifications and omissions, as provided herein.

(c) Unless otherwise specified in this Declaration, each Trust Security shall bear a legend as described in the form of Certificate attached as *Exhibit B*. The Trust Securities may be endorsed with or have incorporated into the text thereof such other legends or recitals not inconsistent with the provisions of this Declaration as may be required by the Trustee, or required to comply with any applicable law or regulation. The Depositor shall furnish the Trustee with all information necessary for the completion of any legend on the Trust Securities required

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by the federal income taxation or securities laws or regulations to the extent such information is obtainable at the time of original issuance of the Trust Securities.

(d) The Trust Securities shall be typewritten, printed, lithographed or engraved (with or without steel engraved borders), or produced by any combination of the foregoing methods.

(e) The Trust Securities issued and sold as contemplated herein and in the Trust Securities Purchase Agreement shall be deemed to be duly issued, fully paid and, to the fullest extent permitted by applicable law, nonassessable.

(f) All Trust Securities shall represent an equal proportionate beneficial interest in the assets belonging to the Trust (subject to the liabilities of the Trust), and each Trust Security shall be equal to each other Trust Security.

(g) So long as the Depository, or its nominee, is the registered owner of any Global Certificate, the Depository, or its nominee, shall be considered by the Trust, the Trustee and any agent as the sole owner or holder of the Trust Securities represented by such Global Certificate for all purposes whatsoever under this Declaration. None of the Trust, the Trustee or any agent will have any responsibility or liability for any aspect of the records relating to or payment made on account of beneficial ownership interests of a Global Certificate or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depository. The Trustee and agents shall be fully protected in relying upon information furnished by the Depository with respect to its agent members and other members, participants and any beneficial owners.

*Section 5.2 Execution of Certificates.* The Trust Securities shall be executed by the Trustee on behalf of the Trust by the manual, facsimile or electronic signature of an authorized signatory of the Trustee, with the Trustee acting not in its individual capacity but solely as trustee of the Trust. On the date hereof the Trustee shall execute and deliver one or more of the Certificates evidencing 1,000,000 Trust Securities to or upon the order of the Initial Purchasers. Trust Securities bearing the signature of an individual that was an authorized signatory of the Trustee at the time of execution thereof shall constitute valid Trust Securities, notwithstanding that any such individual has ceased to hold such office at any time thereafter. All Trust Securities shall be dated the date of their execution and delivery.

*Section 5.3 Registration of Certificates.* The Trustee shall keep or cause to be kept at the Corporate Trust Office a Register in which, subject to such reasonable regulations as the Trustee may prescribe and subject to Section 5.5, the Trustee shall provide for the registration of ownership of the Trust Securities and of transfers and exchanges of the Trust Securities as provided in Section 5.4.

*Section 5.4 Transfer and Exchange of Trust Securities.*

(a) Subject to Section 5.5 and Section 5.16, a Holder may transfer any Trust Security at the Corporate Trust Office upon the surrender of such Trust Security, together with the form of transfer endorsed thereon duly completed and executed, and otherwise in accordance

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with the provisions of this Declaration. Each new Trust Security to be issued shall be available for delivery within two Business Days of receipt by the Trustee at the Corporate Trust Office of the relevant Trust Security and the form of transfer.

(b) Each Trust Security issued upon any registration of transfer or exchange of Trust Securities shall evidence rights to receive the same distributions in accordance with this Declaration and shall be entitled to the same benefits as the original Trust Security surrendered upon such registration of transfer or exchange. A transferee of a Trust Security shall become a Holder, and shall be entitled to the rights and subject to the obligations of a Holder hereunder, upon due registration of such Trust Security in such transferee's name pursuant to this Section 5.4.

(c) Every Trust Security presented for registration of transfer or exchange shall, if so requested by the Trustee, be duly endorsed or be accompanied by a written instrument of transfer in a form satisfactory to the Trustee and duly executed by either the Holder or such Holder's attorney duly authorized in writing. Each Trust Security surrendered for registration of transfer or exchange shall be cancelled and subsequently destroyed by the Trustee in accordance with its customary practices in effect from time to time.

(d) No service charge shall be made for any transfer or exchange of Trust Securities, but the Trustee may require payment by the Holder requesting such action of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with such transfer or exchange and may require the production of proof reasonably satisfactory to it as to the identity and genuineness of any signature. The Trustee may also require compliance with the requirements described herein and with such regulations as the Trustee may reasonably establish consistent with the provisions of this Declaration.

(e) If at any time the Depositor or any of its Affiliates (in either case, a "Depositor Affiliated Owner/Holder") is the beneficial owner or Holder of any Trust Securities and the Trust holds a Like Amount of Senior Notes, such Depositor Affiliated Owner/Holder shall have the right to deliver to the Trustee all or such portion of its Trust Securities as it elects (the "Exchanged Trust Securities") and receive, in exchange therefor, a Like Amount of Senior Notes (the "Exchanged Senior Notes"). Such election (i) shall be exercisable effective on any Business Day by such Depositor Affiliated Owner/Holder delivering to the Trustee a written notice of such election specifying the aggregate number of Exchanged Trust Securities and the Business Day on which such exchange shall occur, which Business Day shall be not less than five Business Days after the date of receipt by the Trustee of such election notice (or such shorter notice period as shall be acceptable to the Trustee) and (ii) shall be conditioned upon such Depositor Affiliated Owner/Holder having delivered or caused to be delivered to the Trustee or its designee the Exchanged Trust Securities by 10:00 a.m. on the Business Day on which such exchange is to occur. After the exchange, the Exchanged Trust Securities shall be cancelled and shall no longer be deemed to be Outstanding and all rights of the Depositor Affiliated Owner/Holder with respect to the Exchanged Trust Securities shall cease. In the case of an exchange under this Section 5.4(e), the Trust shall, on the date of such exchange, exchange the Exchanged Senior Notes for the Exchanged Trust Securities held by the Depositor Affiliated Owner/Holder; *provided* that the Depositor Affiliated Owner/Holder delivers or causes to be

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delivered to the Trustee or its designee the Exchanged Trust Securities by 10:00 a.m. on the Business Day on which such exchange is to occur.

*Section 5.5 Restrictions on Transfer of the Trust Securities.*

(a) The Trust Securities may be sold or otherwise transferred only to a Person (an “*Eligible Purchaser*”): who is (i) a “qualified institutional buyer” as defined in Rule 144A under the Securities Act; (ii) a “qualified purchaser” as defined under Section 2(a)(51) of the Investment Company Act and the rules thereunder; (iii) not formed for the purpose of investing in the Trust or the Senior Notes; (iv) knowledgeable, sophisticated and experienced in business and financial matters; (v) able and prepared to bear the economic risk of investing in and holding the Trust Securities for an indefinite period; and (vi) not (A) an employee plan (as defined in Section 3(3) of ERISA) that is subject to ERISA or a plan described in Section 4975 of the Code, (B) a governmental plan (as defined in Section 3(32) of ERISA), a church plan (as defined in Section 3(33) of ERISA) or a non-U.S. plan (as described in Section 4(b)(4) of ERISA) that is not subject to the requirements of ERISA or the Code but is subject to similar provisions under applicable federal, state, local, non-U.S. or other laws (collectively, “*Similar Laws*”) or (C) an entity whose underlying assets are considered to include plan assets of any such plans, pursuant to Section 3(42) of ERISA, Department of Labor Regulations or otherwise.

(b) By purchasing or acquiring any Trust Securities or beneficial interest therein, each purchaser or acquirer shall be deemed to represent, covenant to and agree (or, if such Person is acquiring any Trust Securities for the account of one or more other Persons over which such Person has investment discretion, such Person shall be deemed to represent, covenant and agree for each such other person) with the Trust as follows:

(i) that any purchase of Trust Securities made by such purchaser is for its own account or for the account of one or more other Persons that is an Eligible Purchaser and for which it is acting as trustee or agent with complete investment discretion and with authority to bind such party;

(ii) that such purchase is not made with a view to any public resale or distribution thereof;

(iii) that the Trust Securities may not be reoffered or resold in Puerto Rico, Alabama or New Mexico;

(iv) that such purchaser is an Eligible Purchaser, and that the seller of the Trust Securities may be relying on the exemption from the provisions of Section 5 of the Securities Act provided by Rule 144A under the Securities Act;

(v) that the Trust Securities and the Senior Notes, if and when issued and sold to the Trust, have not been, and will not be registered under the Securities Act or applicable securities laws of any state or other jurisdiction and, accordingly, such purchaser of Trust Securities and the Senior Notes, if and when issued and sold to the Trust, may not offer, sell, pledge, hypothecate or otherwise transfer such Trust Securities and the Senior Notes, if and when issued and sold to the Trust, except pursuant to an exemption from or a transaction exempt

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from, the registration requirements of the Securities Act and applicable securities laws of any state or other jurisdiction and only pursuant to the procedures set forth in this Declaration;

(vi) that the Trust is not registered as an investment company under the Investment Company Act, and is exempt from registration as such by virtue of Section 3(c)(7) of the Investment Company Act, which excludes from the definition of investment company any issuer whose outstanding securities (other than short-term paper) are beneficially owned exclusively by Persons that are qualified purchasers and which has not made and does not propose to make a public offering of its securities;

(vii) that if the prospective purchaser or acquirer is not an Eligible Purchaser that satisfies the requirements or representations contained in this Declaration at the time it purchases or acquires the Trust Securities or an interest therein, the purchaser or acquirer will, upon demand of the Trust and in any event within 10 Business Days after receiving such demand, sell all of its Trust Securities or interests therein to a transferee whom such purchaser or acquirer and the Trust reasonably believe is an Eligible Purchaser that satisfies the requirements or representations contained in this Declaration; that any purported purchase or transfer of the Trust Securities in violation of such measures will be null and void; and that the Trust may withhold all payments in respect of the Trust Securities from Holders who fail to satisfy the foregoing;

(viii) that the Offering Memorandum distributed to prospective purchasers of Trust Securities was prepared solely for the benefit of prospective Eligible Purchasers, in connection with their potential purchase of the Trust Securities in a private placement; and that, except as expressly permitted by such Offering Memorandum, the prospective purchaser shall not reproduce or distribute the Offering Memorandum, in whole or in part, or disclose any of its contents, to any other person;

(ix) that in making decisions as to whether to purchase or sell any Trust Securities or, if sold to the Trust, the Senior Notes, such purchaser must rely on its own examination of the Trust, Constellation and the terms of the Trust Securities and the Senior Notes; and that such purchaser has had access to such financial and other information concerning Constellation, the Trust, the Trust Securities, and the Senior Notes as it has deemed necessary in connection with its decision to purchase any of the Trust Securities, including an opportunity to ask questions of and request information from Constellation, and it has received and reviewed all information that was requested;

(x) that such purchaser agrees to comply with any other transfer restrictions or other related procedures as described in the Offering Memorandum;

(xi) that the Trust and Constellation will rely upon the truth and accuracy of the investment representations and agreements contained in this Declaration, and such purchaser agrees that its receipt of the Trust Securities and the Senior Notes, if and when issued and sold to the Trust, will be deemed to constitute its concurrence in all of the foregoing, which will be binding on such purchaser and each party for which such purchaser is acting as set forth in Section 5.5(b)(i);



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(xii) that such purchaser agrees (A) to inform the Trust and Constellation promptly of any change in the information and representations and warranties specified in this Declaration relating to such purchaser or to any party for whom it is acting, (B) to supply promptly any documentation, including any opinions of counsel, requested by the Trust at any time to confirm any of the representations and warranties made in this Declaration and (C) to deliver to the Trust and Constellation such other representations and covenants as to such matters as Constellation may, in the future, request in order to comply with applicable law and the availability of any exemption therefrom;

(xiii) that such purchaser will provide notice of the transfer restrictions applicable to the Trust Securities or, if sold to the Trust, the Senior Notes, to any subsequent Person to whom it transfers the Trust Securities or, if sold to the Trust, the Senior Notes, and will transfer the Trust Securities only to investors in the United States, Bermuda, the British Virgin Islands, Canada, the Cayman Islands, the European Economic Area, Hong Kong, Japan, Jersey, Singapore, Switzerland and the United Kingdom in compliance with the applicable securities laws of those jurisdictions;

(xiv) that a restrictive legend to the following effect shall be placed on the Certificates and stop-transfer instructions shall be issued to the transfer agent for the Trust Securities, unless the Trustee determines otherwise in accordance with applicable law:

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT TO A PERSON WHO IS (A) A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT); (B) A "QUALIFIED PURCHASER" (AS DEFINED UNDER SECTION 2(A)(51) OF THE INVESTMENT COMPANY ACT OF 1940; AS AMENDED (THE "INVESTMENT COMPANY ACT")); (C) NOT FORMED FOR THE PURPOSE OF INVESTING IN THE TRUST OR THE SENIOR NOTES; (D) KNOWLEDGEABLE, SOPHISTICATED AND EXPERIENCED IN BUSINESS AND FINANCIAL MATTERS; (E) ABLE AND PREPARED TO BEAR THE ECONOMIC RISK OF INVESTING AND HOLDING THE TRUST SECURITIES FOR AN INDEFINITE PERIOD; AND (F) NOT (I) AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA")) THAT IS SUBJECT TO ERISA, OR A PLAN DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, (II) A GOVERNMENTAL PLAN (AS DEFINED IN SECTION 3(32) OF ERISA), A CHURCH PLAN (AS DEFINED IN SECTION 3(33) OF ERISA) OR A NON-U.S. PLAN (AS DESCRIBED IN SECTION 4(B)(4) OF ERISA) THAT IS NOT SUBJECT TO THE REQUIREMENTS OF ERISA OR THE CODE BUT IS SUBJECT TO SIMILAR PROVISIONS UNDER APPLICABLE FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS ("SIMILAR LAWS") OR (III) AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE PLAN ASSETS OF ANY SUCH PLANS PURSUANT TO SECTION 3(42) OF ERISA, DEPARTMENT OF LABOR REGULATIONS OR OTHERWISE.

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THE SECURITIES EVIDENCED HEREBY MAY BE TRANSFERRED ONLY TO A PERSON WHO THE TRUST REASONABLY BELIEVES QUALIFIES AS A TRANSFEREE PURSUANT TO THE PRECEDING PARAGRAPH. ANY PURPORTED TRANSFER OF SECURITIES OF THE TRUST THAT WOULD VIOLATE THESE TRANSFER RESTRICTIONS IS DEEMED BY THE TRUST'S AMENDED AND RESTATED DECLARATION OF TRUST (THE "TRUST DECLARATION") TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY INTENDED TRANSFEREE IN SUCH A PURPORTED TRANSFER SHALL NOT BECOME OR BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO THE RECEIPT OF DISTRIBUTIONS ON SUCH SECURITIES, AND SUCH INTENDED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES. IN SUCH A CASE, THE PURPORTED TRANSFEROR IS DEEMED BY THE TRUST DECLARATION TO CONTINUE TO BE THE HOLDER OF THE SECURITIES NOTWITHSTANDING THE PURPORTED TRANSFER OF THE SECURITIES.

THE TRUST RESERVES THE RIGHT TO MODIFY THE FORM OF CERTIFICATES EVIDENCING THE TRUST SECURITIES FROM TIME TO TIME TO REFLECT ANY CHANGES IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THEIR PURCHASE OR RESALE. THE TRUST SECURITIES AND RELATED DOCUMENTATION, INCLUDING THIS LEGEND, MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY RESTRICTIONS ON AND PROCEDURES FOR REALES AND OTHER TRANSFERS OF THE TRUST SECURITIES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF SECURITIES SUCH AS THE TRUST SECURITIES GENERALLY. EACH HOLDER OF THIS CERTIFICATE SHALL BE DEEMED, BY THE ACCEPTANCE OF THIS CERTIFICATE, TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS CERTIFICATE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO A NOMINEE OF DTC, BY A NOMINEE OF DTC TO DTC, OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR TO DTC OR ANY NOMINEE OF SUCH A SUCCESSOR.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC, TO THE TRUST OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

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(xv) that from the date of acquisition of the Trust Securities (or interest therein), throughout the period of holding such Trust Securities (or interest therein), it is not, and it is not acquiring or holding such Trust Securities (or interest therein), with the assets of, (A) any employee benefit plan (as defined in Section 3(3) of ERISA) that is subject to ERISA or any plan described in Section 4975 of the Code, (B) a governmental plan (as defined in Section 3(32) of ERISA), a church plan (as defined in Section 3(33) of ERISA) or a non-U.S. plan (as described in Section 4(b)(4) of ERISA) that is subject to Similar Laws or (C) any entity whose underlying assets are considered to include plan assets of any such plans pursuant to Section 3(42) of ERISA, Department of Labor regulations or otherwise;

(xvi) that it waives any objection to the exercise of the Issuance Right and confirms, acknowledges and agrees that (A) it is making an investment decision with respect to Constellation and the Senior Notes at the time of its purchase of the Trust Securities, (B) Constellation may, at any time and for any reason, exercise its right under the Facility Agreement to require the Trust to purchase the Senior Notes up to the Maximum Amount, in exchange for all or a portion of the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) corresponding to the portion of the Issuance Right being exercised at such time, (C) the Issuance Right will be deemed to be exercised automatically, and Constellation may be required to exercise such Issuance Right under a Mandatory Exercise, in which case the Trust will be required to purchase the Senior Notes, and the Holders and beneficial owners of the Trust Securities will not have the benefit of the Eligible Treasury Assets, (D) Constellation's condition, financial or otherwise, may have deteriorated at the time of exercise of such Issuance Right and (E) except as otherwise provided herein, if such Issuance Right is exercised for the entire Available Amount and the Repurchase Right has terminated, the Trust will be liquidated and the Holders will thereafter hold only the Senior Notes;

(xvii) that it understands and acknowledges that Deutsche Bank will act in the capacity of Trustee hereunder (and Deutsche Bank's affiliate Deutsche Bank Trust Company Delaware will act as Delaware Trustee hereunder), and will also act as Collateral Agent under the Pledge Agreement and as Notes Trustee under the Facility Agreement and under the Senior Note Indenture and agrees and consents that Deutsche Bank may, in such capacities, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties, to the extent that any such conflict or breach arises from the performance by Deutsche Bank of its express duties set forth herein, in the Offering Memorandum, the Pledge Agreement, the Facility Agreement and the Indenture, all of which defenses, claims or assertions are waived by the Holders and the parties hereunder and the parties to the Pledge Agreement and the Facility Agreement; and

(xviii) that, to the fullest extent permitted by applicable law, it waives, forfeits and surrenders any right it may have, on any basis or theory, to object or seek to restrain or prohibit, temporarily or permanently, whether upon occurrence of a Bankruptcy Event or otherwise, (A) the Trust from purchasing the Senior Notes in exchange for the Eligible Treasury Assets in accordance with the Facility Agreement, including, but not limited to, upon the occurrence of an Automatic Exercise or Mandatory Exercise and whether or not a Bankruptcy Event has occurred, (B) the Trust from delivering the Eligible Treasury Assets in exchange for the Senior Notes in accordance with the Facility Agreement upon a Repurchase and (C) the Trust

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from redeeming the Trust Securities in accordance with Section 5.10 upon redemption of the Senior Notes.

(c) No Trust Securities shall be transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Declaration. Any purported transfer of Trust Securities not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16) shall be void and of no legal effect whatsoever. Any intended transferee in a purported transfer not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16) shall be deemed not to be the Holder or beneficial owner of such Trust Securities or any other interest in the Trust for any purpose, including the receipt of Distributions and any other payments on such Trust Securities, and shall be deemed to have no interest whatsoever in such Trust Securities or in the Trust. The purported transferor of such Trust Securities shall be deemed to be the Holder and beneficial owner of such Trust Securities for all purposes notwithstanding its purported transfer of such Trust Securities. The Transfer Agent shall not register the issuance of, the transfer of or exchange any of the Trust Securities not made in accordance with this Declaration (including any transfer that violates Section 5.4, this Section 5.5 or Section 5.16).

(d) The Trustee shall not have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Declaration or under applicable law with respect to any transfer of any interest in any Trust Security (including any transfers between or among participants or indirect participants in any Global Certificate) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Declaration, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

*Section 5.6 Mutilated, Destroyed, Lost or Stolen Certificates.* If (a) any mutilated Certificates are surrendered to the Trustee, or if the Trustee shall receive evidence to its satisfaction of the destruction, loss or theft of any Certificate, and (b) there shall be delivered to the Trustee such security or indemnity as may be required by them to keep each of the Trustee and the Trust harmless; then, in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, the Trustee on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 5.6, the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section 5.6 shall constitute conclusive evidence of an ownership interest in the relevant Trust Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

*Section 5.7 Deemed Holders.* Except as otherwise provided by law, but without prejudice to Section 5.5, the Trustee may treat the Person in whose name any Certificate shall be registered on the Register as the sole Holder of such Certificate and of the Trust Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or

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interest in such Certificate or in the Trust Securities represented by such Certificate on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

*Section 5.8 Distributions.*

(a) All Distributions on the Trust Securities shall be made in accordance with this Section 5.8, other than those Distributions made in accordance with Section 5.10 in connection with a Change of Control Triggering Event, Optional Redemption or Voluntary Exercise or Mandatory Exercise as to which Constellation has made a Cash Settlement Election, or in accordance with Section 8.2 in connection with dissolution or liquidation of the Trust; *provided* that, notwithstanding the foregoing, if the Trust Dissolution Date occurs following any record date for a Distribution to Holders and prior to the related Distribution Date, in lieu of this Section 5.8, the provisions of Section 8.2 shall apply. All Distributions to Holders made in accordance with this Section 5.8 shall be subject to the priorities set forth in Section 5.8(b).

(b) (i) The Trustee shall distribute all Trust Income held in the Trust Property Account by 3:00 p.m. on each Distribution Date, if (A) the Trust has received all payments due on such date with respect to the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) that are not Defaulted Assets and Constellation has paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 of the Facility Agreement and (B) the Trust has received all amounts due under the Facility Agreement, the Trust Expense Reimbursement Agreement and the Senior Notes, in each case, by 11:00 a.m. on such day, in accordance with the following priorities:

(1) *first*, in payment of any Trustee's Fee and any Trust Expenses then due and payable (to the extent that such Trustee's Fee or Trust Expenses are not paid out of any Remaining Amounts as required pursuant to Section 2.9(b));

(2) *second*, in satisfaction of any other outstanding obligations of the Trust then due and payable (including obligations of the Trust to the Trustee, not satisfied pursuant to Section 5.8(b)(i)(1)), *pro rata* among the creditors in accordance with the aggregate unpaid amount due to each; and

(3) *third*, to the Holders, *pro rata* with respect to each Trust Security Outstanding on the Record Date relating to such Distribution Date.

(ii) If the Issuance Right has been exercised under the Facility Agreement for settlement on such Distribution Date, prior to the termination of the LC Agreement, Eligible Treasury Assets that are pledged to the Collateral Agent shall only be delivered to Constellation by the Trust if, upon the delivery of such Eligible Treasury Assets to Constellation (i) such Eligible Treasury Assets will continue to be pledged to the Collateral Agent pursuant to the Pledge Agreement, subject to no other liens (other than Permitted Liens) and (ii) no default would exist or result under the LC Agreement or the Pledge Agreement from such delivery of the Eligible Treasury Assets. Notwithstanding the foregoing, if the Trust is required to apply any redemption proceeds of Senior Notes or Cash Settlement Payments to redeem any Trust Securities on such Distribution Date, such redemption proceeds and Cash Settlement Payments shall be applied to redeem such Trust Securities.

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(iii) If (A) the Trustee has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) that are not Defaulted Eligible Treasury Assets or Constellation has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 5.3 of the Facility Agreement or (B) Constellation has not paid any amount due under the Facility Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes before 11:00 a.m. but the Trustee has received all such payments (including the purchase price of any such Defaulted Eligible Treasury Assets) prior to 5:00 p.m. on any Distribution Date, the entire distribution shall be made on the following Business Day, without any additional interest for the delay.

(iv) The Trustee shall apply the Remaining Amounts solely to pay the Trustee's Fee and Trust Expenses and the Trustee shall not apply any Trust Income to pay any Trustee's Fees or any Trust Expenses until the entire Remaining Amounts have been so applied.

(c) If amounts are not available to the Trust to make Distributions under Section 5.8(b)(i)(1) for a particular Distribution Period for any reason, the Trust shall have no obligation to make any Distribution on such Distribution Date, whether or not Distributions under Section 5.8(b)(i)(1) on the Trust Securities are made for any future Distribution Period, except to the extent provided for in Section 5.8(d) or Section 5.9.

(d) If (A) the Trustee has not received all payments due on any Distribution Date with respect to the Eligible Treasury Assets (other than Retained Eligible Treasury Assets) that are not Defaulted Eligible Treasury Assets or Constellation has not paid for all Defaulted Eligible Treasury Assets required to be purchased at their face amount from the Trust pursuant to Section 4.3 of the Facility Agreement or (B) Constellation has failed to pay any amount due under the Facility Agreement, the Trust Expense Reimbursement Agreement or the Senior Notes, by 5:00 p.m. on any Distribution Date (such amounts in clause (A) or (B) above, the "*Overdue Amounts*"), the Trustee shall give prompt written notice thereof to Constellation, and the Distribution specified in Section 5.8(b) that would otherwise be made on such Distribution Date shall be deferred as follows:

(i) If the Trustee receives all of the Overdue Amounts and the applicable Special Facility Fee within 30 days following such Distribution Date, the Trustee shall distribute, on the Business Day following receipt, all such amounts in accordance with this Declaration and the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of Distribution.

(ii) If the Trustee does not receive all of the Overdue Amounts and the applicable Special Facility Fee, and Constellation has given notice to exercise the Issuance Right for the entire Available Amount for settlement within 30 days following such Distribution Date pursuant to the Facility Agreement, and no Trust Dissolution Date shall have occurred (in which event the procedures in Section 8.1(b) shall apply), as provided in the Facility Agreement (A) the Trust shall purchase the Senior Notes issued by Constellation (or in the case of any Cash Settlement Election, shall receive the applicable Cash Settlement Amount) in exchange for the Notes Purchase Price, (B) the applicable Special Facility Fee shall be due and payable and (C)

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payment by the Trust of the Notes Purchase Price shall be subject to set-off against any Overdue Amounts and Special Facility Fee (with the Eligible Treasury Assets included in the Notes Purchase Price being valued for the purpose of such set-off based on the proceeds received therefor by the Trust). The Trust shall have the power to liquidate Eligible Treasury Assets (other than Retained Eligible Treasury Assets) held by the Trust to cover such Overdue Amounts and Special Facility Fee, together with any Trust Expenses reasonably incurred in such liquidation or any other due and unpaid amounts specified in Section 5.8(b)(i)(1) or Section 5.8(b)(i)(2), and, if the proceeds of such liquidation of such Eligible Treasury Assets are insufficient to cover any due and unpaid amounts specified in Section 5.8(b)(i)(1) or Section 5.8(b)(i)(2), to liquidate any Senior Notes then held by the Trust. Any liquidation of Eligible Treasury Assets or Senior Notes shall be done in accordance with the provisions set forth in Section 5.9, and the Trustee shall distribute, on the Business Day following receipt, all such proceeds of such liquidation in accordance with this Declaration and the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of Distribution.

(iii) If the Trustee does not receive all of the Overdue Amounts and the applicable Special Facility Fee, and Constellation has not given notice to exercise the Issuance Right for the entire Available Amount for settlement within 30 days following such Distribution Date, an Automatic Exercise Event shall occur pursuant to the Facility Agreement and the provisions of Article VIII shall apply.

(e) In any year in which January 31 or July 31 is not a Business Day, the postponement of any Distribution Date that would otherwise fall on such January 31 or July 31, as the case may be, to the following Business Day shall not affect the amount of any payment that Constellation or the Trust is required to make on such Distribution Date.

(f) Notwithstanding anything to the contrary in this Declaration, if any Trust Expenses are due and payable by the Trust on a date that is not a Distribution Date, the Trust shall pay such Trust Expenses prior to the next Distribution Date out of any advance received from Constellation pursuant to the Trust Expense Reimbursement Agreement.

(g) On each date on which a Distribution is made pursuant to this Section 5.8, the Trustee shall provide written confirmation to Constellation of the Trust Income received by the Trust that is distributed on such date, as well as the amount of Distributions made to the Holders on such date. The Trustee shall provide each Rating Agency a copy of such written confirmation.

*Section 5.9 Liquidation of Eligible Treasury Assets (other than Retained Eligible Treasury Assets) and Senior Notes.*

(a) If the Trust is entitled to liquidate any Trust Property pursuant to Section 5.8(d):

(i) The Trustee shall first apply all Trust Income available on such date and any other funds available in the Trust Property Account on the relevant date to make

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payments in respect of such Trust Expenses or any other expenses on such date in accordance with the priorities set forth in Section 5.8(b).

(ii) To the extent that the funds available in the Trust Property Account and any Eligible Treasury Assets that can be set-off against the relevant expenses pursuant to Section 5.8 are insufficient to pay any due and unpaid amounts specified in Section 5.8(b)(i)(1) or Section 5.8(b)(i)(2), the Trustee, or agent, shall liquidate Eligible Treasury Assets, other than Retained Eligible Treasury Assets, in the open market, to the extent necessary for the proceeds to cover such due and unpaid amounts. The Trustee shall have no liability with respect to the adequacy of the price received in connection with said liquidation. The Eligible Treasury Assets to be liquidated shall be *pro rata* from each principal and interest STRIP of U.S. Government Obligations comprising the Eligible Treasury Assets (other than Retained Eligible Treasury Assets), in each case rounded to the nearest \$100 in face amount.

(iii) To the extent that the proceeds from the liquidation of Eligible Treasury Assets (other than Retained Eligible Treasury Assets) are insufficient to cover any due and unpaid amounts specified in Section 5.8(b)(i)(1) or Section 5.8(b)(i)(2) and the Trust holds any Senior Notes, the Trust shall liquidate Senior Notes in the open market, to the extent necessary for the proceeds to cover such due and unpaid amounts. Any liquidation of Senior Notes will be made in accordance with commercially reasonable market standards, which may include retaining third-party agents (which may be affiliates of Deutsche Bank) at the expense of the Trust, and in compliance with applicable securities laws. The Trustee shall not be liable for the adequacy or sufficiency of the price obtained for such liquidation of Senior Notes.

(b) Not later than 3:00 p.m. on the Business Day following its receipt of proceeds of all Trust Property to be liquidated pursuant to Section 5.9(a), the Trustee shall distribute such proceeds in accordance with the priorities specified in Section 5.8(b); *provided* that such Distribution shall be payable to the Holders of the Trust Securities as of the close of business on the Business Day immediately preceding the date of such Distribution.

#### *Section 5.10 Redemption or Repurchase.*

(a) Constellation shall notify the Trustee of the occurrence of a Change of Control Triggering event within five Business Days of the occurrence thereof. Within 30 days following its receipt of notice of any Change of Control Triggering Event, the Trust shall mail (or deliver electronically) a notice prepared by Constellation (a “*Change of Control Offer*”) to each Holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase the Trust Securities on the date specified in the notice (the “*Change of Control Payment Date*”), which date shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed or delivered, at a price equal to 101% of the aggregate initial purchase price of the Trust Securities, plus accrued and unpaid distributions, if any, on the Trust Securities to the Constellation Payment Date, subject to the rights of Holders of the Trust Securities on the relevant record date to receive interest due on the relevant Distribution Date (a “*Change of Control Payment*”); *provided* that a Change of Control Offer may be made in advance of a Change of Control Triggering Event, with the obligation to pay and the timing of the Constellation Payment Date conditioned upon the occurrence of a Change of Control



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Triggering Event, if a definitive agreement to effect a Change of Control is in place at the time the Change of Control Offer is made.

(i) Holders of the Trust Securities electing to have any Trust Securities purchased pursuant to a Change of Control Offer shall be required to surrender the Trust Securities to the Paying Agent on the Change of Control Offer Expiration Date. A Change of Control Offer Expiration Date with respect to the Trust Securities shall constitute a Mandatory Exercise Event in respect of the Issuance Right following which Constellation will be required to sell to the Trust Senior Notes in a principal amount equal to the Change of Control Offer Issuance Amount in accordance with the Facility Agreement. On the Change of Control Payment Date, Constellation shall pay the Change of Control Payment to the Trust to repurchase a principal amount of Senior Notes equal to the P-Caps Tendered Amount (minus the Change of Control Offer Subject Amount if Constellation has paid the Cash Settlement Amount with respect thereto in lieu of issuance thereof), at a price equal to 101% of the principal amount thereof, plus accrued and unpaid interest to, but not including, the date of repurchase (the “*Change of Control Redemption Amount*”), in each case to the extent necessary to pay the Change of Control Payment with respect to the P-Caps Tendered Amount.

(ii) On the Constellation Payment Date, to the extent lawful:

(A) the Trust will accept for payment all Trust Securities properly tendered pursuant to the Change of Control Offer;

(B) Constellation will deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Trust Securities properly tendered; and

(C) Constellation will deliver or cause to be delivered to the Trustee for cancellation the Trust Securities properly accepted together with an officers’ certificate stating the aggregate initial purchase price of Trust Securities being repurchased by the Trust.

(iii) The Paying Agent will promptly distribute to each holder of Trust Securities properly tendered the Change of Control Payment for such Trust Securities; *provided* that holders of Trust Securities may not tender fractional amounts of Trust Securities and no holder of Trust Securities may tender a number of Trust Securities that would, due to the surrender of such Trust Securities, result in the holder holding greater than 0 Trust Securities but less than 100 Trust Securities. Constellation will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Constellation Payment Date.

(iv) If the Senior Notes are then held by the Trust with respect to which Constellation has made a “Change of Control Offer” (as defined in the Indenture), the Trustee will accept such Change of Control Offer with respect to the Senior Notes to the extent holders of the Trust Securities have accepted the Change of Control Offer with respect to the Trust Securities. The Trustee will use the Change of Control Payment received with respect to such Senior Notes and, if Constellation has elected to pay a Cash Settlement Amount with respect to the Change of Control Offer Subject Amount in lieu of issuance thereof, the applicable Cash

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Settlement Amount, to satisfy a portion of the Change of Control Payment with respect to the Trust Securities, and the Change of Control Payment payable by Constellation with respect to the Trust Securities shall be reduced accordingly.

(v) Constellation and the Trust will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Trust Securities. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the Indenture, Constellation and the Trust will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of this Declaration by virtue of such compliance.

Notwithstanding the foregoing, the Trust will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Declaration applicable to a Change of Control Offer made by the Trust and purchases all Trust Securities properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of an optional redemption with respect to all outstanding Trust Securities has been given to the Trustee pursuant to Section 5.10(c), unless and until there is a default in payment of the applicable Redemption Price.

(b) Subject to applicable law, other than with respect to a Change of Control Triggering Event, upon the redemption by Constellation of any Senior Notes held by the Trust or any Voluntary Exercise or for any Senior Notes as to which Constellation has made a Cash Settlement Election, the Trust shall redeem a Like Amount of Trust Securities at the Redemption Price on the Constellation Payment Date, subject to the priorities of distribution set forth in Section 8.2(c); *provided* that (i) if the Constellation Payment Date is the Trust Dissolution Date, the Constellation Payment shall be distributed in accordance with Article VIII, and (ii) if the Trustee does not receive the Constellation Payment prior to 11:00 a.m. on the Constellation Payment Date, such Trust Securities shall be redeemed on the Business Day following the day the Trustee receives the Constellation Payment.

(c) Constellation shall provide a notice of redemption to the Trustee containing the information listed below, and, based solely on the information provided in such notice, a notice of redemption of the Trust Securities shall be given by the Trustee by first-class mail, postage prepaid, mailed not less than 10 nor more than 60 days prior to the Redemption Date to each Holder of Trust Securities to be redeemed, at such Holder's address appearing in the Register. Each notice of redemption shall state:

- (i) the Redemption Date;
- (ii) the Redemption Price or, if the Redemption Price cannot be calculated prior to the time the notice is required to be sent, a description of the manner in which the Redemption Price shall be determined;

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(iii) the CUSIP number or CUSIP numbers of the Trust Securities affected;

(iv) if less than all the Outstanding Trust Securities are to be redeemed, the identification and the aggregate initial purchase price of the particular Trust Securities to be redeemed;

(v) that on the Redemption Date the Redemption Price will become due and payable upon each such Trust Security to be redeemed and that Distributions thereon will cease to accumulate on and after said date, except as provided in Section 5.10(e); and

(vi) if the Trust Securities are no longer in book-entry-only form, the place or places where the Certificates are to be surrendered for the payment of the Redemption Price.

(d) The Trust Securities redeemed on each Redemption Date shall be redeemed at the Redemption Price with the Constellation Payment to be received on the Redemption Date. Redemptions of the Trust Securities shall be made and the Redemption Price shall be payable on each Redemption Date only to the extent that the Trust has received such Constellation Payment.

(e) If the Trustee gives a notice of redemption in respect of any Trust Securities, then, by 12:00 p.m., on the Redemption Date, subject to Section 5.10(d), the Trustee shall, with respect to Trust Securities represented by Global Certificates, irrevocably deposit with DTC, to the extent available therefor, funds sufficient to pay the applicable Redemption Price and shall give DTC irrevocable instructions and authority to pay the Redemption Price to the Holders. With respect to Trust Securities that are not represented by Global Certificates, the Trustee, subject to Section 5.10(d), shall irrevocably deposit with the Paying Agent, to the extent available therefor, funds sufficient to pay the applicable Redemption Price and shall give the Paying Agent irrevocable instructions and authority to pay the Redemption Price to the Holders upon surrender of their Certificates. Notwithstanding the foregoing, Distributions payable on or prior to the Redemption Date for any Trust Securities called for redemption shall be payable to the Holders of such Trust Securities as they appear on the Register for the Trust Securities on the relevant Record Dates for the related Distribution Dates. If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit, all rights of Holders of Trust Securities so called for redemption shall cease, except the right of such Holders to receive the Redemption Price and any Distribution payable in respect of the Trust Securities on or prior to the Redemption Date, but without interest, and such Trust Securities shall cease to be Outstanding. In the event that the Redemption Date is not a Business Day, then payment of the Redemption Price payable on such date shall be made on the next succeeding day that is a Business Day (without any interest or other payment in respect of any such delay), with the same force and effect as if made on such date.

(f) If less than all the Outstanding Trust Securities are to be redeemed on a Redemption Date, the particular Trust Securities to be redeemed shall be selected at least 10 but not more than 60 days prior to the Redemption Date by the Trustee from the Outstanding Trust Securities not previously called for redemption on a *pro rata* basis or by any method the Trustee

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deems fair and appropriate; *provided* that so long as the Trust Securities are represented by Global Certificates, such selection shall be made in accordance with the procedures of the Depositary in accordance with its standard procedures therefor. The Trustee shall promptly notify the Security Registrar in writing of the Trust Securities selected for redemption.

(g) Constellation shall give written notice to the Trustee of any Constellation Payment Date at least 10 days but not more than 60 days prior thereto (unless a shorter notice shall be satisfactory to the Trustee), except to the extent a shorter notice period is expressly required or contemplated in connection with a Change of Control Payment Date or as otherwise described herein.

*Section 5.11 No Preemptive Rights.* No Holder, by virtue of holding Trust Securities, shall have any preemptive or other right to subscribe to any additional Trust Securities.

*Section 5.12 Status of the Trust Securities.* Every Holder, by virtue of having become a Holder, shall be deemed to have expressly assented and agreed to the terms hereof and to have become party hereto. The Trust Securities shall be deemed to be personal property, giving only the rights provided herein. Ownership of the Trust Securities shall not entitle the Holder to any title in, or to the whole or any part of, the Trust Property or right to call for a partition or division of the same or for an accounting. The bankruptcy of a Holder during the continuance of the Trust shall not operate to terminate the Trust, nor entitle the representative of any bankrupt Holder to an accounting or to take any action in court or elsewhere against the Trust or the Trustee.

*Section 5.13 CUSIP Numbers.* The Trust, in issuing the Trust Securities, may use “CUSIP” numbers (if then generally in use), and, if so, the Trustee shall use “CUSIP” numbers in notices of dissolution as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Trust Securities or as contained in any notice of a dissolution and that reliance may be placed only on the other identification numbers printed on the Trust Securities, and any such dissolution shall not be affected by any defect in or omission of such numbers.

*Section 5.14 Lists of Holders.*

(a) The Transfer Agent (if the Trustee is not acting in such capacity) shall provide the Trustee (i) by the end of the fourth Business Day after each Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders (a “*List of Holders*”) as of such Record Date, *provided* that the Transfer Agent shall not be obligated to provide such List of Holders if at any time the List of Holders does not differ from the most recent List of Holders given to the Trustee by the Transfer Agent, and (ii) a List of Holders at any time the Trustee requests a List of Holders, which List of Holders shall be provided to the Trustee by the Transfer Agent within 30 days of the Trustee delivering a written request for the List of Holders to the Transfer Agent, and which shall be no more than four Business Days old on the date it is delivered to the Trustee. The Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in any List of Holders given to it or that it receives in its capacity as Paying Agent (if acting in such capacity), *provided* that the Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

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(b) The Trustee shall comply with the requirements of Section 312(b) of the Trust Indenture Act, as if the Trust Indenture Act applied to this Declaration.

*Section 5.15 No Other Rights.* Unless otherwise required by law, the Holders of Trust Securities shall not have any rights or preferences other than those specifically set forth in this Declaration and in the Certificates.

*Section 5.16 Global Certificates.* The provisions of this Section 5.16 shall apply only to Global Certificates:

(a) Each Global Certificate executed and delivered under this Declaration shall be registered in the name of the Depository or a nominee thereof and delivered to such Depository or a nominee thereof or custodian therefor, and each such Global Certificate shall constitute a single Certificate for all purposes of this Declaration.

(b) If any Depository elects to discontinue its services as securities depository with respect to the Trust Securities, the Trustee may appoint a successor Depository at the written direction of Constellation with respect to the Trust Securities.

(c) Notwithstanding any other provision in this Declaration, no Global Certificate may be exchanged in whole or in part for Certificates registered, and no transfer of a Global Certificate in whole or in part may be registered, in the name of any Person other than the Depository for such Global Certificate or a nominee thereof unless (i) such Depository has notified the Trust that it is unwilling or unable to continue as Depository for such Global Certificate and no successor depository shall have been appointed by the Trust within 90 days of such notice, (ii) if at any time such Depository has ceased to be a clearing agency registered under the Exchange Act at a time when such Depository is required to be so registered to act as Depository and no successor depository shall have been appointed by the Trust within 90 days after the Trust becomes aware of such cessation, or (iii) the Trustee voluntarily elects to discontinue the use of the book-entry transfer system with the consent of at least a Majority of Holders. If Global Certificates are exchanged pursuant to this Section 5.16(c), Distributions may, at the Trust's option, be paid by check mailed to the Persons entitled thereto as shown on the Register. Notwithstanding the foregoing, a Holder of 1,000 or more Trust Securities shall be entitled to receive Distributions, if any, on any Distribution Date by wire transfer of immediately available funds if appropriate wire transfer instructions have been received in writing by the Trust not less than 15 days prior to the Distribution Date. Any such wire transfer instructions received by the Trust shall remain in effect until revoked by such Holder.

(d) Subject to Section 5.16(c), any exchange of a Global Certificate for other Certificates may be made in whole or in part, and all Certificates issued in exchange for a Global Certificate or any portion thereof shall be registered in such names as the Depository for such Global Certificate shall direct.

(e) Every Certificate executed and delivered upon registration of, transfer of, or in exchange for or in lieu of, a Global Certificate or any portion thereof, whether pursuant to this Section 5.16 or otherwise, shall be executed and delivered in the form of, and shall be, a

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Global Certificate, unless such Certificate is registered in the name of a Person other than the Depository for such Global Certificate or a nominee thereof.

## ARTICLE VI

### GRANTOR TRUST

*Section 6.1 Treatment as “Grantor” Trust.* The offering of the Trust Securities is intended to be treated for United States federal income tax purposes as a financing wherein Constellation directly owns the assets held in the Trust and issues indebtedness directly to the Holders. Because the applicable United States federal income tax reporting requirements are unclear and to mitigate any uncertainty if, contrary to such intention, Constellation is treated as indirectly owning such assets through the Trust, Constellation and the Trust agree to take the position for such reporting purposes that the Trust is a “grantor” trust and is not a partnership or an association subject to tax as a corporation, and that Constellation is the sole “grantor” of the Trust and owner of the assets of the Trust. The provisions of this Declaration shall be interpreted to further this intention of the parties.<sup>1</sup>

## ARTICLE VII

### ACCOUNTING AND RECORDS

*Section 7.1 Annual Tax Information.*

(a) The Trustee shall cause the Trust to comply with information reporting and backup withholding requirements imposed on the Trust in connection with payments in respect of the Trust Securities. The Trustee shall undertake its information reporting and backup withholding obligations under this Section 7.1 consistent with Section 6.1 absent a change of law or a change in administrative guidance or interpretation by the IRS or any state or local taxing authority. Pursuant to the engagement letter of the accounting firm of Cover & Rossiter referenced in Section 2.6(a)(xxiv), Cover & Rossiter has agreed to notify the Trust and the Trustee if any future developments in the law or regulations would result in the Trust being required to prepare or file tax forms or returns that are different from those set forth in Section 7.1(b). The Trust shall have no obligation to independently monitor developments in law or regulations and shall be entitled to conclusively rely on the advice of Cover & Rossiter or any successor accounting firm. If the Trustee receives such notification from Cover & Rossiter (or if Constellation provides a similar notification), then promptly following the Trustee’s written request to Constellation, Constellation shall direct the Trustee in engaging Cover & Rossiter or another tax accounting firm to prepare such forms or returns. The expenses of such tax accounting firm shall be treated as Trust Expenses for the purposes of this Declaration and the Trust Expense Reimbursement Agreement. In addition, the authorizations and protections set forth in Section 2.6(a)(xxiv) shall apply to the engagement of any such accounting firm.

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<sup>1</sup> **Note to Draft:** Subject to review by S&C tax.

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(b) The Trustee shall cause the Trust to collect from, and deliver to, Constellation and the Holders all applicable tax forms as required by law.<sup>2</sup>

(i) In the case of Constellation, the Trustee shall cause its accountants to prepare and file on a timely basis and at the expense of Constellation IRS Form 1041 with respect to the Trust. The Trust may provide any Form 1041 to Constellation for comment prior to submission to the IRS. Consistent with Section 6.1, such IRS Form 1041 shall contain only entity information with respect to Constellation and contain no information in respect of income received by the Trust. Such income shall instead be shown on a separate statement attached to such IRS Form 1041 as income received by Constellation. The Trustee shall also cause to be duly prepared and filed with the appropriate taxing authority any other annual United States federal income tax information return and any other annual income tax returns required to be filed on behalf of the Trust with any state or local taxing authority. The Trustee shall also cause the Trust to furnish Constellation with any additional forms or information as shall be reasonably requested by Constellation to assist Constellation in fulfilling its information reporting and backup withholding obligations.

(ii) In the case of the Holders, unless an exemption from information reporting and backup withholding applies with respect to a Holder (an “*exempt recipient*”), the Trustee shall cause the Trust to deliver to each Holder the appropriate IRS Form 1099, reflecting that income distributions from the Trust in respect of the Trust Securities are interest payments in respect of indebtedness of Constellation paid by Constellation to such Holder.

(c) Not later than 30 days following the last day of each calendar quarter (each, a “*statement date*”), the Trustee shall provide Constellation a statement of the assets held in the Trust as of the statement date or shall provide Constellation with read-only on-line access to the position listings and transaction history with respect to the Trust Property Account, the Trust Notes Account, the Trust Collateral Account and the Retained Eligible Treasury Assets Account that contain valuations of the Eligible Treasury Assets provided by International Data Corporation (“*IDC*”) to the extent published by IDC. The Trustee shall have no obligation to verify or confirm IDC valuations.

*Section 7.2 Certain Accounting Matters.*

(a) At all times during the existence of the Trust, the Trustee shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail each transaction of the Trust. The books of account shall be maintained on the accrual method of accounting, in accordance with generally accepted accounting principles, consistently applied.

(b) So long as any of the Trust Securities are “restricted securities” within the meaning of Rule 144(a)(3) under the Securities Act, the Trust shall, unless it becomes subject to and complies with Section 13 or 15(d) of the Exchange Act, provide or cause to be provided to each Holder of such restricted securities and to each prospective purchaser (as designated by

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<sup>2</sup> **Note to Draft:** Subject to review by S&C Tax.

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such Holder) of such restricted securities, upon the request of such Holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Securities Act.

## ARTICLE VIII

### DISSOLUTION AND TERMINATION OF THE TRUST

#### *Section 8.1 Dissolution and Termination of the Trust.*

(a) Following the termination of the LC Agreement, the Trust shall dissolve and liquidate in accordance with the Statutory Trust Act upon the date that is the earliest to occur of the following (the date of such earliest occurrence, the “*Trust Dissolution Date*”):

(i) January 31, 2027 (or on the following Business Day if such date is not a Business Day);

(ii) any date to which any Senior Notes held by the Trust have been accelerated as a result of an Event of Default under (and as defined in) the Indenture;

(iii) if the Repurchase Right has been terminated, the settlement date of the exercise of the Issuance Right in respect of the entire Available Amount of Senior Notes or, if the Trust then holds the Maximum Amount of Senior Notes, the date the Repurchase Right is terminated;

(iv) the date on which the Maximum Amount is reduced to zero as the result of any redemption of Senior Notes or Voluntary Exercise in respect of which Constellation has made a Cash Settlement Election; and

(v) before the issuance of any Trust Securities by the Trust, receipt by the Trustee of written instruction from the Depositor;

*provided* that the Trust may dissolve prior to the termination of the LC Agreement following the occurrence of a Mandatory Exercise pursuant to an Investment Company Act Event

(b) The Trustee shall give prompt notice to the Holders and each Rating Agency of any event that may result in a Trust Dissolution Date pursuant to Section 8.1(a)(ii), Section 8.1(a)(iii) or Section 8.1(a)(iv), including the receipt of (i) any Issuance Notice in respect of the entire Available Amount if the Repurchase Right has been terminated, (ii) any Automatic Exercise Notice or (iii) any notice of redemption of Senior Notes or any Issuance Notice in respect of which Constellation has made a Cash Settlement Election that will, on the Constellation Payment Date, reduce the Maximum Amount to zero, in each case, within 5 Business Days of a Responsible Officer’s receipt of a written notice of such events from Constellation.

#### *Section 8.2 Liquidation and Dissolution.*

(a) As soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate the Eligible Treasury Assets (other than any Retained Eligible Treasury Assets) held by



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the Trust and seek to collect any amounts due under the Facility Agreement, the Trust Expense Reimbursement Agreement and any Senior Notes held by the Trust; *provided that*, if the Trust is dissolved pursuant to Section 8.1(a)(ii), Section 8.1(a)(iii) or Section 8.1(a)(iv), the Trustee shall only liquidate any Eligible Treasury Assets if and to the extent the amounts collected from other sources are not sufficient to pay or set aside for payment for the Trustee's Fee and all Trust Expenses due and payable and the Trustee shall deliver the remaining Eligible Treasury Assets to Constellation or, as the case may be, the Collateral Agent in respect of such exercise of the Issuance Right prior to distributing any Trust Property to the Holders or other creditors of the Trust.

(b) (i) If the Trust is dissolved pursuant to Section 8.1(a)(ii) or Section 8.1(a)(iii), after satisfying or setting aside for payment all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v), the Trustee shall (to the extent permitted by law) distribute the Senior Notes *pro rata* to the Holders of the Outstanding Trust Securities as soon as practicable after the Trust Dissolution Date. If the Trust is unable to satisfy or set aside for payment all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v) from the amounts received under the Facility Agreement, Trust Expense Reimbursement Agreement, payments under the Senior Notes and liquidation proceeds of any Eligible Treasury Assets that are not delivered to Constellation or, as the case may be, the Collateral Agent pursuant to the exercise of the Issuance Right, in accordance with the Statutory Trust Act, as soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate its remaining Trust Property, including the Senior Notes, in accordance with Section 8.2(d) to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v), and distribute any funds and any Senior Notes it then holds in accordance with the priorities set forth in Section 8.2(c).

(ii) If the Trust is dissolved pursuant to Section 8.1(a)(i), the Trustee shall redeem all Outstanding Trust Securities on January 31, 2027 (or on the following Business Day if such date is not a Business Day) at a redemption price per Trust Security equal to the amount of principal and interest that would have been payable at maturity on \$1,000 principal amount of Senior Notes, subject to the priorities set forth in Section 8.2(c). If the Trust is dissolved pursuant to Section 8.1(a)(iv), the Trustee shall make the Distributions on the Constellation Payment Date, as set forth in Section 5.10. All such Distributions made pursuant to this Section 8.2(b)(ii) shall be made only after the Trustee satisfies or sets aside for payment all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v). If the Trust is unable to satisfy or set aside for payment all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v) from the amounts received under the Facility Agreement and Trust Expense Reimbursement Agreement and payments under the Senior Notes, in accordance with the Statutory Trust Act, as soon as practicable after the Trust Dissolution Date, the Trustee shall liquidate (A) any Eligible Treasury Assets then held by the Trust to the extent necessary to satisfy or set aside for payment all amounts as set forth in Section 8.2(c)(i) through Section 8.2(c)(v) and (B) thereafter any Senior Notes then held by the Trust in accordance with Section 8.2(d), to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v), and distribute any funds it then holds in accordance with the priorities set forth in Section 8.2(c).

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(c) To the fullest extent permitted by the Statutory Trust Act, on the Liquidation Distribution Date, the Trustee shall distribute the Trust Property in accordance with the following priorities:

- (i) *first*, in satisfaction of the expenses of liquidation;
- (ii) *second*, in payment of any Trustee's Fee and any Trust Expenses then due and payable;
- (iii) *third*, to Constellation in satisfaction of any amounts then due and payable to Constellation under the Facility Agreement (including, for the avoidance of doubt, any remaining Retained Eligible Treasury Assets);
- (iv) *fourth*, in satisfaction of any other outstanding obligations of the Trust then due and payable, *pro rata* among those creditors in accordance with the aggregate unpaid amount due to each;
- (v) *fifth*, to set aside any amounts required to reasonably provide for the payment of any known claims or contingent obligations pursuant to the Statutory Trust Act; and
- (vi) *sixth*, to the Holders, *pro rata* with respect to each Trust Security, subject to the provisions set forth in Section 8.2(k).

The date on which the Trustee is required to make any distributions as set forth in Section 8.2(b) or Section 8.2(d) shall be the "*Liquidation Distribution Date*".

(d) Notwithstanding Section 8.2(c), if the Trust Property includes Senior Notes on the Trust Dissolution Date, and if the Trustee determines that any Senior Notes must be liquidated in order to satisfy obligations of the Trust that rank prior to the Distributions to the Holders under Section 8.2(c)(vi), the Trustee shall not make any such Distribution pursuant to Section 8.2(c) until the date on which it has liquidated the Senior Notes to the extent necessary to cover all amounts due as set forth in Section 8.2(c)(i) through Section 8.2(c)(v). Pending the distribution of the Trust Property, the Trustee shall hold the Trust Property, other than any Senior Notes held by the Trust, as provided in Section 2.6(c). To determine whether any Senior Notes must be liquidated, the Trustee shall assume that it shall apply all Trust Property, other than the Senior Notes and any Retained Eligible Treasury Assets, to all obligations and claims of the Trust ranking higher in order of priority than the rights of the Holders, and that the Senior Notes shall be liquidated only to the extent such other Trust Property is insufficient. If the Trustee determines that it must liquidate any of the Senior Notes, it shall liquidate such Senior Notes in accordance with commercially reasonable market standards and in compliance with applicable securities laws. The Trustee shall use commercially reasonable efforts (including retaining third-party agents at the expense of the Trust) to liquidate the Senior Notes as promptly as practicable, but in any event shall dispose of the Senior Notes held by the Trust no later than the 90th day following the Trust Dissolution Date. The Trustee shall distribute the proceeds received from any liquidation of Senior Notes pursuant to this Section 8.2(d) on the date on which the Trustee liquidates the required amount of Senior Notes; *provided* that a purchaser for such Senior Notes is available on such date.

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(e) Upon the occurrence of an event referred to in Section 8.1(a)(v), the Trustee shall proceed to wind up the affairs of the Trust, liquidate the Trust Property, apply the proceeds of such liquidation in the following order of priority and liquidate:

(i) *first*, to the expenses of liquidation; and

(ii) *second*, to the payment of the debts and liabilities of the Trust, as required by applicable law, including any outstanding expenses, fees or indemnity obligations owing to the Trustee.

(f) For purposes of the application of this Section 8.2, all unrealized income, gain, loss and deduction of the Trust shall be treated as realized and recognized immediately before any such distributions.

(g) If the Trustee receives any funds or other Trust Property after the Liquidation Distribution Date, the Trustee shall distribute such funds or other Trust Property in accordance with the priorities set forth in Section 8.2(c), not later than the third Business Day following its receipt of such funds or other Trust Property; provided, however, that if the Trustee receives such funds or other Trust Property in respect of any Retained Eligible Trust Asset, such funds or other Trust Property shall be distributed as required by the Pledge Agreement or as otherwise directed by Constellation.

(h) Unless a Majority of Holders or Constellation determine otherwise, on the one-year anniversary of the Trust Dissolution Date, the Trustee shall (i) distribute any remaining Trust Property in kind or abandon such Trust Property and (ii) at the expense of the Depositor, file a certificate of cancellation of the Trust with the Secretary of State terminating the Trust.

(i) To the extent consistent with the priorities established by this Article VIII, the Trustee may make liquidation distributions after the Trust Dissolution Date but prior to the Liquidation Distribution Date only pursuant to an amendment or waiver of this Declaration made in accordance with Section 10.3.

(j) Once the assets of the Trust have been liquidated and distributed as set forth in this Section 8.2 and a certificate of cancellation has been filed by the Trustee as described above, the Trust shall be terminated in accordance with the Statutory Trust Act.

(k) If *pro rata* distribution of the Senior Notes would result in any Holder being entitled to receive Senior Notes with an aggregate principal amount that is not a multiple of \$1,000, then the Trustee shall round the principal amount of the Senior Notes deliverable to that Holder down to the nearest \$1,000 and shall seek to liquidate any remaining Senior Notes and distribute the proceeds of those remaining Senior Notes to those Holders, *pro rata* in accordance with the principal amount of Senior Notes such Holder would have otherwise been entitled to receive.

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## ARTICLE IX

### LIMITATION OF LIABILITY OF HOLDERS, THE TRUSTEE, THE DELAWARE TRUSTEE OR OTHERS

#### *Section 9.1 Liability; Indemnity.*

- (a) The Trustee, the Delaware Trustee and Constellation shall not be:
- (i) personally liable for the return of any portion of the investment of the Holders or any return thereon, all of which shall be made solely from assets of the Trust;
  - (ii) required to pay to the Trust or to any Holder any deficit upon dissolution of the Trust or otherwise; or
  - (iii) except as expressly set forth herein in the case of the Depositor, required to pay any fees or expenses relating to the operation of the Trust.
- (b) Pursuant to Section 3803(a) of the Statutory Trust Act, the Holders shall be entitled to the same limitation of personal liability extended to shareholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.
- (c) (i) To the fullest extent permitted by applicable law, and (ii) to the extent Constellation fails to indemnify any Indemnified Person (as defined herein) related to the Trustee, the Delaware Trustee or the Collateral Agent pursuant to the Trust Expense Reimbursement Agreement, the assets of the Trust shall be used to indemnify (A) the Trustee, (B) the Delaware Trustee (including in its individual capacity), (C) Collateral Agent, (D) the Securities Intermediary, (E) any Affiliate of the Trustee or the Delaware Trustee and (F) any officers, directors, shareholders, members, partners, employees, representatives, custodians, nominees or agents of the Trustee, the Delaware Trustee, the Collateral Agent, the Securities Intermediary or such Affiliates (each of the Persons in clause (A) through (F) being referred to as an “*Indemnified Person*”) for, and hold each Indemnified Person harmless against, any loss, obligation, action, damage, claim, liability, suit or proceeding whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, in which any Indemnified Person may be involved, as a party or otherwise, by reason of its status as an Indemnified Person, or expense including taxes (other than taxes based on or determined (in whole or in part) by reference to the income of the Trustee, the Delaware Trustee, the Collateral Agent, the Securities Intermediary or such other Person) arising out of or in connection with the Trust, the acceptance or administration of the Trust or the Trust Property, or relating to this Declaration or any other document or agreement, including the Pledge Agreement and the Facility Agreement, entered into, by or on behalf of the Trust or the Trustee, including the costs, disbursements and expenses (including reasonable legal fees and expenses and fees and expenses incurred in connection with enforcement of indemnification rights) of defending itself against, or investigating any claim or liability in connection with, the exercise or performance of any of its powers or duties hereunder or any other such document or agreement and incurred without gross negligence, bad faith or willful misconduct on the part of such Indemnified Person. The obligation to indemnify as set forth in this Section 9.1(c) shall survive the satisfaction and

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discharge of this Declaration or the resignation or removal of the Trustee or the Delaware Trustee.

*Section 9.2 Outside Businesses.* Any of the Depositor, the Trustee, the Delaware Trustee, the Trustee's or Delaware Trustee's officers, directors, shareholders, partners, members, representatives, employees, custodians, nominees, agents or Affiliates, and the Holders may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. None of the foregoing Persons shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any such Person shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any of the foregoing Persons may engage or be interested in any financial or other transaction with Constellation or any Affiliate of Constellation, or may act as depository for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of Constellation or its Affiliates.

## **ARTICLE X**

### **VOTING; AMENDMENTS AND MEETINGS**

*Section 10.1 General.* Except as provided in this Article X, the Holders shall not have any voting rights.

*Section 10.2 Voting.* The Holders shall be entitled to vote as a single class on all matters submitted to the vote of the Holders. Each Trust Security shall have one vote on all matters submitted to the vote of the Holders.

*Section 10.3 Amendments.*

(a) No amendment to this Declaration shall be made, and any such purported amendment shall be void and ineffective:

(i) unless, in the case of any purported amendment, the Trustee shall have first received an opinion of counsel (which may be in-house counsel for Constellation) that such purported amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Trust Securities);

(ii) unless, in the case of any purported amendment that affects the rights, duties, powers, liabilities, indemnities or immunities of the Trustee, the Trustee shall have consented to such amendment;

(iii) unless, in the case of any purported amendment that affects the rights, powers, liabilities, indemnities or immunities of the Delaware Trustee, the Delaware Trustee has consented in writing to such amendment;

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(iv) unless, in the case of any purported amendment that affects the rights of Constellation, Constellation shall have consented to such amendment; or

(v) if the result of such amendment would be to:

(A) cause the Trust to be classified as an association or a publicly traded partnership taxable as a corporation for United States federal income tax purposes;

(B) cause the Trust to be deemed to be an investment company required to be registered under the Investment Company Act; or

(C) permit the Trust to invest in or hold any assets other than the Eligible Treasury Assets, the Senior Notes and its rights under the Transaction Agreements.

(b) Section 2.11, Section 9.1(b), Section 10.2, this Section 10.3 and Section 10.4 shall not be amended without the unanimous consent of the Holders. In addition, if any proposed amendment would affect the rights of the Holders to receive Distributions on the Trust Securities in accordance with their terms, including Distributions in connection with a dissolution of the Trust, such amendment shall not be effective without the unanimous consent of the Holders. Any other amendment may be effected with the approval of the Majority of Holders voting on such matter, subject to the provisions set forth in Section 10.3(c).

(c) Notwithstanding any other provision of this Declaration, this Declaration may be amended without the consent of the Holders:

(i) to cure any ambiguity or correct any mistake or conform this Declaration to the description thereof in the Offering Memorandum;

(ii) to correct or supplement any provision in this Declaration that may be defective or inconsistent with any other provision of this Declaration;

(iii) as determined in good faith by an Authorized Officer, in an Officer's Certificate (as defined in the Indenture; *provided* that any reference to the term "Trustee" in the definition of Officer's Certificate in the Indenture shall be deemed to refer to the Trustee as defined in this Agreement) delivered to the Trustee, upon which the Trustee and the opinion of counsel referenced in Section 10.3(a)(i) are entitled to rely, to make any change that does not adversely affect the rights of any Holder in any material respect; or

(iv) to make any other change that may in the reasonable judgment of Constellation be necessary or appropriate to prevent the occurrence of any Investment Company Act Event or P-Caps Tax Event, *provided* that such change would not change the timing or amount of any Distribution to the Holders or the United States federal income tax treatment of the Holders as the owners of indebtedness of Constellation, either held directly or held through the Trust.

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(d) At the request of Constellation, the Trust may consent to any amendment or modification of the Facility Agreement, the Pledge Agreement or Trust Expense Reimbursement Agreement, subject to obtaining any consent of Holders required by the terms of such agreement in respect of such amendment or modification.

(e) The Trustee shall provide prompt written notice to the Holders and each Rating Agency of any amendment to or modification of any Transaction Agreement to which it is a party, other than any such amendment or modification that conforms such Transaction Agreement to the description thereof in the Offering Memorandum.

(f) Prior to the execution of any amendment to this Trust Declaration or any Transaction Agreement to which the Trust is a party, the Trustee and the Delaware Trustee shall be entitled to receive and conclusively rely on an opinion of counsel, at the expense of the Trust, stating that the execution of such amendment is authorized or permitted by this Declaration and the Transaction Agreements and that all conditions precedent to the execution of such amendment have been satisfied. The Trustee and the Delaware Trustee may, but shall not be obligated to, enter into any such amendment which affects the Trustee's or the Delaware Trustee's own rights, duties or immunities under this Declaration.

*Section 10.4 Certain Other Matters.*

(a) If the consent of the Holders or the holders of the Senior Notes is required, or would be required if the Senior Notes were outstanding, with respect to any amendment, modification or waiver of the terms of or rights or preferences under, or other matter in respect of the Senior Notes or the Indenture (whether or not the Trust is then holding any Senior Notes), any other securities that are part of the Trust Property or any other agreement to which the Trust is a party, the Trustee shall request the direction of the Holders of the Trust Securities with respect to such matter.

(b) With respect to the Senior Notes and the Indenture (whether or not the Trust is then holding any Senior Notes), the Trustee shall only give its consent with respect to those matters if (i) a Majority of Holders consent thereto, in the case of any matter of the type that requires, or would require, the consent of holders of a majority of the outstanding Senior Notes or (ii) all Holders consent thereto, in the case of any matter of the type that requires, or would require, consent of all holders of Senior Notes. With respect to all other matters, and prior to taking any other legal action with respect to any Trust Property, the Trustee shall request the direction of the Holders with respect to such matter or legal action and shall act with respect to such matter or legal action as directed by a Majority of Holders. The Trustee shall not be obligated to take any action in accordance with the directions of the Holders under this Section 10.4 unless the Trustee has received an Opinion of Tax Counsel to the effect that for United States federal income tax purposes the Trust shall not be classified as an association or a publicly traded partnership taxable as a corporation after consummation of such action.

(c) Constellation agrees that it shall not amend the Indenture, as it would apply to the Senior Notes, after the issue date of the Trust Securities and at a time no Senior Notes are outstanding, except with respect to changes that would not require any vote by holders of Senior Notes if the Senior Notes were outstanding, without the consent of the Trustee, as

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directed by the Holders of the Trust Securities, as provided in Section 10.4(a) and Section 10.4(b).

*Section 10.5 Meetings of the Holders.*

(a) Meetings of the Holders may be called at any time by the Trustee or as provided by this Declaration. Except to the extent otherwise provided in this Declaration, the following provisions shall apply to meetings of Holders.

(b) Whenever a vote, consent or approval of Holders is permitted or required under this Declaration such vote, consent or approval may be given at a meeting of Holders, in person or by proxy, or by written consent.

(c) Each Holder may authorize any Person to act for it by proxy on all matters in which such Holder is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Holder or its attorney-in-fact. Every proxy shall be revocable at the pleasure of the Holder executing it at any time before it is voted.

(d) Each meeting of Holders shall be conducted by the Trustee or by such other Person that the Trustee may designate.

(e) A quorum with respect to any such meeting shall not be less than 50% of the Holders entitled to vote at the meeting. The Trustee shall cause a notice of any meeting at which Holders are entitled to vote, or of any matter upon which action may be taken by written consent of such Holders, to be mailed to each Holder at least 10 days before such meeting. Each such notice shall include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any action proposed to be taken at such meeting on which such Holders are entitled to vote or of such matters upon which written consent is sought and (iii) instructions for the delivery of proxies or consents. Any and all meetings of Holders shall be held during normal business hours.

(e) The Trustee shall establish all other provisions relating to meetings of Holders, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Holders, action by consent without a meeting, the establishment of a record date, quorum requirements (other than those set forth in Section 10.5(e)), voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

## **ARTICLE XI**

### **REPRESENTATIONS OF THE TRUSTEE AND THE DELAWARE TRUSTEE**

*Section 11.1 Representations and Warranties of the Trustee.* The Person that acts as initial Trustee represents and warrants to the Trust and to the Depositor and for the benefit of the Holders at the date of this Declaration, and each Successor Trustee represents and warrants to the Trust and the Depositor and for the benefit of the Holders at the time of the Successor Trustee's acceptance of its appointment as Successor Trustee that:



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(a) The Trustee is a banking corporation, organized and authorized under the laws of the State of New York (or, in the case of a Successor Trustee, its jurisdiction of incorporation) to exercise corporate trust powers, duly organized, validly existing and in good standing under such laws, with power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(b) The Trustee satisfies the requirements of Section 4.1(a).

(c) The execution, delivery and performance by the Trustee of the Certificate of Trust and this Declaration have been duly authorized by all necessary corporate action on the part of the Trustee. This Declaration has been duly executed and delivered by the Trustee and constitutes a legal, valid and binding obligation of the Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(d) The execution, delivery and performance of the Certificate of Trust and this Declaration by the Trustee does not conflict with or constitute a breach of the charter or Articles of Association or the By-laws of the Trustee.

(e) No consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Trustee of the Certificate of Trust and this Declaration.

(f) The Trustee, except as expressly provided or contemplated by this Declaration, shall not dispose of any Trust Property, or create, incur or assume, or suffer to exist as a result of its conduct any mortgage, pledge, hypothecation, encumbrance, lien or other charge or security interest upon the Trust Property.

*Section 11.2 Representations and Warranties of the Delaware Trustee.* The Delaware Trustee that acts as initial Delaware Trustee represents and warrants to the Trust and to the Depositor and for the benefit of the Holders at the date of this Declaration, and each Successor Delaware Trustee represents and warrants to the Trust and the Depositor and for the benefit of the Holders at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee, that:

(a) The Delaware Trustee fulfills the requirements of Section 3807 of the Statutory Trust Act and has the power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, this Declaration.

(b) The Delaware Trustee has been authorized to execute, deliver and perform its obligations under the Certificate of Trust and this Declaration. This Declaration has been duly executed and delivered by the Delaware Trustee and constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court

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(regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(c) No consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Delaware Trustee of this Declaration.

(d) The Delaware Trustee is an entity that has its principal place of business in the State of Delaware.

## ARTICLE XII

### MISCELLANEOUS

#### *Section 12.1 Notices.*

(a) Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor in person, by registered or certified mail or by nationally recognized overnight courier, by facsimile or as a PDF attachment to an e-mail, addressed as follows (except that such notices, requests and other communications if given to the Trustee or the Delaware Trustee shall not be effective unless actually received by the Trustee or the Delaware Trustee, as the case may be, at the Corporate Trust Office or principal place of business of the Delaware Trustee, as the case may be):

If to the Trust at:

Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

If to the Trustee at:

Deutsche Bank Trust Company Americas  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

If to the Delaware Trustee at:

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Deutsche Bank Trust Company Delaware  
1011 Centre Road Suite 200  
Wilmington, Delaware 19805  
Attn: Corporate Trust/Fells Point Funding Trust

If to S&P at:

S&P Global Ratings  
55 Water Street  
New York, New York 10041

If to Moody's at:

Moody's Investors Service, Inc.  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007

If to the Depositor or Constellation at:

Constellation Energy Generation, LLC  
200 Exelon Way  
Kennett Square, Pennsylvania 19348  
Attention: General Counsel

With a copy to:

Ballard Spahr LLP  
1735 Market Street, 51st Floor  
Philadelphia, Pennsylvania 19103  
Attention: Patrick R. Gillard, Esq.

If to any Holder, at the address of such Holder set forth on the Register.

The Trustee shall have the right, but shall not be required, to rely upon and comply with instructions and directions sent by e-mail and other similar unsecured electronic methods by persons believed by the Trustee to be authorized to give instructions and directions on behalf of the Depositor. The Trustee shall have no duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, a person authorized to give instructions or directions on behalf of the Depositor; and the Trustee shall have no liability for any losses, liabilities, costs or expenses incurred or sustained by the Depositor as a result of such reliance upon or compliance with such instructions or directions. The Depositor agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

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Any notice or other communication provided for herein to be given to a Rating Agency shall be provided as a matter of accommodation and no liability shall attach to the giver of such notice or other communication for the failure to deliver same or any defect in its contents.

(b) Any such notice shall be effective upon delivery, if delivered in person; upon acknowledgement of receipt, if delivered by email transmission; on the fifth day after deposited in the mail, postage prepaid, if delivered by registered or certified mail; and on the day after deposit with a nationally recognized overnight courier, if delivered by overnight courier. Any party hereto may change its address or email address for notices and other communications hereunder by notice to the other parties hereto in accordance with this Section 12.1.

*Section 12.2 GOVERNING LAW.* THIS DECLARATION, THE TRUST SECURITIES AND THE RIGHTS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE AND ALL RIGHTS AND REMEDIES SHALL BE GOVERNED BY SUCH LAWS WITHOUT REGARD TO THE PRINCIPLES OF CONFLICT OF LAWS OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTION THAT WOULD CALL FOR THE APPLICATION OF THE LAW OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE; PROVIDED, HOWEVER, THAT THERE SHALL NOT BE APPLICABLE TO THE PARTIES HEREUNDER OR THIS DECLARATION ANY PROVISION OF THE LAWS (STATUTORY OR COMMON, OTHER THAN THE STATUTORY TRUST ACT) OF THE STATE OF DELAWARE PERTAINING TO TRUSTS THAT RELATE TO OR REGULATE, IN A MANNER INCONSISTENT WITH THE TERMS HEREOF, INCLUDING (A) THE FILING WITH ANY COURT OR GOVERNMENTAL BODY OR AGENCY OF TRUSTEE ACCOUNTS OR SCHEDULES OF TRUSTEE FEES AND CHARGES, (B) AFFIRMATIVE REQUIREMENTS TO POST BONDS FOR TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (C) THE NECESSITY FOR OBTAINING COURT OR OTHER GOVERNMENTAL APPROVAL CONCERNING THE ACQUISITION, HOLDING OR DISPOSITION OF REAL OR PERSONAL PROPERTY, (D) FEES OR OTHER SUMS PAYABLE TO TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES OF A TRUST, (E) THE ALLOCATION OF RECEIPTS AND EXPENDITURES TO INCOME OR PRINCIPAL, (F) RESTRICTIONS OR LIMITATIONS ON THE PERMISSIBLE NATURE, AMOUNT OR CONCENTRATION OF TRUST INVESTMENTS OR REQUIREMENTS RELATING TO THE TITLING, STORAGE OR OTHER MANNER OF HOLDING OR INVESTING TRUST ASSETS, OR (G) THE ESTABLISHMENT OF FIDUCIARY OR OTHER STANDARDS OR RESPONSIBILITY OR LIMITATIONS ON THE ACTS OR POWERS OF THE TRUSTEE THAT ARE INCONSISTENT WITH THE LIMITATIONS OR LIABILITIES OR AUTHORITIES AND POWERS OF THE TRUSTEE HEREUNDER AS SET FORTH OR REFERENCED IN THIS TRUST DECLARATION. SECTIONS 3540 AND 3561 OF TITLE 12 OF THE DELAWARE CODE SHALL NOT APPLY TO THE TRUST.

*Section 12.3 Jurisdiction.* The parties hereto agree that any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Declaration or the transactions contemplated hereby shall be brought exclusively in the Court of Chancery of the State of Delaware or, if such court does not have jurisdiction over the subject matter of such proceeding or if such jurisdiction is not available, in any other court of the State of Delaware or in the United States District Court for the District of Delaware, and each of

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the parties hereto hereby irrevocably consents to the exclusive jurisdiction of those courts (and of the appropriate appellate courts therefrom) in any suit, action or proceeding and irrevocably waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of the venue of any suit, action or proceeding in any of those courts or that any suit, action or proceeding which is brought in any of those courts has been brought in an inconvenient forum. Each of the parties hereto unconditionally agrees, to the extent such party is not otherwise subject to service of process in the State of Delaware, to appoint and maintain an agent in the State of Delaware as such party's agent for acceptance of legal process. Process in any suit, action or proceeding may be served on any party hereto anywhere in the world, whether within or without the jurisdiction of any of the named courts and such service shall, to the fullest extent permitted by applicable law, have the same legal force and effect as if served upon such party within the State of Delaware.

*Section 12.4 WAIVER OF TRIAL BY JURY.* THE PARTIES HERETO AND THE HOLDERS HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS DECLARATION OR THE TRANSACTIONS CONTEMPLATED HEREBY.

*Section 12.5 Enforceability.* If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

*Section 12.6 Counterparts.* This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signatures of the Trustee, the Delaware Trustee and a duly authorized officer of the Depositor to one of such counterpart signature pages. The words "execution", "signed", "signature", and words of like import in this Declaration shall include electronic signatures (including without limitation, Diligent, DocuSign and AdobeSign or any other similar platform identified by Constellation and reasonably available at no undue burden or expense to the Trustee or Delaware Trustee, with respect to their signatures) and such electronic signature procedures shall apply to all documents related to this Declaration, without limitation, addendums, amendments, notices, instructions, communications with respect to the delivery of Trust Securities or the wire transfer of funds or other communications. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page. The exchange of copies of this Declaration and of signature pages by email transmission of PDF files shall constitute effective execution and delivery of this Declaration as to the parties hereto and may be used in lieu of the original Declaration for all purposes. Signatures of the parties hereto transmitted by email transmission of PDF files shall be deemed to be their original signatures for all purposes.

*[Signature Pages Follow]*

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IN WITNESS WHEREOF, each of the undersigned has caused this Amended and Restated Declaration of Trust to be executed as of the day and year first above written.

CONSTELLATION ENERGY  
GENERATION, LLC,  
individually and as Depositor

By /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

*[Signature Page to Amended & Restated Declaration of Trust]*

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DEUTSCHE BANK TRUST COMPANY  
AMERICAS,  
as Trustee

By /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

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DEUTSCHE BANK TRUST COMPANY  
DELAWARE,  
as Delaware Trustee

By /s/ Bridgette Casasnovas  
Name: Bridgette Casasnovas  
Title: Vice President

By /s/ Robert Peschler  
Name: Robert Peschler  
Title: Vice President

*[Signature Page to Amended & Restated Declaration of Trust]*



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**EXHIBIT A**  
**CERTIFICATE OF TRUST**

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**EXHIBIT B**  
**FORM OF CERTIFICATE**

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION, AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT TO A PERSON WHO IS (A) A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT); (B) A "QUALIFIED PURCHASER" (AS DEFINED UNDER SECTION 2(A)(51) OF THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT")); (C) NOT FORMED FOR THE PURPOSE OF INVESTING IN THE TRUST OR THE SENIOR NOTES; (D) KNOWLEDGEABLE, SOPHISTICATED AND EXPERIENCED IN BUSINESS AND FINANCIAL MATTERS; (E) ABLE AND PREPARED TO BEAR THE ECONOMIC RISK OF INVESTING AND HOLDING THE TRUST SECURITIES FOR AN INDEFINITE PERIOD; AND (F) NOT (I) AN EMPLOYEE BENEFIT PLAN (AS DEFINED IN SECTION 3(3) OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA")) THAT IS SUBJECT TO ERISA, A PLAN DESCRIBED IN SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, (II) A GOVERNMENTAL PLAN (AS DEFINED IN SECTION 3(32) OF ERISA), A CHURCH PLAN (AS DEFINED IN SECTION 3(33) OF ERISA) OR A NON-U.S. PLAN (AS DESCRIBED IN SECTION 4(B)(4) OF ERISA) THAT IS NOT SUBJECT TO THE REQUIREMENTS OF ERISA OR THE CODE BUT IS SUBJECT TO SIMILAR PROVISIONS UNDER APPLICABLE FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS ("SIMILAR LAWS") OR (III) AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE PLAN ASSETS OF ANY SUCH PLANS PURSUANT TO SECTION 3(42) OF ERISA, DEPARTMENT OF LABOR REGULATIONS OR OTHERWISE.

THE SECURITIES EVIDENCED HEREBY MAY BE TRANSFERRED ONLY TO A PERSON WHO THE TRUST REASONABLY BELIEVES QUALIFIES AS A TRANSFEREE PURSUANT TO THE PRECEDING PARAGRAPH. ANY PURPORTED TRANSFER OF SECURITIES OF THE TRUST THAT WOULD VIOLATE THESE TRANSFER RESTRICTIONS IS DEEMED BY THE TRUST'S AMENDED AND RESTATED DECLARATION OF TRUST (THE "TRUST DECLARATION") TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY INTENDED TRANSFEREE IN SUCH A PURPORTED TRANSFER SHALL NOT BECOME OR BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO THE RECEIPT OF DISTRIBUTIONS ON SUCH SECURITIES, AND SUCH INTENDED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES. IN SUCH A CASE, THE PURPORTED TRANSFEROR IS DEEMED BY THE TRUST

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DECLARATION TO CONTINUE TO BE THE HOLDER OF THE SECURITIES  
NOTWITHSTANDING THE PURPORTED TRANSFER OF THE SECURITIES.

THE TRUST RESERVES THE RIGHT TO MODIFY THE FORM OF CERTIFICATES EVIDENCING THE TRUST SECURITIES FROM TIME TO TIME TO REFLECT ANY CHANGES IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THEIR PURCHASE OR RESALE. THE TRUST SECURITIES AND RELATED DOCUMENTATION, INCLUDING THIS LEGEND, MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME TO MODIFY RESTRICTIONS ON AND PROCEDURES FOR REALES AND OTHER TRANSFERS OF THE TRUST SECURITIES TO REFLECT ANY CHANGE IN APPLICABLE LAW OR REGULATION (OR THE INTERPRETATION THEREOF) OR IN PRACTICES RELATING TO THE RESALE OR TRANSFER OF SECURITIES SUCH AS THE TRUST SECURITIES GENERALLY. EACH HOLDER OF THIS CERTIFICATE SHALL BE DEEMED, BY THE ACCEPTANCE OF THIS CERTIFICATE, TO HAVE AGREED TO ANY SUCH AMENDMENT OR SUPPLEMENT.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THIS CERTIFICATE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO A NOMINEE OF DTC, BY A NOMINEE OF DTC TO DTC, OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR TO DTC OR ANY NOMINEE OF SUCH A SUCCESSOR.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE TRUST OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

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**Certificate Number:**

**Number of Trust Securities:**

**CUSIP: 314382 AA0**

**ISIN: US314382AA01**

**Pre-Capitalized Trust Securities Redeemable January 31, 2027**

**issued by**

**Fells Point Funding Trust**

Fells Point Funding Trust, a statutory trust formed under the laws of the State of Delaware (the "Trust") hereby certifies that [ ] (the "Holder") is the registered owner of [ ] Pre-Capitalized Trust Securities Redeemable January 31, 2027 (the "Trust Securities") representing an undivided beneficial interest in the assets of the Trust. This Certificate, and the Trust Securities evidenced hereby, are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this instrument duly endorsed and in proper form for transfer as provided in Section 5.4 of the Trust Declaration (as defined below). The designations, rights, privileges, restrictions, preferences and other terms of the Trust Securities are set forth in, and this Certificate is issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Declaration of Trust of Fells Point Funding Trust, dated as of February 9, 2022, as the same may be amended from time to time in accordance with its terms (the "Trust Declaration"), among Constellation Energy Generation, LLC, a Pennsylvania limited liability company, in its individual capacity and as Depositor, Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and Deutsche Bank Trust Company Delaware, a Delaware banking corporation, as Delaware trustee. The Trust Declaration authorizes the issuance of a total of 1,000,000 Trust Securities. The Trustee shall furnish a copy of the Trust Declaration to the Holder without charge upon written request to the Trust at its Corporate Trust Office.

The Holder is bound by the Trust Declaration and entitled to the benefits provided for therein for Holders holding Trust Securities.

This instrument shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its conflict of laws provisions.

All capitalized terms used and not otherwise defined in this instrument shall have the meanings assigned to them in the Trust Declaration.

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IN WITNESS WHEREOF, the Trust has caused this instrument to be executed by the Trustee by one of its officers thereunto duly authorized this \_\_\_\_\_, day of \_\_\_\_\_, \_\_\_\_\_.

FELLS POINT FUNDING TRUST

By DEUTSCHE BANK TRUST  
COMPANY AMERICAS, not in its  
individual capacity but solely as Trustee

By \_\_\_\_\_  
Name:  
Title:

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**EXHIBIT C**  
**FORM OF PLEDGE AGREEMENT**

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**EXHIBIT D**  
**FORM OF FACILITY AGREEMENT**

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**EXHIBIT E**  
**FORM OF TRUST EXPENSE REIMBURSEMENT AGREEMENT**



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**EXHIBIT F**  
**FORM OF ENGAGEMENT LETTER OF COVER & ROSSITER**

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**EXHIBIT G**

**CUSIPS, FACE AMOUNT AND PURCHASE PRICE OF THE ELIGIBLE TREASURY  
ASSETS ON THE DATE HEREOF**

<b>CUSIP</b>	<b>STRIP Face Amount</b>	<b>Purchase Price</b>
912834PL6	\$7,505,900.00	\$7,490,062.55
912834PY8	\$7,855,000.00	\$7,804,649.45
912834QN1	\$7,855,000.00	\$7,753,277.75
912834RA8	\$7,855,000.00	\$7,685,017.80
912834RQ3	\$7,855,000.00	\$7,623,591.70
912834TE8	\$7,855,000.00	\$7,555,253.20
912834TU2	\$7,855,000.00	\$7,486,993.25
912834UG1	\$7,855,000.00	\$7,413,391.90
912834UX4	\$7,855,000.00	\$7,339,005.05
912834VL9	\$7,855,000.00	\$7,260,455.05
912821DT9	\$1,000,000,000.00	\$924,580,000.00
Total		\$999,991,697.70



**PLEDGE AND CONTROL AGREEMENT**

dated as of February 9, 2022

among

**FELLS POINT FUNDING TRUST,  
CONSTELLATION ENERGY GENERATION, LLC,**

**DEUTSCHE BANK COMPANY AMERICAS,  
as Collateral Agent**

and

**DEUTSCHE BANK COMPANY AMERICAS,  
as Securities Intermediary**

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## PLEDGE AND CONTROL AGREEMENT

PLEDGE AND CONTROL AGREEMENT, dated as of February 9, 2022, among FELLO POINT FUNDING TRUST, a Delaware statutory trust (the “Trust”), CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company (“Constellation”), DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation (“Deutsche Bank”), as Collateral Agent (the “Collateral Agent”) for the benefit of the LC Facility Secured Parties (as defined below), and DEUTSCHE BANK TRUST COMPANY AMERICAS, as deposit bank and securities intermediary (in such capacities, collectively, the “Securities Intermediary”).

### RECITALS:

WHEREAS, Constellation is entering into a Letter of Credit Facility Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “LC Facility Agreement”), among Constellation, the financial institutions from time to time party thereto, as letter of credit issuers, and Deutsche Bank, as administrative agent and as collateral agent for the LC Facility Secured Parties.

WHEREAS, Constellation shall hereby establish, and be the owner of a securities account, Account No. SF7148-001.1 (together with any renumbered or replacement account, the “Constellation Securities Account”) and a deposit account holding cash, Account No. SF7148-001.2 (together with any renumbered or replacement account, the “Constellation Deposit Account” and, together with the Constellation Securities Account, collectively, the “Constellation Collateral Accounts”), each maintained with the Securities Intermediary;

WHEREAS, Constellation (in such capacity, the “Constellation Pledgor”) shall, pursuant to the terms and conditions set forth herein, grant a security interest to the Collateral Agent, for the benefit of the LC Facility Secured Parties, in any Constellation Collateral Accounts now or hereafter in existence and all Collateral now or hereafter on deposit therein or credited thereto;

WHEREAS, the Trust is entering into a Facility Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “Facility Agreement”), among Constellation, the Trust and Deutsche Bank, as Notes Trustee, pursuant to which the Trust shall, upon the exercise of the Issuance Right by Constellation as described in the Facility Agreement, be obligated to purchase Constellation’s 3.046% Senior Notes due 2027 (the “Senior Notes”) by transferring certain Eligible Treasury Assets to the Constellation Collateral Accounts, or in the event Constellation makes a Cash Settlement Election with respect to any Senior Notes, to accept the Cash Settlement Amount in lieu thereof;

WHEREAS, the Trust shall hereby establish, and be the owner of, (i) a securities account, Account No. SF7148.2, maintained with the Securities Intermediary (such account, together with any renumbered or replacement account, the “Trust Collateral Account”) and (ii) a securities account, Account No. SF7148.4, maintained with the Securities Intermediary (such account, together with any renumbered or replacement account, the “Retained Eligible Treasury Assets Account”);

WHEREAS, the Trust shall, pursuant to the terms and conditions set forth herein, and at the irrevocable direction of Constellation pursuant to the power granted to Constellation pursuant to the Trust Declaration and Facility Agreement, enter into this Agreement and (a) grant a security interest to the Collateral Agent, for the benefit of the LC Facility Secured Parties, in the Trust Collateral Account and the Retained Eligible Treasury Assets Account, and, in each case, all Collateral now or hereafter on deposit therein or credited thereto up to the Required LC Collateral Amount as determined from time to time, (b) grant a security interest to Constellation (in such capacity, the “*Constellation Secured Party*”) in all Collateral now or hereafter on deposit in or credited to the Trust Collateral Account and the Retained Eligible Treasury Assets Account in excess of the Required LC Collateral Amount as determined from time to time and (c) take any actions or authorize Constellation, on its behalf, to take any actions required by the Trust herein;

WHEREAS, (a) each of the Trust, the Constellation Pledgor, the Collateral Agent and the Constellation Secured Party wishes that the Securities Intermediary enter into this Agreement in order to provide (i) the Collateral Agent with “control” (as defined in Sections 8-106, 9-104 and/or 9-106 of the UCC) over the Trust Collateral Account and the Retained Eligible Treasury Assets Account and, in each case any Collateral now or hereafter on deposit therein or credited thereto as a means to perfect the security interest of the Collateral Agent therein (in the case of the Trust LC Facility Collateral up to and including the Required LC Collateral Amount), and (ii) the Constellation Secured Party with “control” (as defined in Sections 8-106 and 9-106 of the UCC) over the Excess Eligible Treasury Assets as a means to perfect the security interest of the Constellation Secured Party therein;

WHEREAS, Constellation is willing to enter into the Facility Agreement only if the Trust provides collateral security for (a) the obligations of Constellation under the LC Facility Agreement and (b) the obligation of the Trust to pay the Notes Purchase Price under the Facility Agreement, in each case, as provided for in this Agreement;

WHEREAS, it is a condition precedent to the issuance of Letters of Credit by the issuers under the LC Facility Agreement that the Trust, the Constellation Pledgor, the Securities Intermediary and the Collateral Agent shall have executed and delivered this Agreement and provided the security interests as set forth herein;

WHEREAS, Constellation will derive substantial direct and indirect benefit from the transactions contemplated by the Letters of Credit issued pursuant to the LC Facility Agreement; and

WHEREAS, Deutsche Bank is willing to act as Collateral Agent for the benefit of the LC Facility Secured Parties in respect of the LC Facility Collateral as provided in this Agreement but only on the terms and subject to the conditions set forth in this Agreement and the LC Facility Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Collateral Agent, the Trust and Constellation agree as follows:



## ARTICLE I

### DEFINITIONS; INTERPRETATION

#### Section 1.1 *Definitions.*

(a) Unless the context otherwise requires, in this Agreement (including in the Recitals):

“*Agreement*” means this Pledge and Control Agreement.

“*Authorized Officer*” means the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary, any Assistant Secretary, the General Counsel or the Controller, of Constellation.

“*Cash*” means immediately available funds denominated in U.S. dollars and on deposit in a demand deposit account.

“*Collateral*” means the LC Facility Collateral and the Notes Purchase Obligations Collateral.

“*Constellation Collection Event*” means any failure by the Trust to satisfy the Notes Purchase Obligations when due.

“*Excess Eligible Treasury Assets*” means, at any given time, the Excess Retained Eligible Treasury Assets at such time plus the Excess Primary Eligible Treasury Assets at such time.

“*Excess Primary Eligible Treasury Assets*” means, at any given time, (a) if there are any Excess Retained Eligible Treasury Assets at such time, all Primary Eligible Treasury Assets or (b) if there are no Excess Retained Eligible Treasury Assets at such time, the portion, if any, of the Eligible Treasury Assets credited to the Trust Collateral Account that is in excess of the difference between (i) the Required LC Collateral Amount minus (ii) the Net Asset Value of the Retained Eligible Treasury Assets credited to the Retained Eligible Treasury Assets Account, as calculated on a Percentage Pro Rata Basis.

“*Excess Retained Eligible Treasury Assets*” means, at any given time, the portion, if any, of the Retained Eligible Treasury Assets credited to the Retained Eligible Treasury Assets Account that is in excess of the Required LC Collateral Amount, as calculated on a Percentage Pro Rata Basis.

“*Hague Securities Convention*” means The Hague Securities Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary.

“*LC Facility Collection Event*” means (i) any failure by Constellation to pay any L/C Reimbursement Amount when due pursuant to Section 4(a) of the LC Facility

Agreement and/or (ii) the occurrence of any Event of Default under and as defined in the LC Facility Agreement.

“*LC Facility Secured Parties*” has the meaning given to the term “Secured Parties” in the LC Facility Agreement.

“*Lien*” means any lien, mortgage, pledge, security interest, assignment, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest).

“*Percentage Pro Rata Basis*” means:

(a) with respect to calculating the Excess Primary Eligible Treasury Assets, taking the face amount of each principal and interest STRIP constituting Primary Eligible Treasury Assets and subtracting from each such amount the same integral percentage of each such amount, such that the Net Asset Value of the remaining face amount of such Primary Eligible Treasury Assets exceeds the amount equal to the difference between (i) the Required LC Collateral Amount minus (ii) the Net Asset Value of the Retained Eligible Treasury Assets, if any; provided that, in allocating the foregoing, if after the subtraction of such percentage, the remaining portion of the face amount of any Primary Eligible Treasury Asset is not in an integral multiple of \$100, such amount shall be rounded up to the nearest \$100; provided, further, that if the Required LC Collateral Amount exceeds the Net Asset Value of (x) the Retained Eligible Treasury Assets plus (y) the Primary Eligible Treasury Assets, the Excess Primary Eligible Treasury Assets shall be zero; and

(b) with respect to calculating the Excess Retained Eligible Treasury Assets, taking the face amount of each principal and interest STRIP constituting Retained Eligible Treasury Assets credited to the Retained Eligible Treasury Assets Account, if any, and subtracting from each such amount the same integral percentage of each such amount, such that the Net Asset Value of the remaining face amount of such Retained Eligible Treasury Assets exceeds the Required LC Collateral Amount; provided that in allocating the foregoing, if after the subtraction of such percentage, the remaining portion of the face amount of any Retained Eligible Treasury Asset is not in an integral multiple of \$100 such amount shall be rounded up to the nearest \$100; provided, further, that if the Required LC Collateral Amount exceeds the Net Asset Value of the Retained Eligible Treasury Assets, the amount of the Excess Retained Eligible Treasury Assets shall be zero.

“*Pledged Property Accounts*” means the Trust Collateral Account, the Retained Eligible Assets Account and the Constellation Collateral Accounts.

“*Primary Eligible Treasury Assets*” means the Eligible Treasury Assets credited to the Trust Collateral Account, which, for the avoidance of doubt, shall exclude any Retained Eligible Treasury Assets held in the Retained Eligible Treasury Assets Account,

“*Required LC Collateral Amount*” means, on any date, (a) so long as the LC Facility Agreement is in effect, the Minimum Collateral Base on such date minus the Net Asset Value of cash and Eligible Treasury Assets deposited in or credited to the Constellation Collateral Accounts on such date, as determined by the Collateral Agent (or its sub-agent) in accordance with the LC Facility Agreement and (b) after (i) the LC Facility Obligations have been paid in full, (ii) each Letter of Credit has expired, terminated or been cancelled and (iii) the LC Facility Agreement has been terminated in accordance with its terms, \$0.

“*Securities Intermediary*” means Deutsche Bank.

“*Statutory Trust Act*” means Chapter 38 of Title 12 of the Delaware Code, 12 *Del. C.* Section 3801 *et seq* as amended from time to time.

“*Trust Declaration*” means the Amended and Restated Declaration of Trust, dated as of the date hereof, among Constellation, as depositor, Deutsche Bank, as trustee, and Deutsche Bank Trust Company Delaware, as Delaware trustee.

“*UCC*” means the Uniform Commercial Code as in effect in the State of New York as amended from time to time.

(b) As used herein (including the Recitals), each of the following terms shall have the meaning set forth in the Section of this Agreement or in the other document set forth opposite such term in the table below, unless the context otherwise requires:

Affiliate.....	Trust Declaration
Applicable Percentage .....	Facility Agreement
Business Day.....	LC Facility Agreement
Cash Settlement Amount .....	Facility Agreement
Cash Settlement Election .....	Facility Agreement
Collateral Agent.....	Preamble
Constellation .....	Preamble
Constellation Collateral Accounts .....	Recitals
Constellation Deposit Account .....	Recitals
Constellation Pledged Collateral.....	Section 3.1(a)
Constellation Pledgor.....	Recitals
Constellation Secured Party .....	Recitals
Constellation Securities Account.....	Recitals
Defaulted Eligible Treasury Assets .....	Trust Declaration
Deutsche Bank .....	Preamble
Eligible Treasury Assets .....	LC Facility Agreement
Excess Eligible Treasury Assets .....	Section 3.1(b)
Facility Agreement.....	Recitals
Facility Document.....	LC Facility Agreement
Holder .....	Trust Declaration
Investment Company Act Event.....	Trust Declaration
Issuance Right.....	Facility Agreement

Issuer .....	LC Facility Agreement
Issuer Joinder Agreement .....	LC Facility Agreement
LC Facility Agreement .....	Recitals
LC Facility Collateral .....	Section 3.1(b)
LC Facility Obligations.....	Section 2.1
Letter of Credit.....	LC Facility Agreement
L/C Reimbursement Amount.....	LC Facility Agreement
L/C Reimbursement Obligation.....	LC Facility Agreement
Letters of Credit .....	LC Facility Agreement
Majority Issuers .....	LC Facility Agreement
Majority of Holders.....	Trust Declaration
Minimum Collateral Base .....	LC Facility Agreement
Moody's .....	Trust Declaration
Net Asset Value .....	LC Facility Agreement
Notes Purchase Obligations .....	Section 2.1
Notes Purchase Obligations Collateral .....	Section 3.1(c)
Notes Purchase Price.....	Facility Agreement
Obligations .....	Section 2.1
Offering Memorandum .....	Trust Declaration
P-Caps Tax Event .....	Trust Declaration
Permitted Liens .....	LC Facility Agreement
Person.....	Trust Declaration
Proceedings .....	Section 10.6
Property Account .....	Trust Declaration
Retained Eligible Treasury Assets .....	Facility Agreement
Retained Eligible Treasury Assets Account .....	Recitals
Repurchase .....	Facility Agreement
Responsible Officer .....	Trust Declaration
Senior Notes.....	Recitals
Standard & Poor's.....	Trust Declaration
STRIPS .....	Trust Declaration
Transaction Agreements .....	Trust Declaration
Trust .....	Preamble
Trust Collateral Account.....	Recitals
Trust Income .....	Trust Declaration
Trust LC Facility Collateral .....	Section 3.1(b)
Trust Securities .....	Trust Declaration
Trustee.....	Trust Declaration

Section 1.2 *Interpretation.*

In this Agreement, except as the context otherwise requires:

- (a) “Cash Proceeds”, “Entitlement Holder”, “Entitlement Order”, “Instrument”, “Proceeds”, “Purchase”, “Security” and “Security Entitlement” have the meanings specified in the UCC;

(b) any reference to a statute or regulation shall be construed as a reference to such statute or regulation or any successor or replacement statute or regulation, in each case as the same may have been, or may from time to time be, amended, varied or supplemented in accordance with its terms;

(c) any reference to time is to New York City time;

(d) the words “*herein*”, “*hereof*” and “*hereunder*” and other words of similar import refer to this Agreement as a whole and not to any particular section, clause or other subdivision, and references to “*Articles*”, “*Sections*” and “*Exhibits*” refer to Articles or Sections of and Exhibits to this Agreement except as otherwise expressly provided;

(e) the word “*including*” shall be deemed to be followed by the words “without limitation”;

(f) any definition shall be equally applicable to both the singular and plural forms of the defined terms;

(g) capitalized terms used herein without definition and to the extent such terms are defined in Article 8 or Article 9 of the UCC, shall have the respective meanings set forth therein;

(h) headings contained in this Agreement are inserted for convenience of reference only and do not affect the interpretation of this Agreement or any provision hereof; and

(i) whenever in this Agreement any Person is named or referred to, the successors and permitted assigns of such Person shall be deemed to be included, and all covenants and agreements in this Agreement by the Trust, Constellation and the Collateral Agent shall bind and inure to the benefit of their respective successors and permitted assigns, whether or not so expressed.

## ARTICLE II

### OBLIGATIONS SECURED

Section 2.1 *Obligations Secured Hereby*. This Agreement is made to secure (a) the payment and performance of all Obligations (as defined in the LC Facility Agreement) of Constellation now or hereafter existing (the “*LC Facility Obligations*”) and (b) the Trust’s obligation to deliver the Notes Purchase Price to Constellation pursuant to the Facility Agreement upon the exercise of the Issuance Right (the “*Notes Purchase Obligations*” and together with the LC Facility Obligations, the “*Obligations*”) and (x) delivery of the Senior Notes thereunder or, (y) in the event Constellation makes a Cash Settlement Election with respect to any Senior Notes, delivery of the Cash Settlement Amount in lieu thereof. Constellation hereby irrevocably and unconditionally directs the Trust to (i) enter into this Agreement and grant to the Collateral Agent for the benefit of the LC Facility Secured Parties, a first-priority lien (subject to Permitted Liens) on and security interest in, all of the Trust’s right, title and interest in, to and under the Pledged Property Accounts of the Trust as set forth in this Agreement and (ii) to acknowledge the addition of any Issuers to the LC Facility Agreement by executing any Issuer Joinder Agreement that has been signed by Constellation. The Trust

acknowledges such direction and agrees that it has been formed for the purpose of entering into the transactions contemplated hereby, the Facility Agreement and the LC Facility Agreement.

### ARTICLE III

#### ASSIGNMENT AND PLEDGE

##### Section 3.1 *Security Interest.*

(a) In order to secure and to provide for the payment and performance of the LC Facility Obligations, the Constellation Pledgor hereby pledges and collaterally assigns to the Collateral Agent for the benefit of the LC Facility Secured Parties, and hereby grants to the Collateral Agent for the benefit of the LC Facility Secured Parties, a first-priority (subject to Permitted Liens) lien on and security interest in, all of the Constellation Pledgor's right, title and interest in, to and under all of the following, whether now owned or hereafter acquired (the "*Constellation Pledged Collateral*"):

(i) the Constellation Collateral Accounts, all cash, Eligible Treasury Assets and other property or assets from time to time on deposit therein or credited thereto and all Security Entitlements in respect thereof; and

(ii) all Proceeds, products, accessions and profits of or in respect of the foregoing.

(b) In order to secure and to provide for the payment and performance of the LC Facility Obligations, the Trust, acting at the direction of Constellation, hereby pledges and collaterally assigns to the Collateral Agent for the benefit of the LC Facility Secured Parties, and hereby grants to the Collateral Agent for the benefit of the LC Facility Secured Parties, a first-priority (subject to Permitted Liens) lien on and security interest in, all of the Trust's right, title and interest in, to and under all of the following, whether now owned or hereafter acquired (the "*Trust LC Facility Collateral*" and, together with the Constellation Pledged Collateral, the "*LC Facility Collateral*"):

(i) the Trust Collateral Account, the Retained Eligible Treasury Assets Account, and in each case all Eligible Treasury Assets and other property or assets from time to time on deposit therein or credited thereto and all Security Entitlements in respect thereof; and

(ii) all Proceeds, products, accessions and profits of or in respect of the foregoing;

*provided* that the Trust LC Facility Collateral shall not include, and the Trust shall not be deemed to have pledged or collaterally assigned, to the Collateral Agent or granted to the Collateral Agent any lien on (i) any Excess Eligible Treasury Assets and, without any further action, the Collateral Agent shall have been deemed to have released its liens on any Eligible Treasury Assets that become Excess Eligible Treasury Assets or (ii) for the avoidance of doubt, any Senior Notes or any Proceeds, products, accession or profits of any Senior Notes (other than Eligible Treasury Assets delivered to the Trust in exchange for Senior Notes in connection with

any Repurchase), or any Cash Settlement Amount that may be credited to the Trust Collateral Account or the Retained Eligible Treasury Assets Account from time to time or any interest therein. The Collateral Agent and the Securities Intermediary shall be entitled to conclusively rely on any determination of the Calculation Agent of the fair market value of Eligible Treasury Assets made in accordance with the LC Facility Agreement in making any calculation of the Required LC Collateral Amount and the amount of Excess Eligible Treasury Assets.

(c) In order to secure and to provide for the payment and performance of the Notes Purchase Obligations, the Trust hereby pledges and collaterally assigns to the Constellation Secured Party, and hereby grants to the Constellation Secured Party, a first-priority (subject to Permitted Liens) lien on, and security interest in, all of the Trust's right, title and interest in, to and under all of the following, whether now owned or hereafter acquired (the "*Notes Purchase Obligations Collateral*"):

(i) any Excess Eligible Treasury Assets from time to time credited to the Trust Collateral Account or the Retained Eligible Treasury Assets Account and all Security Entitlements in respect thereof; and

(ii) all Proceeds, products, accessions and profits of or in respect of the foregoing; *provided* that, for the avoidance of doubt, the Notes Purchase Obligations Collateral shall not include, and the Trust shall not pledge or collaterally assign, to the Constellation Secured Party or grant to the Constellation Secured Party any lien on any Senior Notes or any Proceeds, products, accessions or profits of any Senior Notes (other than Eligible Treasury Assets delivered to the Trust in exchange for Senior Notes in connection with any Repurchase), or any Cash Settlement Amount that may be credited to the Trust Collateral Account or the Retained Eligible Treasury Assets Account from time to time or any interest therein.

(d) Each of the Trust, the Constellation Pledgor and the Collateral Agent agree that prior to termination of the LC Facility Agreement, the Collateral Agent will have the sole dominion and control (within the meaning of Sections 8-106, 9-104 and/or 9-106 of the UCC, as applicable) over the Pledged Property Accounts and all Collateral now or hereafter on deposit therein or credited thereto, and the Collateral Agent shall have the exclusive right of withdrawal over such accounts except as set forth in the Facility Agreement (as in effect on the date hereof). Following termination of the LC Facility Agreement, the Constellation Secured Party will have the sole dominion and control (within the meaning of Sections 8-106, 9-104 and/or 9-106 of the UCC, as applicable) over the Trust Collateral Account, the Retained Eligible Assets Account (but not, in each case, on Trust Income received therein) and all Notes Purchase Obligations Collateral now or hereafter on deposit therein or credited thereto, and the Constellation Secured Party shall have the exclusive right of withdrawal over such account except as set forth in the Facility Agreement (as in effect on the date hereof).

Section 3.2 *Management of Collateral under Transaction Agreements.*  
Notwithstanding the Liens created by this Agreement, (i) the Trust shall at all times have the right to sell Defaulted Eligible Treasury Assets to Constellation at their face amount pursuant to the Facility Agreement (as in effect on the date hereof) and (ii) the Securities Intermediary shall distribute (x) from the Trust Collateral Account, any Trust Income received with respect to the

Eligible Treasury Assets to the Trust Property Account, and (y) from the Retained Eligible Treasury Assets Account, any proceeds of Retained Eligible Treasury Assets in accordance with written instructions from Constellation, from time to time, and, in each case, neither the Collateral Agent nor Constellation shall instruct the Securities Intermediary otherwise with respect to such Trust Income.

Section 3.3 *Further Assurances.*

(a) The Trust authorizes Constellation to file, and Constellation shall file, or shall cause to be filed, such financing statements (including on Form UCC-1 and Form UCC-3, as applicable) and such other security documents to be executed by the Trust and the Constellation Pledgor in such offices and locations as are reasonably necessary, or are reasonably requested by the Collateral Agent or the LC Facility Secured Parties, to perfect the Liens granted to the Collateral Agent hereby and each of the Trust and the Constellation Pledgor shall take any or all action that may be necessary or that the Collateral Agent or the LC Facility Secured Parties may reasonably request in order for the Collateral Agent to obtain and retain control of the Pledged Property Accounts and all Collateral deposited therein or credited thereto in accordance with the UCC. Each of the Trust and the Constellation Pledgor acknowledges and agrees that the initial Form UCC-1 filed, as applicable, pursuant to this Section 3.3(a) shall contain a collateral description that includes all Eligible Treasury Assets (and any Proceeds thereof) held by the Trust or the Constellation Pledgor, as applicable. Each of the Trust and the Constellation Pledgor further agree that from time to time and at the expense of the Trust and the Constellation Pledgor, as applicable, each of the Trust and the Constellation Pledgor shall promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that the Collateral Agent may reasonably request, as applicable, in order to perfect and protect any security interests renewed and extended or granted or purported to be granted to the Collateral Agent hereby or to enable the Collateral Agent to exercise and enforce its rights hereunder with respect to any of the LC Facility Collateral for the benefit of the LC Facility Secured Parties. Without limiting the generality of the foregoing, each of the Trust and the Constellation Pledgor shall, as applicable: (i) at the request of the Collateral Agent if so instructed by the LC Facility Secured Parties constituting Majority Issuers, mark conspicuously on its books and records with a legend, in form and substance satisfactory to the Collateral Agent, the interest of the Collateral Agent in the Pledged Property Accounts, as applicable, indicating that such LC Facility Collateral is subject to the Liens granted hereby; and (ii) execute and file such financing statements and continuation statements, and amendments thereto, and such other instruments and notices, as may be reasonably necessary or desirable, or as the Collateral Agent or the LC Facility Secured Parties may reasonably request, in order to perfect and preserve the Liens granted or purported to be granted to the Collateral Agent hereby.

(b) Each of the Trust and the Constellation Pledgor authorizes the Collateral Agent to file (*provided* that the Collateral Agent shall have no duty or obligation to make any such filing) a carbon, photographic or other reproduction of this Agreement as a financing statement or to file one or more financing statements or continuation statements, and amendments thereto, relative to all or any part of the LC Facility Collateral without the signature of the Trust or the Constellation Pledgor where permitted by applicable law. The Collateral Agent will not be obligated to prepare, file or review financing statements and the Collateral Agent shall have no duty to review



and may rely on a third party filing service. The Collateral Agent is not liable for any defects that may exist in the filing.

(c) The Trust authorizes Constellation to file, and Constellation shall file, or cause to be filed, such financing statements (including on Form UCC-1 and Form UCC-3, as applicable) and such other security documents to be executed by the Trust in such offices and locations as are necessary in the opinion of the Constellation Secured Party to perfect the Liens granted to the Constellation Secured Party hereby. The Trust acknowledges and agrees that the initial Form UCC-1 filed, as applicable, pursuant to this Section 3.3(c) shall contain a collateral description that includes all Excess Eligible Treasury Assets (and any Proceeds thereof) held by the Trust. The Constellation Secured Party may direct the Trust from time to time, at the expense of the Constellation Secured Party, to promptly execute and deliver all further instruments and documents, and take all further action that may be reasonably necessary or desirable, or that the Constellation Secured Party may reasonably request, as applicable, in order to perfect and protect any security interests renewed and extended or granted or purported to be granted to the Constellation Secured Party hereby or to enable the Constellation Secured Party to exercise and enforce its rights hereunder with respect to any of the Notes Purchase Obligations Collateral for the benefit of the Constellation Secured Party. Without limiting the generality of the foregoing, the Trust authorizes Constellation to execute and file, and Constellation shall execute and file such financing statements and continuation statements, and amendments thereto, and such other instruments and notices, as may be reasonably necessary or desirable, or as the Constellation Secured Party may reasonably request, in order to perfect and preserve the Liens granted or purported to be granted to the Constellation Secured Party hereby.

(d) The Trust authorizes the Constellation Secured Party to file a carbon, photographic or other reproduction of this Agreement as a financing statement or to file one or more financing statements or continuation statements, and amendments thereto, relative to all or any part of the Notes Purchase Obligations Collateral without the signature of the Trust where permitted by applicable law. The Trust will not be obligated to review or prepare the financing statement. The Trust is not liable for any defects that may exist in the filing.

#### Section 3.4 *Collateral Agent Appointed Attorney-in-Fact.*

(a) The Constellation Pledgor hereby appoints the Collateral Agent and any officer or agent thereof as the Constellation Pledgor's true and lawful agent and attorney-in-fact, with full power of substitution and with full authority in the place and stead of the Constellation Pledgor and in the name of the Constellation Pledgor, the Collateral Agent or the LC Facility Secured Parties, from time to time in the Collateral Agent's discretion, upon the occurrence and during the continuance of an LC Facility Collection Event, to carry out the provisions of this Agreement and to take any action and to execute any instrument or document that the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement, which appointment is irrevocable and coupled with an interest and any proxy or proxies heretofore given by the Constellation Pledgor, to any other person are hereby revoked. Without limiting the generality of the foregoing, the Collateral Agent shall have the right, upon the occurrence and during the continuance of an LC Facility Collection Event:

(A) to ask, demand, collect, sue for, recover, receive and give acquittance and receipts for amounts due and to become due under or in respect of any of the Constellation Pledged Collateral;

(B) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (A) above; and

(C) to file any claims or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Constellation Pledged Collateral or otherwise to enforce the rights of the Collateral Agent and the LC Facility Secured Parties Constellation, with respect to any of the Constellation Pledged Collateral.

(b) The Trust hereby appoints the Collateral Agent and any officer or agent thereof as the Trust's true and lawful agent and attorney-in-fact, with full power of substitution and with full authority in the place and stead of the Trust and in the name of the Trust, the Constellation Secured Party, the Collateral Agent or the LC Facility Secured Parties, from time to time in the Collateral Agent's discretion, upon the occurrence and during the continuance of an LC Facility Collection Event, to carry out the provisions of this Agreement and to take any action and to execute any instrument or document that the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement, which appointment is irrevocable and coupled with an interest and any proxy or proxies heretofore given by the Trust, to any other person are hereby revoked. Without limiting the generality of the foregoing, the Collateral Agent shall have the right, upon the occurrence and during the continuance of an LC Facility Collection Event:

(A) to ask, demand, collect, sue for, recover, receive and give acquittance and receipts for amounts due and to become due under or in respect of any of the Trust LC Facility Collateral;

(B) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (A) above; and

(C) to file any claims or take any action or institute any proceedings that the Collateral Agent may deem necessary or desirable for the collection of any of the Trust LC Facility Collateral or otherwise to enforce the rights of the Collateral Agent and the LC Facility Secured Parties, with respect to any of the Trust LC Facility Collateral.

(c) The Trust hereby appoints the Constellation Secured Party and any officer or agent thereof, upon the occurrence and during the continuance of an Constellation Collection Event, as the Trust's true and lawful agent and attorney-in-fact, with full power of substitution and with full authority in the place and stead of the Trust and in the name of the Trust or the Constellation Secured Party, from time to time in the Constellation Secured Party's discretion, to carry out the provisions of this Agreement and to take any action and to execute any instrument or document that the Constellation Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, which appointment is irrevocable and coupled with an interest and any proxy or proxies heretofore given by the Trust, to any other person are hereby revoked. Without limiting the generality of the foregoing, the Constellation Secured Party shall

have the right, upon the occurrence and during the continuance of an Constellation Collection Event:

(A) to ask, demand, collect, sue for, recover, receive and give acquittance and receipts for amounts due and to become due under or in respect of any of the Notes Purchase Obligations Collateral;

(B) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (A) above; and

(C) to file any claims or take any action or institute any proceedings that the Constellation Secured Party may deem necessary or desirable for the collection of any of the Notes Purchase Obligations Collateral or otherwise to enforce the rights of the Constellation Secured Party, with respect to any of the Notes Purchase Obligations.

Notwithstanding the foregoing, in the event a Constellation Collection Event occurs concurrently with an LC Facility Collection Event, the Collateral Agent will maintain sole, overriding and final authority in the place and stead of the Trust, and the Constellation Secured Party shall not exercise any of the foregoing rights without the consent of the Collateral Agent.

Section 3.5 *Duties of the Collateral Agent and the Constellation Secured Party.* The powers conferred on the Collateral Agent and the LC Facility Secured Parties hereunder are solely to protect their interest in the LC Facility Collateral and shall not impose any duty upon the Collateral Agent or the LC Facility Secured Parties to exercise any such powers. Except for the reasonable care in the custody and preservation of any LC Facility Collateral in its possession and the accounting for amounts actually received by it hereunder, neither the Collateral Agent nor the LC Facility Secured Parties shall have any duty as to any LC Facility Collateral or as to the taking of any necessary steps to preserve rights against any person or any other rights pertaining to any LC Facility Collateral. The powers conferred on the Constellation Secured Party hereunder are solely to protect its interest in the Notes Purchase Obligations Collateral and shall not impose any duty upon the Constellation Secured Party to exercise any such powers. Except for the reasonable care in the custody and preservation of any Notes Purchase Obligations Collateral in its possession and the accounting for amounts actually received by it hereunder, the Constellation Secured Party shall not have any duty as to any Notes Purchase Obligations Collateral or as to the taking of any necessary steps to preserve rights against any person or any other rights pertaining to any Notes Purchase Obligations Collateral.

Section 3.6 *Pledged Property Accounts.*

(a) Establishment of Accounts.

(i) Constellation hereby agrees and acknowledges that it directs the Securities Intermediary to establish a segregated, non-interest bearing Dollar-denominated account entitled "Constellation Securities Account", which account shall be maintained until the termination of the LC Facility Agreement (or as otherwise expressly provided in this Agreement).

(ii) The Trust hereby directs the Securities Intermediary to establish, and the Securities Intermediary hereby confirms that it has established, the following segregated, non-interest bearing Dollar-denominated accounts, which accounts shall be maintained until the termination of this Agreement (or as otherwise expressly provided in this Agreement):

Account # SF7148.1 entitled "Trust Property Account;"  
Account # SF7148.2 entitled "Trust Collateral Account;"  
Account # SF7148.3 entitled "Trust Notes Account;"  
Account # SF7148.4 entitled "Retained Eligible Treasury Assets Account"

The Trust Property Account and the Trust Notes Account shall not be subject to any liens in favor of the Collateral Agent or the Constellation Secured Party, and the Trust shall remain the sole Entitlement Holder thereof and shall be the only party that may deliver Entitlement Orders on such accounts. For administrative purposes, additional sub-accounts within the Pledged Property Accounts or the Trust Property Account may be established and created by the Securities Intermediary from time to time, each of which shall be, and shall be treated as, an account of the same type as the account within which such sub-account was created.

(b) The parties hereto agree that they shall treat the Constellation Deposit Account as a "deposit account" (as such term is defined in Section 9-102(29) of the UCC) and each of the Trust Collateral Account, the Retained Eligible Treasury Assets Account and the Constellation Securities Account as a "securities account" (as defined in Section 8-501(a) of the UCC), and all property credited to the Trust Collateral Account, the Retained Eligible Treasury Assets Account or the Constellation Securities Account shall be treated as financial assets. The Securities Intermediary agrees that (i) it is and continues to act as "securities intermediary" (as defined in Section 8-102 of the UCC) with respect to the Trust Collateral Account and the Retained Eligible Treasury Assets Account and that it will be a "securities intermediary" (as defined in Section 8-102 of the UCC) with respect to Constellation Securities Account and all the financial assets held in such accounts, and the Securities Intermediary's jurisdiction shall at all times be the State of New York, (ii) it is and shall continue to act as a "bank" (as defined in Section 9-102(8) of the UCC) with respect to the Constellation Deposit Account, and the Securities Intermediary's jurisdiction shall at all times be the State of New York; (iii) the Trust is the sole Entitlement Holder of the Trust Collateral Account and the Retained Eligible Treasury Assets Account; (iv) the Constellation Pledgor is the sole Entitlement Holder of the Constellation Securities Account and the sole customer of the Constellation Deposit Account; and (v) it does not know of any claim to, or interest in, the Pledged Property Accounts or any financial assets or funds credited thereto and has not entered, and will not enter, into any agreement with any other Person relating to the Pledged Property Accounts or any financial assets or funds credited thereto pursuant to which it has agreed or will agree to comply with Entitlement Orders of such Person. As permitted by Article 4 of the Hague Convention, the parties hereto agree that the law of the State of New York shall govern the Constellation Securities Account, the Trust Collateral Account and the Retained Eligible Treasury Assets Account and the issues specified in Article 2(1) of the Hague Convention. The provisions of the immediately preceding sentence shall be construed as an amendment to any other account agreement governing any of the Constellation Securities Account, the Trust Securities Account or the Retained Eligible Treasury Assets Account. As of the date hereof, the Securities Intermediary represents that it has an office in the

United States which satisfies the requirements of clauses (1) and (2) of Article 4 of the Hague Convention.

(c) The Securities Intermediary agrees that it will comply with Entitlement Orders and instructions (including any instructions directing disposition of funds on deposit in the Constellation Collateral Accounts, the Trust Collateral Account and the Retained Eligible Treasury Assets Account) originated by the Collateral Agent without further consent of the Trust, Constellation or any other Person and regardless of any conflicting instructions from the Trust or Constellation.

(d) The Securities Intermediary agrees that it will comply with Entitlement Orders and instructions originated by Constellation solely with respect to any Excess Eligible Treasury Assets without further consent of the Trust; provided that at the time of delivery of any such Entitlement Order, Constellation shall certify to the Securities Intermediary, the Trust and the Collateral Agent that the requested transfer of Collateral is permitted pursuant to the Facility Agreement. Notwithstanding the foregoing, the Securities Intermediary shall not comply with any such Entitlement Orders or instructions until two Business Days after receipt by the Securities Intermediary of such certification and, in the event the Securities Intermediary receives conflicting Entitlement Orders or instructions from the Collateral Agent and Constellation, the Securities Intermediary will comply with the Entitlement Orders or instructions originated by the Collateral Agent and not those of Constellation.

(e) The Securities Intermediary agrees that (i) all Eligible Treasury Assets delivered to it by or on behalf of the Trust will be promptly credited to the Trust Collateral Account or, if directed pursuant to the Facility Agreement, to the Retained Eligible Treasury Assets Account, and (ii) all Eligible Treasury Assets delivered to it by or on behalf of the Constellation Pledgor will be promptly credited to the Constellation Collateral Accounts.

(f) The Securities Intermediary agrees that no financial asset credited to the Pledged Property Accounts will be registered in the name of the Trust or Constellation, payable to the order of the Trust or Constellation or specially indorsed to the Trust or Constellation unless such financial asset has been further indorsed to the Securities Intermediary or in blank.

(g) The Securities Intermediary shall send copies of all statements and confirmations for the Pledged Property Accounts simultaneously to the Collateral Agent and the Trust and/or the Constellation Pledgor, as applicable. The Securities Intermediary may satisfy such obligation by providing read-only online access to the Pledged Property Accounts' position listings and transaction histories. The Securities Intermediary shall use commercially reasonable efforts to promptly notify the Collateral Agent, if any other person claims that it has a property interest in the Pledged Property Accounts or any asset in the Pledged Property Accounts.

(h) All transfers of cash or financial assets in any account established pursuant to Section 3.6(a) shall only be made by the Securities Intermediary upon a written direction, signed by a duly authorized officer of the party with the right to provide Entitlement Orders to the applicable account.

Section 3.7 *Priority of LC Facility Secured Party's Security Interest.* The Securities Intermediary subordinates in favor of the LC Facility Secured Parties any interest, lien or right of setoff it may have, now or in the future, against the Pledged Property Accounts or assets in or credited to the Pledged Property Accounts; *provided*, however, that, notwithstanding the foregoing, the Securities Intermediary may set off all amounts due to it in respect of its reasonable fees and expenses (including without limitation the payment of any legal fees or expenses), overdraft fees, and the face amount of any checks or other items which have been credited to the Pledged Property Accounts but are subsequently returned unpaid or otherwise reversed for any reason. For the avoidance of doubt, the Constellation Secured Party subordinates in favor of the LC Facility Secured Parties any interest, lien or right of setoff it may have, now or in the future, against the Trust Collateral Account, the Retained Eligible Treasury Assets Account or assets in or credited to the Trust Collateral Account or the Retained Eligible Treasury Assets Account.

#### ARTICLE IV

#### REMEDIES OF THE COLLATERAL AGENT AND THE LC FACILITY SECURED PARTIES

Section 4.1 *Actions by Collateral Agent Upon Occurrence of LC Facility Collection Event.*

(a) Upon the occurrence and during the continuance of an LC Facility Collection Event:

(i) The Collateral Agent may and, at the direction of any Issuer, shall exercise in respect of the LC Facility Collateral, in addition to other rights provided for herein or in any other Facility Document or otherwise available to it, all the rights of a secured party after default provided for under the UCC (whether or not the UCC applies to the affected Collateral) and in addition thereto and cumulative thereof, the following rights: the right to sell, lease or otherwise dispose of the LC Facility Collateral and the right to take possession of the LC Facility Collateral; the Collateral Agent may require each of the Trust and the Constellation Pledgor, as applicable, to, and each of the Trust and the Constellation Pledgor hereby agrees that it shall, at its expense and promptly upon the request of the Collateral Agent, forthwith assemble all or part of the LC Facility Collateral and all documents relating to the LC Facility Collateral as directed by the Collateral Agent and make the LC Facility Collateral available to the Collateral Agent at a place to be designated by the LC Facility Collateral Agent; and without notice, sell the Collateral in one or more parcels at public or private sale, at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Collateral Agent may deem commercially reasonable.

(ii) Any Proceeds held by the Collateral Agent as LC Facility Collateral and all Cash Proceeds received by the Collateral Agent in respect of any sale of, collection from, or other realization upon all or any part of the LC Facility Collateral shall be applied in whole or in part by the Collateral Agent against the LC Facility Obligations.

Any surplus LC Facility Collateral, if any, held by the Collateral Agent and remaining after payment in full of the LC Facility Obligations shall be promptly and completely deposited in or credited to the Trust Collateral Account or the Retained Eligible Treasury Assets Account (in each case based on the account from which such LC Facility Collateral was initially withdrawn) or paid over to Constellation, as applicable, or to whomsoever may be lawfully entitled to receive such surplus; *provided* that the Collateral Agent shall have no obligation to invest or otherwise pay interest on any amounts held by it in connection with or pursuant to this Agreement.

(iii) All rights of the Collateral Agent and the LC Facility Secured Parties expressed herein are in addition to all other rights possessed by the Collateral Agent and LC Facility Secured Parties in the other Facility Documents or otherwise available at law or in equity.

Each of the Trust and Constellation hereby irrevocably authorizes and directs the Collateral Agent to charge the Trust Collateral Account or the Retained Eligible Treasury Assets Account (i) upon and after the drawing of any Letter of Credit for the full amount of the L/C Reimbursement Amount and (ii) from time to time for any other Obligations, in each case, in accordance with the terms of the LC Facility Agreement. Notwithstanding anything to the contrary herein or under applicable law, in the case of an LC Facility Collection Event described in clause (i) of the definition thereof, the Collateral Agent may only exercise remedies against the portion of the LC Facility Collateral (determined using commercially reasonable efforts to exercise remedies on a pro rata basis across each principal and interest STRIP, first with respect to STRIPs in the Retained Eligible Treasury Assets Account and second with respect to STRIPs in the Trust Collateral Account), as determined by the Calculation Agent pursuant to the LC Facility Agreement equal to the applicable L/C Reimbursement Amount determined in accordance with the LC Facility Agreement together with such additional LC Facility Collateral as may be needed to cover the fees and expenses in connection with any such enforcement.

(b) Each of the Trust and Constellation agrees that transfer of the LC Facility Collateral (or the applicable portion thereof) to the Collateral Agent for the benefit of the LC Facility Secured Parties in accordance with the LC Facility Agreement upon the occurrence of an LC Facility Collection Event and during the continuance thereof shall be deemed a commercially reasonable disposition of the LC Facility Collateral for all purposes of the UCC and under any other applicable law.

(c) In no event other than following the occurrence and during the continuance of an LC Facility Collection Event shall the Collateral Agent instruct or give an Entitlement Order to the Securities Intermediary with respect to the LC Facility Collateral.

Section 4.2 *Appointment of a Receiver.* If a receiver of the LC Facility Collateral shall be appointed in judicial proceedings, the Collateral Agent may accept appointment as such receiver on such terms and conditions as the parties may agree at the time of such appointment.

Section 4.3 *Remedies Not Exclusive.*

(a) No remedy conferred upon or reserved to the Collateral Agent in this Agreement is intended to be exclusive of any other remedy or remedies, but every such remedy shall be cumulative and shall be in addition to every other remedy conferred in this Agreement or now or hereafter existing at law or in equity or by statute.

(b) No delay of the Collateral Agent in exercising or omission of the Collateral Agent to exercise any right, remedy or power accruing upon any LC Facility Collection Event shall impair any such right, remedy or power or shall be construed to be a waiver of any default by the Trust in respect of its obligations hereunder or an acquiescence therein; and every right, power and remedy given by this Agreement to the Collateral Agent may be exercised from time to time as often as may be deemed expedient.

(c) All rights of action and rights to assert claims against the Trust or Constellation upon or under this Agreement may be enforced by the Collateral Agent without the possession of any Facility Document or the production thereof in any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Collateral Agent shall be brought in its name as Collateral Agent and any recovery of any judgment shall be held as part of the LC Facility Collateral.

Section 4.4 *Liquidation of LC Facility Collateral; Acknowledgements of the Trust and the Constellation Pledgor.* Any public or private sale or other disposition of LC Facility Collateral by the Collateral Agent in accordance with this Agreement may be made through such brokers as may be selected by the Collateral Agent in its sole discretion and on such commercially reasonable terms as the Collateral Agent may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. The LC Facility Secured Parties or any Affiliate may buy any LC Facility Collateral at any public or private sale conducted in accordance with this Agreement free of any right or equity of redemption of the Trust or the Constellation Pledgor, as applicable, which right or equity is hereby waived and released. Each of the Trust and the Constellation Pledgor acknowledges and agrees that the LC Facility Collateral (other than Cash) is of a type customarily sold on a recognized market, and, accordingly, (i) neither the Trust nor the Constellation Pledgor shall be entitled to prior notice of any sale of the Collateral by the Collateral Agent pursuant to this Agreement or otherwise and (ii) the Collateral Agent and/or any LC Facility Secured Parties may purchase any or all of the LC Facility Collateral as a private sale.

Section 4.5 *Waiver of Certain Rights.* Each of the Trust and the Constellation Pledgor, to the extent it may lawfully do so, on behalf of itself and all who may claim through or under it, including any and all subsequent creditors, vendees, assignees and lienors, expressly waives and releases any, every and all rights to demand or to have any marshalling of the Collateral upon any sale, whether made under any power of sale granted under this Agreement, or pursuant to judicial proceedings or upon any foreclosure or any enforcement of this Agreement and consents and agrees that all the LC Facility Collateral (or, in the applicable portion thereof) may at any such sale be offered and sold as an entirety and agrees that the Collateral Agent may exercise remedies against the Constellation Pledged Collateral and/or the Trust LC Facility Collateral in such order as the Collateral Agent or the LC Facility Secured Parties may determine in their sole discretion.



Section 4.6 *Waiver of Stays, Etc.* To the full extent that each of the Trust and the Constellation Pledgor may lawfully so agree, each of the Trust and the Constellation Pledgor agrees that it shall not at any time plead, claim or take the benefit of any appraisal, valuation, stay, extension, moratorium or redemption law now or hereafter in force to prevent or delay the enforcement of this Agreement in accordance with its terms or the absolute sale of any portion of or all of the LC Facility Collateral in accordance with this Agreement or the possession thereof by any purchaser at any sale under and in compliance with this Agreement, and each of the Trust and the Constellation Pledgor, for itself and all who may claim through or under the Trust or the Constellation Pledgor, as applicable, as far as the Trust and the Constellation Pledgor now or hereafter lawfully may do so, hereby waives the benefit of all such laws.

## **ARTICLE V**

### **REMEDIES OF THE CONSTELLATION SECURED PARTY**

Section 5.1 *Actions by Constellation Secured Party Upon Occurrence of Constellation Collection Event.*

(a) Upon the occurrence and continuance of a Constellation Collection Event:

(i) The Constellation Secured Party may exercise in respect of the Notes Purchase Obligations Collateral, in addition to other rights provided for herein or in any other Transaction Agreement or otherwise available to it, all the rights of a secured party after default provided for under the UCC (whether or not the UCC applies to the affected Collateral) and in addition thereto and cumulative thereof, the following rights: the right to sell, lease or otherwise dispose of the Notes Purchase Obligations Collateral and the right to take possession of the Notes Purchase Obligations Collateral; the Constellation Secured Party may require the Trust to, and the Trust hereby agrees that it shall, at Constellation's expense and promptly upon the request of the Constellation Secured Party, forthwith assemble all or part of the Notes Purchase Obligations Collateral and all documents relating to the Notes Purchase Obligations Collateral as directed by the Constellation Secured Party and make the Notes Purchase Obligations Collateral available to the Constellation Secured Party at a place to be designated by the Constellation Secured Party; and without notice, sell the Notes Purchase Obligations Collateral in one or more parcels at public or private sale, at any of the Constellation Secured Party's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Constellation Secured Party may deem commercially reasonable.

(ii) Any Proceeds held by the Constellation Secured Party as Notes Purchase Obligations Collateral and all Cash Proceeds received by the Constellation Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Notes Purchase Obligations Collateral shall be applied in whole or in part by the Constellation Secured Party against the Notes Purchase Obligations. Any surplus Notes Purchase Obligations Collateral, if any, held by the Constellation Secured Party and remaining after payment in full of the Notes Purchase Obligations shall be promptly and completely deposited in or credited to the Trust Collateral Account or the Retained

Eligible Treasury Assets Account or paid over to Constellation, as applicable, or to whomsoever may be lawfully entitled to receive such surplus.

(iii) All rights of the Constellation Secured Party expressed herein are in addition to all other rights possessed by the Constellation Secured Party in the other Transaction Agreements or otherwise available at law or in equity.

Notwithstanding anything to the contrary herein or under applicable law, in the case of a partial exercise of the Issuance Right, the Constellation Secured Party may only exercise remedies against the Applicable Percentage of the Notes Purchase Obligations Collateral.

(b) The Trust agrees that transfer of the Notes Purchase Obligations Collateral (or, in the case of a partial exercise of the Issuance Right, the Applicable Percentage thereof) to the Constellation Secured Party in accordance with the Facility Agreement upon the occurrence of an Constellation Collection Event and during the continuance thereof shall be deemed a commercially reasonable disposition of the Notes Purchase Obligations Collateral for all purposes of the UCC and under any other applicable law.

(c) In no event other than following the occurrence and during the continuance an Constellation Collection Event shall the Constellation Secured Party instruct or give an Entitlement Order to the Securities Intermediary with respect to Notes Purchase Obligations Collateral. In no event shall the Constellation Secured Party instruct or give an Entitlement Order to the Securities Intermediary with respect to the LC Facility Collateral, except as permitted pursuant to the Facility Agreement (as in effect on the date hereof).

Section 5.2 *Appointment of a Receiver.* If a receiver of the Notes Purchase Obligations Collateral shall be appointed in judicial proceedings, the Constellation Secured Party may accept appointment as such receiver on such terms and conditions as the parties may agree at the time of such appointment.

Section 5.3 *Remedies Not Exclusive.*

(a) No remedy conferred upon or reserved to the Constellation Secured Party in this Agreement is intended to be exclusive of any other remedy or remedies, but every such remedy shall be cumulative and shall be in addition to every other remedy conferred in this Agreement or now or hereafter existing at law or in equity or by statute.

(b) No delay of the Constellation Secured Party in exercising or omission of the Constellation Secured Party to exercise any right, remedy or power accruing upon any Constellation Collection Event shall impair any such right, remedy or power or shall be construed to be a waiver of any default by the Trust in respect of its obligations hereunder or an acquiescence therein; and every right, power and remedy given by this Agreement to the Constellation Secured Party may be exercised from time to time as often as may be deemed expedient.

(c) All rights of action and rights to assert claims against the Trust upon or under this Agreement may be enforced by the Constellation Secured Party without the possession of any Transaction Agreement or the production thereof in any trial or other proceeding relative thereto,

and any such suit or proceeding instituted by the Constellation Secured Party shall be brought in its name as Constellation Secured Party and any recovery of any judgment shall be held as part of the Notes Purchase Obligations Collateral.

Section 5.4 *Liquidation of Notes Purchase Obligations Collateral; Acknowledgements of the Trust.* Any public or private sale or other disposition of Notes Purchase Obligations Collateral by the Constellation Secured Party in accordance with this Agreement may be made through such brokers as may be selected by the Constellation Secured Party in its sole discretion and on such commercially reasonable terms as the Constellation Secured Party may choose, without assuming any credit risk and without any obligation to advertise or give notice of any kind other than that necessary under applicable law. The Constellation Secured Party or any Affiliate may buy any Notes Purchase Obligations Collateral at any public or private sale conducted in accordance with this Agreement free of any right or equity of redemption of the Trust, which right or equity is hereby waived and released. The Trust acknowledges and agrees that the Notes Purchase Obligations Collateral (other than Cash) is of a type that may decline speedily in value and is of a type customarily sold on a recognized market, and, accordingly, the Trust shall not be entitled to prior notice of any sale of the Notes Purchase Obligations Collateral by the Constellation Secured Party pursuant to this Agreement or otherwise.

Section 5.5 *Waiver of Certain Rights.* The Trust, to the extent it may lawfully do so, on behalf of itself and all who may claim through or under it, including any and all subsequent creditors, vendees, assignees and lienors, expressly waives and releases any, every and all rights to demand or to have any marshalling of the Notes Purchase Obligations Collateral upon any sale, whether made under any power of sale granted under this Agreement, or pursuant to judicial proceedings or upon any foreclosure or any enforcement of this Agreement and consents and agrees that all the Notes Purchase Obligations Collateral (or, in the case of a partial exercise of the Issuance Right, the Applicable Percentage thereof) may at any such sale be offered and sold as an entirety and agrees that the Constellation Secured Party may exercise remedies against the Notes Purchase Obligations Collateral in such order as the Constellation Secured Party may determine in its sole discretion.

Section 5.6 *Waiver of Stays, Etc.* To the full extent that the Trust may lawfully so agree, the Trust agrees that it shall not at any time plead, claim or take the benefit of any appraisal, valuation, stay, extension, moratorium or redemption law now or hereafter in force to prevent or delay the enforcement of this Agreement in accordance with its terms or the absolute sale of any portion of or all of the Notes Purchase Obligations Collateral in accordance with this Agreement or the possession thereof by any purchaser at any sale under and in compliance with this Agreement, and the Trust, for itself and all who may claim through or under the Trust, as far as the Trust now or hereafter lawfully may do so, hereby waives the benefit of all such laws.

Section 5.7 *Collateral Agent Override.* Notwithstanding anything to the contrary in this Agreement, in the event a Constellation Collection Event occurs concurrently with an LC Facility Collection Event, the Collateral Agent will maintain sole, overriding and final authority in respect of the exercise of remedies and the Constellation Secured Party shall not take any action contemplated by this Article V without the prior consent of the Collateral Agent.

## ARTICLE VI

### COVENANTS AND AGREEMENTS OF THE TRUST AND THE CONSTELLATION PLEDGOR

Section 6.1 *No Pledge of Collateral to Others; Defense of Title.* Without the prior written consent of the Collateral Agent and the Constellation Secured Party, the Trust shall not sell, assign, transfer, pledge, or otherwise encumber any of its rights in or to the Collateral or any unpaid interest, dividends or other distributions or payments with respect thereto or grant a Lien in any therein except as provided in and in accordance with the Transaction Agreements and the Facility Documents (including with respect to Permitted Liens). Without the prior written consent of the Collateral Agent, the Constellation Pledgor shall not sell, assign, transfer, pledge or otherwise encumber any of its rights in or to the Collateral or any unpaid interest, dividends or other distributions or payments with respect thereto or grant a Lien in any therein except as provided in and in accordance with the Facility Documents (including with respect to Permitted Liens). The Constellation Pledgor shall defend its and the Trust's title to the Collateral and the Liens of the Collateral Agent and the Constellation Secured Party, as applicable, thereon against the claim of any Person and shall maintain and preserve such Liens until the termination of this Agreement.

Section 6.2 *No Change in Name, Structure or Office of the Trust or Constellation.* Neither the Trust nor the Constellation Pledgor shall change its name or jurisdiction of organization or remove the books or records relating to the Collateral from the address specified in the Trust Declaration and the LC Facility Agreement, as applicable, as in effect on the date hereof unless it has taken such action, if any, as is necessary to cause the Liens of the Collateral Agent and the Constellation Secured Party against the applicable Collateral to continue to be perfected without interruption.

Section 6.3 *Representations and Warranties.* The Trust represents and warrants to the Collateral Agent and the Constellation Secured Party as follows on the date hereof:

(a) the Trust is duly organized and validly existing under the Statutory Trust Act and has the power and authority to own its assets and to conduct its activities and the full legal name of the Trust is as set forth in the preamble of this Agreement;

(b) the (i) execution, delivery and performance by it of this Agreement, (ii) the granting of the Liens granted by it (including the first-priority nature thereof, subject to Permitted Liens) pursuant to this Agreement, (iii) the perfection or maintenance of the Liens created pursuant to this Agreement, and (iv) the granting of authority to the Collateral Agent and the Constellation Secured Party with respect to the exercise of their respective rights hereunder or under any other Facility Document or remedies in respect of the Trust Collateral Account or the Retained Eligible Treasury Assets Account, (v) are within its powers, (w) have been duly authorized by all necessary action, (x) require no action by or in respect of, or filing with, any governmental body, agency or official, except for any immaterial actions, consents, approvals, registrations or filings or such as have been made or obtained and are in full force and effect, (y) do not contravene, or constitute a default under, any provision of applicable material law or

regulation or of constituent documents of the Trust, as the case may be, or of any material agreement, judgment, injunction, order, decree or other material instrument binding upon the Trust, as the case may be, or (z) result in the creation or imposition of any Lien on any asset of the Trust, except the Liens created pursuant to this Agreement.

(c) this Agreement has been duly executed and delivered by the Trust, and this Agreement constitutes a legal, valid and binding agreement of the Trust, enforceable against it in accordance with its terms, except to the extent such enforceability may be limited by the effect of applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other similar laws affecting the enforcement of creditors' rights generally or by general principles of equity. The Trust acknowledges that the Collateral Agent has control (within the meaning of Sections 8-106, 9- 104 and/or 9-016, as applicable, of the UCC) over the Pledged Property Accounts;

(d) the Collateral Agent, for the benefit of the LC Facility Secured Parties, has a valid, first-priority perfected security interest in and lien on all of the LC Facility Collateral granted by the Trust, subject to no other Lien, other than Permitted Liens, securing all LC Facility Obligations, and all filings and other actions necessary or desirable to perfect and protect such security interests granted by the Trust have been duly taken;

(e) all funds, assets and property provided by the Trust to the Collateral Agent pursuant to this Agreement are free and clear of any Lien, other than Permitted Liens, except for the liens and security interests created under this Agreement, and the Trust was the legal and beneficial owner thereof at the time provided to the Collateral Agent;

(f) there is no action, suit, investigation, litigation or proceeding against the Trust pending or, to the knowledge of the Trust, threatened, before any court, tribunal, arbitrator or any other governmental authority or national securities exchange, that purports to affect the legality, validity or enforceability of this Agreement or as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, would reasonably be expected to result in a material adverse effect on the Trust's business, operations, property, assets, liabilities or financial condition;

(g) assuming compliance with the transfer restrictions with respect to the Trust Securities specified in the Trust Declaration, the Trust is not required to register with the Securities and Exchange Commission as an "investment company" under the Investment Company Act of 1940; and

(h) the Trust is Solvent.

All representations and warranties made or deemed made in this Agreement shall survive the execution and delivery of this Agreement.

## ARTICLE VII

### THE COLLATERAL AGENT

Section 7.1 *Acceptance of Trust.* The Collateral Agent, for itself and its successors, hereby accepts the obligations and duties created by this Agreement upon the terms and conditions hereof.

Section 7.2 *Duties of the Collateral Agent with Respect to Collateral.* The Collateral Agent shall use reasonable care with respect to the Collateral transferred to or by it or in its possession. The Collateral Agent shall keep appropriate records in connection with its obligations and duties arising under this Agreement in a commercially reasonable form and manner and upon resignation or removal shall deliver such records in the form and manner then kept to its successor or to the Trust or the Constellation Pledgor, as applicable. Except as permitted hereunder, the Collateral Agent shall not sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Collateral.

Section 7.3 *Moneys to Be Held in Trust.* All moneys and other property received by the Collateral Agent under or pursuant to any provision of this Agreement shall be held in trust for the purposes of this Agreement and the Collateral Agent shall have no right to set off or apply any such moneys or other property against any obligation of the Trust, the Constellation Pledgor or the LC Facility Secured Parties, and hereby waives any and all Liens that it may otherwise have against the Collateral, except as provided in the Facility Documents.

Section 7.4 *Limitations on Duties of the Collateral Agent.*

(a) The Collateral Agent shall not be liable for the correctness of any recitals, statements, representations or warranties contained herein, except for those made by the Collateral Agent. The Collateral Agent makes no representations as to the value or condition of the Collateral or any part thereof, or as to the title of the Trust or the Constellation Pledgor, as applicable, to the Collateral or as to the security afforded by this Agreement, or as to the validity, execution, enforceability, legality or sufficiency of this Agreement (except, in each case, with respect to the Collateral Agent) or the LC Facility Obligations, or the validity, perfection or continuation of the security interests purported to be created hereby, and the Collateral Agent shall incur no liability in respect of any such matters. The Collateral Agent shall not be responsible for insuring the Collateral or for the payment of taxes, charges or assessments or the discharging of Liens upon the Collateral or otherwise as to the maintenance of the Collateral, except that (i) if the Collateral Agent enters into possession of a part or all of the Collateral, the Collateral Agent shall preserve the part in its possession and (ii) the Collateral Agent shall promptly, and at its own expense, take such action as may be necessary to duly remove and discharge (by bonding or otherwise) any Collateral Agent's Lien on any part of the Collateral not otherwise permitted by the Facility Documents.

(b) Except as expressly set forth herein, the Collateral Agent shall not be required to ascertain or inquire as to the performance by the Trust or the Constellation Pledgor, as applicable, of any of the covenants or agreements contained herein or in any Facility Document.

(c) The Collateral Agent shall be liable only for that Collateral that is transferred to the Collateral Agent and that has not been released to the Trust or on the Trust's behalf, or to Constellation or on Constellation's behalf, as applicable, by the Collateral Agent in accordance with this Agreement.

(d) The Collateral Agent shall not be responsible or personally liable (i) for special, indirect, consequential or punitive damages, however styled, including, without limitation, lost profits, relating to or arising out of the execution, delivery, enforcement, performance and administration of this Agreement, or (ii) for any failure or delay in the performance of its obligations under this Agreement, or losses, arising out of or caused, directly or indirectly, by circumstances beyond its control (other than as a result of its own misconduct, gross negligence or bad faith), including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics or pandemics; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communication services, including Internet services; accidents; labor disputes; acts of civil or military authority and governmental action (it being understood that the Collateral Agent shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances).

(e) The Collateral Agent shall not be liable for the negligence or misconduct of any agent, sub-agent, subcustodian or attorney-in-fact selected by it in accordance with this Agreement without gross negligence or willful misconduct, unless such agent, sub-agent, subcustodian or attorney-in-fact is, or is an Affiliate of, the Collateral Agent.

(f) The Collateral Agent shall not be personally liable for any error of judgment made in good faith by any of its officers or employees.

(g) The Collateral Agent shall not be deemed to have knowledge of any fact or event unless a Responsible Officer of the Collateral Agent has received a written notice of such fact or event.

(h) Except for reports prepared by the Collateral Agent pursuant to an express provision of a Facility Document, the delivery of reports or other information does not constitute actual knowledge.

(i) The Collateral Agent shall not be liable as a result of the sale directly or through any broker of the Collateral, or any part thereof, at any private or public sale conducted in accordance with this Agreement, or for any insufficiency of the proceeds of any Collateral liquidated in accordance with this Agreement, unless any such insufficiency arises from the Collateral Agent's gross negligence or willful misconduct.

(j) The Collateral Agent shall be obligated to perform only such duties as are specifically set forth in this Agreement and the other Facility Documents and no implied covenants or obligations (fiduciary or otherwise) shall be read into this Agreement against the Collateral Agent. The Collateral Agent shall not be liable to the LC Facility Secured Parties or any other party with respect to any action taken or omitted by it in accordance with the terms of

this Agreement. Nothing in this Agreement shall be construed to require the Collateral Agent to advance or expend its own funds.

(k) Except as otherwise expressly provided herein, the Collateral Agent shall not be under any obligation to take any action that is discretionary with the Collateral Agent under the provisions of this Agreement except with the consent of the LC Facility Secured Parties constituting Majority Issuers, which consent shall not be unreasonably withheld.

(l) The Collateral Agent shall be under no obligation to take any action, other than any action expressly required to be taken by the Collateral Agent pursuant to this Agreement, unless the Person or Persons requesting or directing such action shall have provided to the Collateral Agent security and indemnity, reasonably satisfactory to the Collateral Agent against the costs, expenses (including reasonable attorneys' fees and expenses and the reasonable expenses of the Collateral Agent's agents) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Collateral Agent.

(m) Whenever in the performance of its duties under this Agreement, the Collateral Agent shall deem it desirable to receive instructions with respect to enforcing any remedy or right to taking any other action hereunder the Collateral Agent (i) may request instructions from the LC Facility Secured Parties constituting Majority Issuers, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received as provided above, and (iii) shall be protected in conclusively relying on or acting in accordance with such instructions.

(n) Each of the Trust and the Constellation Pledgor acknowledges and confirms its obligation to indemnify the Collateral Agent pursuant to the Trust Declaration and the LC Facility Agreement, as applicable.

(o) In addition to the foregoing, the Collateral Agent shall be entitled to all of its rights, privileges, protections, immunities and indemnities set forth in the LC Facility Agreement as if set forth herein in full.

#### Section 7.5 *Reliance by the Collateral Agent.*

(a) In carrying out its duties hereunder, the Collateral Agent shall not be responsible for, under any duty to inquire into, or deemed to make any assurances with respect to, and may rely, and shall be fully protected in relying, upon, any market information, spot currency exchange rates and other prices obtained by the Collateral Agent as provided in this Agreement, in each case except in the case of negligence or willful misconduct.

(b) The Collateral Agent may rely, and shall be fully protected in acting or refraining from acting, upon any signature, resolution, statement, instrument, opinion, report, order, bond or other document or any notice that it has no reason to believe to be other than genuine or to have been signed or presented by other than the proper party or parties or, in the case of facsimiles or emails, to have been sent by other than the proper party or parties. In the absence of its own gross negligence or willful misconduct, the Collateral Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any



certificates or opinions furnished to the Collateral Agent and conforming to the requirements of this Agreement.

(c) Whenever in the administration of this Agreement the Collateral Agent shall deem it necessary or desirable that a matter be proved or established in connection with the taking, suffering or omitting of any action hereunder by the Collateral Agent as to which Constellation or the LC Facility Secured Parties, as applicable, is charged hereunder with providing such proof or establishment, such matter (unless other evidence in respect thereof is specifically prescribed in this Agreement) may be deemed to be conclusively provided or established by a certificate of an Authorized Officer of Constellation or the LC Facility Secured Parties, as applicable.

(d) The Collateral Agent may consult with independent counsel (which may be counsel to the Trust, Constellation or the LC Facility Secured Parties), accountants and other experts, and any opinion of such independent counsel, any such accountant, or any such other expert shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Agreement in accordance with such opinion and without gross negligence or willful misconduct. The Collateral Agent shall have the right at any time to seek instructions concerning the administration of the Collateral from any court of competent jurisdiction.

Section 7.6 *Certain Additional Covenants of the Collateral Agent.* The Collateral Agent shall provide 30 days' prior written notice to the Trust, Constellation and the LC Facility Secured Parties of any change in the location of its office responsible for carrying out its duties under this Agreement, its address for the receipt of notice, or the instructions to be used by the Trust, Constellation or the LC Facility Secured Parties in making payments or transfers to the Collateral Agent in respect of this Agreement or any other Facility Document.

Section 7.7 *Securities Intermediary.* The Securities Intermediary shall be entitled to the same rights, privileges, protections, indemnities and immunities as the Collateral Agent under this Agreement and the LC Facility Agreement. The Securities Intermediary will have no duties to the Collateral Agent or the Constellation Secured Party except as expressly set forth in this Agreement. The Securities Intermediary may charge the Trust and Constellation, as applicable, to the extent permitted by applicable law, for (i) any items returned unpaid or otherwise uncollected or subject to an adjustment entry, whether for insufficient funds or for any other reason without regard to the timeliness of the return or adjustment or the occurrence or timeliness of any other person's notice of nonpayment or adjustment, (ii) normal service charges or fees payable to the Securities Intermediary in connection with the Pledged Property Accounts or any related services, (iii) any adjustments or corrections of any posting errors, and (iv) reimbursement of out-of-pocket expenses in connection with the administration or enforcement of this Agreement by the Securities Intermediary.

## ARTICLE VIII

### RELEASE OF ALL COLLATERAL; TERMINATION

Section 8.1 *Conditions to Release.*

(a) The Liens and security interests granted to the Collateral Agent hereunder shall be released automatically (x) in whole on the date on which the LC Facility Agreement is terminated in accordance with its terms, each Letter of Credit has expired, terminated or been cancelled, and the applicable LC Facility Obligations (other than contingent obligations not then due and payable) have been satisfied or terminated, and (y) in part in accordance with Section 5(a) of the LC Facility Agreement. The Liens and security interests granted to the Constellation Secured Party hereunder shall be released automatically on the date on which the Facility Agreement is terminated in accordance with its terms and the satisfaction or termination of the applicable Notes Purchase Obligations.

(b) Upon such release of the Liens and security interest granted to the Collateral Agent, all right, title and interest of the Collateral Agent in, to and under the Collateral shall revert to the Trust, Constellation Secured Party and/or the Constellation Pledgor, as applicable, and the estate, right, title and interest of the Collateral Agent therein shall thereupon terminate and become void. The Trust, Constellation and the Collateral Agent shall each deliver to the other parties hereto instruments of discharge, satisfaction and release prepared by Constellation and in form reasonably satisfactory to the other parties hereto, and upon the written request, and at the cost and expense, of the Trust or Constellation, as applicable, the Collateral Agent shall execute such instruments as the Trust or Constellation deems necessary or advisable to terminate any conditions constituting public notice of the Liens granted hereunder and shall assign and transfer, or cause to be assigned and transferred, and shall deliver or cause to be delivered to the Trust or Constellation, as applicable, all property of the Trust or Constellation, as applicable, then held by the Collateral Agent or the Securities Intermediary. Any release by the Collateral Agent with respect to any Collateral hereunder shall be made without representation, warranty or recourse. If the Collateral Agent shall fail to execute or deliver any such instrument of discharge, satisfaction, termination, assignment or transfer or such property, then the Trust and/or Constellation, as applicable, and any officer or agent thereof, shall hereby be constituted and appointed, with full power of substitution, as the Collateral Agent's true and lawful attorney-in-fact with full power and authority in the name of the Collateral Agent or the name of such attorney-in-fact for the purpose of executing or delivering, as the case may be, such instrument or property.

Section 8.2 *Reinstatement.* This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, all as though such payment or performance had not been made. If any payment, or any part thereof, is rescinded, reduced, restored or returned, the applicable Obligations secured hereby shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

## ARTICLE IX

### WAIVER OF SURETYSHIP DEFENSES

If and to the extent that the Trust is viewed as a surety with respect to the LC Facility Obligations, then to the fullest extent permitted by law the Trust hereby waives all suretyship defenses. Without limiting the generality of the foregoing, the Trust agrees that the security

interest of the Collateral Agent hereunder and the Trust's obligations hereunder shall not be affected by, and shall remain in full force and effect without regard to, and hereby waives, to the fullest extent permitted by applicable law, all, rights, claims or defenses that the Trust might otherwise have (now or in the future) with respect to each of the following (whether or not the Trust has knowledge thereof):

- (i) the validity or enforceability of this Agreement, the LC Facility Agreement, any Facility Document or any of the LC Facility Obligations;
- (ii) any renewal, extension or acceleration of, or any increase in the amount of the LC Facility Obligations, or any amendment, supplement, modification or waiver of, or any consent to departure from, the LC Facility Agreement or any Facility Document;
- (iii) any failure or omission to assert or enforce or agreement or election not to assert or enforce, delay in enforcement, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising hereunder or under the LC Facility Agreement or any Facility Document, at law, in equity or otherwise) with respect to the LC Facility Obligations or any agreement relating thereto, or with respect to any other guarantee of or security for the payment of the LC Facility Obligations;
- (iv) any change, reorganization or termination of the corporate structure or existence of Constellation;
- (v) any subordination of the LC Facility Obligations to any other obligations;
- (vi) the validity, perfection, non-perfection or lapse in perfection, priority or avoidance of any security interest or lien, the release of any or all LC Facility Collateral securing, or purporting to secure, the LC Facility Obligations or any other impairment of such Collateral;
- (vii) any exercise of remedies with respect to any security for the LC Facility Obligations (including, without limitation, the LC Facility Collateral) at such time and in such order and in such manner as an applicable lender may decide and whether or not such action constitutes an election of remedies and even if such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy that the Trust would otherwise have and without limiting the generality of the foregoing or any other provisions hereof, the Trust hereby expressly waives, to the extent permitted by applicable law, any and all benefits that might otherwise be available to the Trust under applicable law; and
- (viii) any other circumstance whatsoever that may or might in any manner or to any extent vary the risk of the Trust in respect of the LC Facility Obligations or that constitutes, or might be construed to constitute, an equitable or legal discharge of the Trust, whether in a bankruptcy proceeding or in any other instance.

In addition, the Trust further waives any and all other defenses, set offs or counterclaims (other than a defense of payment or performance in full of the LC Facility Obligations) that may

at any time be available to or be asserted by it, including, without limitation, failure of consideration, breach of warranty, statute of frauds, statute of limitations, accord and satisfaction and usury.

The Trust also waives to the fullest extent permitted by law notice of acceptance, diligence, presentment, protest, marshaling, demand for payment and notice of dishonor, notice of default or notice of nonpayment with respect to the LC Facility Obligations.

## ARTICLE X

### MISCELLANEOUS

Section 10.1 *Binding Effect.* All agreements contained in this Agreement shall bind the successors, permitted assigns, receivers, trustees and representatives of the Trust, Constellation and the Collateral Agent.

Section 10.2 *Amendments.* So long as any Trust Securities remain outstanding, this Agreement may be amended by the parties hereto with the prior consent of Constellation, the Trust, the Collateral Agent and at least a Majority of Holders and each of the Issuers; provided that consent of the Holders or the Issuers shall not be required for any amendment (a) to cure any ambiguity or correct any mistake or to conform the terms of this Agreement to the description in the Offering Memorandum, (b) to correct or supplement any provision of this Agreement that may be defective or inconsistent with any other provision of this Agreement, the LC Facility Agreement, the Facility Agreement or the Trust Declaration, or (c) to make any other change that may in the reasonable judgment of Constellation be necessary or appropriate to prevent the occurrence of any Investment Company Act Event or P-Caps Tax Event; provided, further, that such change would not change the timing or amount of any distribution to the Holders of the Trust Securities or the U.S. federal income tax treatment of the Holders as the owners of indebtedness of Constellation, either held directly or held through the Trust and would not otherwise reasonably be expected to have a material adverse effect on the Holders.

Prior to the execution of any amendment to this Agreement, the Collateral Agent shall be entitled to receive and conclusively rely on an opinion of counsel, at the expense of Constellation, stating that the execution of such amendment is authorized or permitted by this Agreement and that all conditions precedent to the execution of such amendment have been satisfied. The Collateral Agent and the Securities Intermediary may, but shall not be obligated to, enter into any such amendment which affects the Collateral Agent's or Securities Intermediary's own rights, duties or immunities under this Agreement.

Section 10.3 *Assignment.* None of the Trust, Constellation nor the Collateral Agent may assign its rights or obligations under this Agreement to any other person, except as provided in Section 18(i) of the LC Facility Agreement.

Section 10.4 *Notices.*

(a) Any notice, request or other communication required or permitted to be given hereunder shall be given in writing by delivering the same against receipt therefor in person, by

registered or certified mail or by nationally recognized overnight courier or by email, addressed as follows:

If to the Trust at:

Fells Point Funding Trust  
c/o Deutsche Bank Trust Company Americas, as Trustee  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

If to Constellation at:

Constellation Energy Generation, LLC  
200 Exelon Way  
Kennett Square, Pennsylvania 19348  
Attention: General Counsel

With a copy (which shall not constitute notice) to:

Ballard Spahr LLP  
1735 Market Street, 51st Floor  
Philadelphia, Pennsylvania 19103  
Attention: Patrick R. Gillard, Esq.

If to the Collateral Agent at:

Deutsche Bank Trust Company Americas, as Collateral Agent  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team/ Fells Point Funding Trust, Constellation, SF7147

If to the Securities Intermediary at:

Deutsche Bank Trust Company Americas, as Securities Intermediary  
Trust & Agency Services  
1 Columbus Circle, 17th Floor  
MS:NYC01-1710  
New York, New York 10019  
Attention: Corporates Team -Fells Point Funding Trust, Constellation, SF7147

(b) Any such notice shall be effective upon delivery, if delivered in person; upon acknowledgement of receipt (in writing or orally), if delivered by e-mail; on the fifth day after

deposited in the mail, postage prepaid, if delivered by registered or certified mail; and on the day after deposit with a nationally recognized overnight courier, if delivered by overnight courier.

Section 10.5 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 10.6 *Jurisdiction.* Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City in respect of any action or proceeding arising out of or in connection with this Agreement (“*Proceedings*”). Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of the venue of any such Proceedings in the courts of the State of New York and any claim that any Proceeding brought in any such court has been brought in an inconvenient forum. Each of the parties hereto agrees that process shall be deemed served if sent to it at the address given for notices under this Agreement and that nothing in this Agreement shall affect any party’s right to serve process in any other manner permitted by law. Each of Constellation and the Trust agree that final judgment against it in any Proceeding shall be enforceable in any other jurisdiction within or outside the United States by suit on the judgment.

Section 10.7 *Waiver of Trial by Jury.* The Parties hereto hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

Section 10.8 *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument. The words “execution”, “signed”, “signature”, and words of like import in this Agreement including, without limitation, with respect to addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications, shall include electronic signatures (including without limitation, Diligent, DocuSign and AdobeSign or any other similar platform identified by the Collateral Agent and reasonably available at no undue burden or expense to Deutsche Bank, with respect to the signatures of Deutsche Bank). The exchange of copies of this Agreement and of signature pages by facsimile or email transmission of PDF files shall constitute effective execution and delivery of this Agreement as to the parties hereto and may be used in lieu of the original Agreement for all purposes. Signatures of the parties hereto transmitted by facsimile or email transmission of PDF files shall be deemed to be their original signatures for all purposes.

Section 10.9 *Severability.* If any one or more of the provisions contained herein, or the application thereof in any circumstances, is invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected, it being intended that all of the Collateral Agent’s and the Constellation Secured Party’s rights and privileges shall be enforceable to the fullest extent permitted by law.

Section 10.10 *Limitation of Liability.* It is expressly understood that (a) in signing this Agreement on behalf of the Trust, this Agreement is executed and delivered by Deutsche Bank

as Trustee, not individually or personally but solely as Trustee, in the exercise of the powers and authority conferred and vested in it under the Trust Declaration, (b) each of the representations, undertakings and agreements herein made on the part of the Trust is made and intended not as a personal representation, undertaking or agreement by Deutsche Bank, but is made and intended for the purpose for binding only the Trust, (c) nothing herein contained shall be construed as creating any liability on Deutsche Bank, as Trustee of the Trust, individually or personally, to perform any covenant either expressed or implied contained herein of the Trust, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, (d) Deutsche Bank has made no investigation as to the accuracy or completeness of any representations and warranties made by the Trust in this Agreement and (e) under no circumstances shall Deutsche Bank be personally liable for the payment of any indebtedness or expenses of the Trust or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Trust under this Agreement or any other related documents.

Section 10.11 *Third-Party Beneficiary*. The LC Facility Secured Parties are an intended third-party beneficiary of this Agreement and may enforce this Agreement as if they were a party hereto.

Section 10.12 *Multiple Roles*. The parties expressly acknowledge and consent to Deutsche Bank acting in the capacity of Trustee, of Collateral Agent, of Securities Intermediary and of Notes Trustee. Each of the Trustee, the Securities Intermediary, the Collateral Agent and the Notes Trustee may, in such capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent any such conflict or breach arises from the performance by the Trustee of express duties set forth in the Trust Declaration, the Collateral Agent and Securities Intermediary of express duties set forth in this Pledge Agreement or the Notes Trustee of express duties set forth in the Facility Agreement and in the Indenture, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto and the Holders.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Pledge and Control Agreement to be duly executed as of the day and year first above written.

FELLS POINT FUNDING TRUST

By Deutsche Bank Trust Company Americas,  
not in its individual capacity but solely as  
Trustee

By:           /s/ Bridgette Casasnovas            
Name: Bridgette Casasnovas  
Title: Vice President

By:           /s/ Robert Peschler            
Name: Robert Peschler  
Title: Vice President

*[Signature Page to Pledge and Control Agreement]*



CONSTELLATION ENERGY GENERATION,  
LLC

By:           /s/ Shane Smith            
Name: Shane Smith  
Title: Vice President and Treasurer

*[Signature Page to Pledge and Control Agreement]*

DEUTSCHE BANK TRUST COMPANY  
AMERICAS,  
as Collateral Agent

By:     /s/ Bridgette Casasnovas      
Name: Bridgette Casasnovas  
Title: Vice President

By:     /s/ Robert Peschler      
Name: Robert Peschler  
Title: Vice President

DEUTSCHE BANK TRUST COMPANY  
AMERICAS,  
as Securities Intermediary

By:     /s/ Bridgette Casasnovas      
Name: Bridgette Casasnovas  
Title: Vice President

By:     /s/ Robert Peschler      
Name: Robert Peschler  
Title: Vice President

*[Signature Page to Pledge and Control Agreement]*



# J.P.Morgan

\$3,500,000,000

CREDIT AGREEMENT

dated as of

February 1, 2022

among

CONSTELLATION ENERGY GENERATION, LLC

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

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BANK OF AMERICA, N.A., BARCLAYS BANK PLC, BNP PARIBAS SECURITIES CORP.,  
CITIBANK, N.A., CREDIT AGRICOLE CORPORATE & INVESTMENT BANK,  
CREDIT SUISSE AG, NEW YORK BRANCH, GOLDMAN SACHS BANK USA,  
MORGAN STANLEY SENIOR FUNDING, INC., ROYAL BANK OF CANADA, and  
THE BANK OF NOVA SCOTIA,  
as Co-Documentation Agents

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JPMORGAN CHASE BANK, N.A., BOFA SECURITIES, INC., BARCLAYS BANK  
PLC, BNP PARIBAS SECURITIES CORP., CITIBANK, N.A., CREDIT AGRICOLE  
CORPORATE & INVESTMENT BANK, CREDIT SUISSE AG, NEW YORK BRANCH,  
GOLDMAN SACHS BANK USA, MORGAN STANLEY SENIOR FUNDING, INC., ROYAL  
BANK OF CANADA, and THE BANK OF NOVA SCOTIA,  
as Joint Lead Arrangers and Joint Bookrunners

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CREDIT AGREEMENT dated as of February 1, 2022 (this “*Agreement*”), among CONSTELLATION ENERGY GENERATION, LLC, a Pennsylvania limited liability company, the LENDERS party hereto, and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

The parties hereto agree as follows:

ARTICLE 1  
DEFINITIONS

Section 1.01. *Defined Terms.* As used in this Agreement, the following terms have the meanings specified below:

“*ABR*”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

“*Additional Lender*” has the meaning given to such term in Section 2.04.

“*Adjusted Daily Simple SOFR Rate*” means an interest rate per annum equal to (a) the Daily Simple SOFR Rate, *plus* (b) 0.10%; *provided that* if the Adjusted Daily Simple SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

“*Adjusted Term SOFR Rate*” means, for any Interest Period, an interest rate per annum equal to (a) the Term SOFR Rate for such Interest Period, *plus* (b) 0.10%; *provided that* if the Adjusted Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

“*Administrative Agent*” means JPMorgan Chase Bank, N.A. (or any of its designated branch offices or affiliates), in its capacity as administrative agent for the Lenders hereunder.

“*Administrative Questionnaire*” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“*Affected Financial Institution*” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“*Affiliate*” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“*Agent-Related Person*” has the meaning assigned to it in Section 9.03(d).

“*Agreement*” has the meaning specified in introductory paragraph hereof.

“*Alternate Base Rate*” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted Term SOFR Rate for a one month Interest Period as published two U.S. Government Securities Business Days prior to such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; *provided that* for the purpose of this definition, the Adjusted Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 a.m. Chicago time on such day (or any amended publication time for the Term



SOFB Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 2.14(b)), then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Alternate Base Rate as determined pursuant to the foregoing would be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

“*Ancillary Document*” has the meaning assigned to it in Section 9.06(b).

“*Anti-Corruption Laws*” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

“*Applicable Party*” has the meaning assigned to it in Section 8.03(c).

“*Applicable Percentage*” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment; provided that, in the case of Section 2.20 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the total Commitments (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender’s status as a Defaulting Lender at the time of determination.

“*Applicable Rate*” means, for any day, with respect to any ABR Loan or Term Benchmark Revolving Loan, RFR Revolving Loan or with respect to the facility fees payable hereunder, as the case may be, the applicable rate *per annum* set forth below under the caption “Applicable Rate for Term Benchmark Revolving Loans and LC Fee Rate”, “Applicable Rate for ABR Loans” or “Facility Fee Rate”, as the case may be, based upon the ratings by Moody’s, S&P and Fitch, respectively, applicable on such date to the Pricing Level:

Pricing Level	Index Debt Rating S&P/Moody’s/Fitch	Applicable Rate for Term Benchmark Revolving Loans, RFR Revolving Loans and LC Fee Rate	Applicable Rate for ABR Loans	Facility Fee Rate
I	≥ A3/A-/A-	1.000%	0.000%	0.125%
II	Baa1/BBB+/BBB+	1.075%	0.075%	0.175%
III	Baa2/BBB/BBB	1.275%	0.275%	0.225%
IV	Baa3/BBB-/BBB-	1.475%	0.475%	0.275%

V	Ba1/BB+/BB+	1.650%	0.650%	0.350%
VI	< Ba1/BB+/BB+	2.000%	1.000%	0.500%

“Debt Rating” means, as of any date of determination, the Fitch Rating, the Moody’s Rating or the S&P Rating.

For purposes of the foregoing, (x) at any time that Debt Ratings are available from each of S&P, Moody’s and Fitch and there is a split among such Debt Ratings, then (i) if any two of such Debt Ratings are in the same level, such level shall apply or (ii) if each of such Debt Ratings is in a different level, the level that is the middle level shall apply and (y) at any time that Debt Ratings are available only from any two of S&P, Moody’s and Fitch and there is a split in such Debt Ratings, then the higher\* of such Debt Ratings shall apply, unless there is a split in Debt Ratings of more than one level, in which case the level that is one level lower than the higher Debt Rating shall apply. The Debt Ratings shall be determined from the most recent public announcement of any changes in the Debt Ratings. If the rating system of S&P, Moody’s or Fitch shall change, the Borrower and the Administrative Agent shall negotiate in good faith to amend the definition of “Debt Rating” to reflect such changed rating system and, pending the effectiveness of such amendment (which shall require the approval of the Required Lenders), the Debt Rating shall be determined by reference to the rating most recently in effect prior to such change. If the Borrower has no Fitch Rating, no Moody’s Rating and no S&P Rating, Pricing Level VI shall apply it being understood that if the Borrower does not have such an indicative ratings, appropriate fallbacks will be determined by Administrative Agent in consultation with Borrower.

“*Approved Electronic Platform*” has the meaning assigned to it in Section 8.03(a).

“*Approved Fund*” has the meaning assigned to it in Section 9.04(b).

“*Arrangers*” means each of JPMorgan Chase Bank, N.A., BofA Securities, Inc., N.A., Barclays Bank PLC, BNP Paribas Securities Corp., Citibank, N.A., Credit Agricole Corporate & Investment Bank, Credit Suisse AG, New York Branch, Goldman Sachs Bank USA, Morgan Stanley Senior Funding, Inc., Royal Bank of Canada, and The Bank of Nova Scotia, in its capacity as a joint lead arranger and joint bookrunner.

“*Assignment and Assumption*” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form (including electronic records generated by the use of an electronic platform) approved by the Administrative Agent.

“*Availability Period*” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

“*Available Tenor*” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining any frequency of making payments of interest calculated

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\* It being understood and agreed, by way of example, that a Debt Rating of A- is one level higher than a Debt Rating of BBB+.

pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to clause (e) of Section 2.14.

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy”, as now and hereafter in effect, or any successor statute.

“**Bankruptcy Event**” means, with respect to any Person, such Person becomes the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment or has had any order for relief in such proceeding entered in respect thereof; *provided* that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“**Benchmark**” means, initially, with respect to any (i) RFR Loan, the Daily Simple SOFR Rate or (ii) Term Benchmark Loan, the Term SOFR Rate; *provided* that if a Benchmark Transition Event, and the related Benchmark Replacement Date have occurred with respect to the Daily Simple SOFR Rate or Term SOFR Rate, as applicable, or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 2.14.

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

- (1) the Adjusted Daily Simple SOFR Rate;
- (2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market

convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated credit facilities at such time in the United States and (b) the related Benchmark Replacement Adjustment;

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

**“Benchmark Replacement Adjustment”** means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities at such time.

**“Benchmark Replacement Conforming Changes”** means, with respect to any Benchmark Replacement and/or any Term Benchmark Revolving Loan, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

**“Benchmark Replacement Date”** means, with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer

representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Event**” means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-

current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14.

**“Beneficial Ownership Certification”** means a certification regarding beneficial ownership or control as required by the Beneficial Ownership Regulation.

**“Beneficial Ownership Regulation”** means 31 C.F.R. § 1010.230.

**“Benefit Plan”** means any of (a) an “employee benefit plan” (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

**“BHC Act Affiliate”** of a party means an ‘affiliate’ (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

**“Borrower”** means Constellation Energy Generation, LLC, a Pennsylvania limited liability company.

**“Borrowing”** means Revolving Borrowing.

**“Borrowing Request”** means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit B or any other form approved by the Administrative Agent.

**“Business Day”** means, any day (other than a Saturday or a Sunday) on which banks are open for business in New York City or Chicago, Illinois; provided that, in relation to RFR Loans and any interest rate settings, fundings, disbursements, settlements or payments of any such RFR Loan, or any other dealings of such RFR Loan, any such day that is only an U.S. Government Securities Business Day.

**“Capital Lease Obligations”** of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases or financing leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

**“Change in Control”** means the occurrence of one of the following: (a) that any person, entity or group (within the meaning of Rule 13d-5 under the Exchange Act), excluding Spinco, shall beneficially own, directly or indirectly, 50% or more of the Equity Interests of the Borrower having ordinary voting power; or (b) at any time after the Borrower has a Board of Directors or similar governing body (a “**Board**”), Continuing Directors shall fail to constitute a majority of the Board of the Borrower; provided that, for purposes of this definition, the Spin Transaction shall not constitute a Change in Control. For purposes of the foregoing, “Continuing Director” means an individual who (x) is elected or appointed to be a member of the Board of the Borrower by Spinco or an affiliate of Spinco at a time when Spinco owns (directly or indirectly) a majority of the Equity

Interests of the Borrower or (y) is nominated to be a member of such Board by a majority of the Continuing Directors then in office.

**“Change in Law”** means the occurrence after the date of this Agreement of (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by any Lender or Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s or Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; *provided that*, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to be a “Change in Law,” regardless of the date enacted, adopted, issued or implemented.

**“Charges”** has the meaning assigned to it in Section 9.14.

**“Class”** when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans.

**“CME Term SOFR Administrator”** means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

**“Co-Documentation Agent”** means each of Bank of America, N.A., Barclays Bank PLC, BNP Paribas Securities Corp., Citibank, N.A., Credit Agricole Corporate & Investment Bank, Credit Suisse AG, New York Branch, Goldman Sachs Bank USA, Morgan Stanley Senior Funding, Inc., Royal Bank of Canada, and The Bank of Nova Scotia in its capacity as a co-documentation agent hereunder.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Commitment”** means, with respect to each Lender, the amount set forth on Schedule 2.01 opposite such Lender’s name, or in the Assignment and Assumption or other documentation or record (as such term is defined in Section 9-102(a)(70) of the New York Uniform Commercial Code) as provided in Section 9.04(b)(ii)(C), pursuant to which such Lender shall have assumed its Commitment, as applicable, and giving effect to (a) any reduction in such amount from time to time pursuant to Section 2.09 and (b) any reduction or increase in such amount from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04; *provided, that* at no time shall the Revolving Credit Exposure of any Lender exceed its Commitment. The initial aggregate amount of the Lenders’ Commitments is \$3,500,000,000.

**“Commodity Trading Obligations”** means the obligations of the Borrower under (i) any commodity swap agreement, commodity future agreement, commodity option agreement, commodity cap agreement, commodity floor agreement, commodity collar agreement, commodity hedge agreement, commodity forward contract or derivative transaction and any put, call or other agreement, arrangement or transaction, including natural gas, power, electric energy, emissions forward contracts, renewable energy credits, or any combination of any such arrangements,

agreements and/or transactions, employed in the ordinary course of the Borrower's business, including the Borrower's energy marketing, trading and asset optimization business, or (ii) any commodity swap agreement, commodity future agreement, commodity option agreement, commodity cap agreement, commodity floor agreement, commodity collar agreement, commodity hedge agreement, commodity forward contract or derivative transaction and any put, call or other agreement or arrangement, or combination thereof (including an agreement or arrangement to hedge foreign exchange risks) in respect of commodities entered into by the Borrower pursuant to asset optimization and risk management policies and procedures adopted pursuant to authority delegated by the Board of Directors of the Borrower or Spinco. The term "commodities" shall include electric energy and/or capacity, transmission rights, coal, petroleum, natural gas liquids, natural gas, fuel transportation rights, emissions allowances, weather derivatives and related products and by-products and ancillary services.

"**Communications**" has the meaning assigned to it in Section 8.03(c).

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"**Consolidated Depreciation and Amortization Expense**" means, with respect to the Borrower and its Subsidiaries for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs, capitalized expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs, the amortization of original issue discount resulting from the issuance of Indebtedness at less than par and amortization of favorable or unfavorable lease assets or liabilities, of the Borrower and its Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"**Consolidated EBITDA**" means, with respect to the Borrower and its Subsidiaries on a consolidated basis for any period, the sum (without duplication) of:

- (a) Consolidated Net Income for such period; plus
- (b) Consolidated Interest Expense; plus
- (c) provision for taxes based on income or profits or capital, including, without limitation, state franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period, including any penalties and interest relating to any tax examinations, deducted (and not added back) in computing Consolidated Net Income; plus
- (d) Consolidated Depreciation and Amortization Expense of the Borrower and its Subsidiaries for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus
- (e) certain operating adjustments, including mark-to-market for economic hedging activities, costs associated with early plant retirements, costs incurred to achieve cost management program savings, merger, integration, and separation costs, and other non-recurring items not directly related to the ongoing operations of the business, consistent with the Borrower's external financial reporting; plus



(f) other non-cash charges, asset write-offs or write-downs related to intangible assets, long-lived assets and investments in debt and equity securities, expenses, losses, or non-cash items reducing Consolidated Net Income for such period, consistent with the Borrower's external financial reporting.

**"Consolidated Interest Expense"** means, with respect to the Borrower and its Subsidiaries on a consolidated basis for any period, the sum (without duplication) of:

(a) consolidated interest expense of the Borrower and its Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than par, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments, (d) the interest component of Capital Lease Obligations and (e) net payments, if any, pursuant to interest rate obligations under any Swap Agreements with respect to Indebtedness); plus

(b) consolidated capitalized interest of the Borrower and its Subsidiaries for such period, whether paid or accrued; less

(c) interest income for such period.

For purposes of this definition, interest in respect of any Capital Lease Obligations shall be deemed to accrue at an interest rate reasonably determined by the Borrower to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP.

**"Consolidated Leverage Ratio"** means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness as of the last day of the applicable Test Period to (b) Consolidated EBITDA as of the last day for such Test Period.

**"Consolidated Net Income"** means, for any period, an amount equal to the net income (or loss) of the Borrower on a consolidated basis, determined in accordance with GAAP, for such period, but excluding (without duplication):

(a) any net gain (or loss) from disposed, abandoned or discontinued operations and any net gain (or loss) on disposal of disposed, discontinued or abandoned operations;

(b) gain, loss, charge or expense with respect to any extraordinary, nonrecurring or unusual item; and

(c) gains or charges attributable to the application of any accounting changes, including as a result of the application of Financial Accounting Standards Board's Accounting Standards Codification No. 715 (or any subsequently adopted standards relating to pension and postretirement benefits) after the date of this Agreement.

**"Consolidated Total Indebtedness"** means, as of any date of determination, the total amount of all Indebtedness of the Borrower and its Subsidiaries determined on a consolidated basis in accordance with GAAP. For the avoidance of doubt, Consolidated Total Indebtedness shall not include Nonrecourse Indebtedness.

**"Constellation Nuclear"** shall mean Constellation Energy Nuclear Group, LLC, a Maryland limited liability company.

“**Constellation Nuclear Entity**” shall mean Constellation Nuclear, LLC, CE Nuclear, LLC and Constellation Nuclear and its Subsidiaries.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings correlative thereto.

“**Controlled Group**” means each person (as defined in Section 3(9) of ERISA) that, together with the Borrower, would be deemed to be a “single employer” within the meaning of Section 414(b) or 414(c) of the Code.

“**Corresponding Tenor**” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“**Covered Entity**” means any of the following:

(i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Covered Party**” has the meaning assigned to it in Section 9.18.

“**Credit Party**” means the Administrative Agent, each Issuing Bank or any other Lender.

“**Daily Simple SOFR Rate**” means, for any day (a “**SOFR Rate Day**”), a rate per annum equal SOFR for the day (such day “**SOFR Determination Date**”) that is five (5) U.S. Government Securities Business Day prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR Rate due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**Defaulting Lender**” means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the

Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations as of the date of certification) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of (A) a Bankruptcy Event or (B) a Bail-In Action.

**"Disclosed Matters"** means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06.

**"Disposition"** or **"Dispose"** means the sale, transfer, license, lease or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a division or otherwise) of any property by any Person (including any sale and leaseback transaction and any issuance of Equity Interests by a Subsidiary of such Person), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

**"Dollars"**, **"dollars"** or **"\$"** refers to lawful money of the United States of America.

**"EEA Financial Institution"** means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

**"EEA Member Country"** means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

**"EEA Resolution Authority"** means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

**"Effective Date"** means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

**"Electronic Signature"** means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

**“Eligible Successor”** means a Person that (i) is a corporation, limited liability company or business trust duly incorporated or organized, validly existing and in good standing under the laws of one of the states of the United States or the District of Columbia, (ii) as a result of a contemplated acquisition, consolidation or merger, will succeed to all or substantially all of the consolidated business and assets of the Borrower, (iii) upon giving effect to such contemplated acquisition, consolidation or merger, will have all or substantially all of its consolidated business and assets conducted and located in the United States and (iv) in the case of the Borrower, is acceptable to the Required Lenders as a credit matter.

**“Environmental Laws”** means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to (i) the environment, (ii) preservation or reclamation of natural resources, (iii) the management, release or threatened release of any Hazardous Material or (iv) health and safety matters.

**“Environmental Liability”** means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

**“Equity Interests”** means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest, but excluding any debt securities convertible into any of the foregoing.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

**“ERISA Event”** means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30 day notice period is waived); (b) the failure to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA

Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

**“EU Bail-In Legislation Schedule”** means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

**“Event of Default”** has the meaning assigned to such term in Section 7.01.

**“Excluded Project Subsidiary”** shall mean, at any time, any Subsidiary that is an obligor (or, in the case of a Subsidiary of an Excluded Project Subsidiary that is such an obligor and is in a business that is related to the business of such Excluded Project Subsidiary that is such an obligor, is otherwise bound, or its property is subject to one or more covenants and other terms of any Nonrecourse Indebtedness outstanding at such time, regardless of whether such Subsidiary is a party to the agreement evidencing the Nonrecourse Indebtedness) with respect to any Nonrecourse Indebtedness outstanding at such time.

**“Excluded Subsidiary”** shall mean (a) an Excluded Project Subsidiary, (b) NewEnergy Receivables LLC, (c) any captive insurance Subsidiary, (d) any not-for-profit Subsidiary or (e) any special purpose vehicle, including any Securitization Vehicle.

**“Excluded Taxes”** means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan, Letter of Credit or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender acquired the applicable interest in a Loan, Letter of Credit or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 2.17(f) and (d) any withholding Taxes imposed under FATCA.

**“Existing Letter of Credit”** means each letter of credit issued by an Issuing Bank and specified by the Borrower to the Administrative Agent on the Effective Date.

**“Existing Maturity Date”** has the meaning assigned to such term in Section 2.21(a).

**“Extending Lender”** has the meaning assigned to such term in Section 2.21(b)(ii).

**“Extension Request”** means a written request from the Borrower to the Administrative Agent requesting an extension of the Maturity Date pursuant to Section 2.21.

**“FATCA”** means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any

agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

**“Federal Funds Effective Rate”** means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; *provided* that if the Federal Funds Effective Rate as so determined would be less than 0%, such rate shall be deemed to be 0% for the purposes of this Agreement.

**“Federal Reserve Board”** means the Board of Governors of the Federal Reserve System of the United States of America.

**“Financial Officer”** means the chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of the Borrower.

**“Fitch”** means Fitch Ratings Inc.

**“Fitch Rating”** means, at any time, the rating issued by Fitch and then in effect with respect to the Borrower’s senior unsecured long-term public debt securities without third-party credit enhancement it being understood that if the Borrower does not have such an indicative rating, an appropriate fallback will be determined by Administrative Agent in consultation with Borrower.

**“Floor”** means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted Term SOFR Rate or the Adjusted Daily Simple SOFR Rate, as applicable. For the avoidance of doubt the initial Floor for each of Adjusted Term SOFR Rate or the Adjusted Daily Simple SOFR Rate shall be 0%.

**“Foreign Lender”** means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

**“GAAP”** means generally accepted accounting principles in the United States of America.

**“Governmental Authority”** means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**“Guarantee”** of or by any Person (the **“guarantor”**) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the **“primary obligor”**) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary

obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; *provided*, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

**“Hazardous Materials”** means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

**“Hedging Obligations”** mean, with respect to any Person, the obligations of such Person under any interest rate or currency swap agreement, interest rate or currency future agreement, interest rate collar agreement, interest rate or currency hedge agreement, and any put, call or other agreement or arrangement designed to protect such Person against fluctuations in interest rates or currency exchange rates.

**“Indebtedness”** of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed and (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

**“Indemnified Taxes”** means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

**“Indemnitee”** has the meaning assigned to it in Section 9.03(c).

**“Index Debt”** means senior, unsecured, long-term indebtedness for borrowed money of the Borrower that is not guaranteed by any other Person or subject to any other credit enhancement.

**“Ineligible Institution”** has the meaning assigned to it in Section 9.04(b).

**“Information”** has the meaning assigned to it in Section 9.12.

**“Information Memorandum”** means the Confidential Information Memorandum dated November 12, 2021 relating to the Borrower and the Transactions.

**“Interest Election Request”** means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08, which shall be substantially in the form of Exhibit C or any other form approved by the Administrative Agent.

**“Interest Payment Date”** means (a) with respect to any ABR Loan, the last day of each March, June, September and December and the Maturity Date, (b) with respect to any RFR Loan, (1) each date that is on the numerically corresponding day in each calendar month that is one month after the Borrowing of such Loan (or, if there is no such numerically corresponding day in such month, then the last day of such month) and (2) the Maturity Date and (c) with respect to any Term Benchmark Loan, the last day of each Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Term Benchmark Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period, and the Maturity Date.

**“Interest Period”** means with respect to any Term Benchmark Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability for the Benchmark applicable to the relevant Loan or Commitment), as the Borrower may elect; *provided*, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (iii) no tenor that has been removed from this definition pursuant to Section 2.14(e) shall be available for specification in such Borrowing Request or Interest Election Request. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

**“IRS”** means the United States Internal Revenue Service.

**“ISDA Definitions”** means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

**“Issuing Bank”** means each of JPMorgan Chase Bank, N.A., Bank of America, N.A., Barclays Bank PLC, BNP Paribas Securities Corp., Citibank, N.A., Credit Agricole Corporate & Investment Bank, Credit Suisse AG, New York Branch, Goldman Sachs Bank USA, Morgan Stanley Bank, N.A., Morgan Stanley Senior Funding, Inc., Royal Bank of Canada, The Bank of Nova Scotia, and any other Lender that, with the consent of the Borrower and the Administrative Agent, agrees to issue Letters of Credit hereunder, in each case in its capacity as the issuer of the applicable Letters of Credit. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by any Affiliate of such Issuing Bank (*provided* that (i) the identity and creditworthiness of such Affiliate is reasonably acceptable to the Borrower and (ii) no such Affiliate shall be entitled to any greater indemnification under Section 2.15 or 2.17 than that to which the applicable Issuing Bank was entitled on the date on which such Letter of Credit was issued except in connection with any indemnification entitlement arising as a result of any Change in Law after the date on which such Letter of Credit was issued), in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it



being agreed that such Issuing Bank shall, or shall cause such branch or Affiliate to, comply with the requirements of Sections 2.06 and 2.17(f) with respect to such Letters of Credit). Notwithstanding anything in this Agreement to the contrary, in no event shall Morgan Stanley Bank, N.A., Morgan Stanley Senior Funding, Barclays Bank PLC, Goldman Sachs Bank USA, Credit Suisse AG, or any of their respective Affiliates be an “Issuing Bank” with respect to any Letter of Credit that is not a standby letter of credit.

“**LC Disbursement**” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“**LC Exposure**” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the LC Exposure at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of applicable law or Article 29(a) of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (or such later version thereof as may be in effect at the applicable time) or Rule 3.13 or Rule 3.14 of the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time) or similar terms of the Letter of Credit itself, or if compliant documents have been presented but not yet honored, such Letter of Credit shall be deemed to be “outstanding” and “undrawn” in the amount so remaining available to be paid, and the obligations of the Borrower and each Lender shall remain in full force and effect until the Issuing Bank and the Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

“**Lender Parent**” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“**Lender-Related Person**” has the meaning assigned to it in Section 9.03(b).

“**Lenders**” means the Persons listed on Schedule 2.01A and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or otherwise, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption or otherwise. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks.

“**Letter of Credit**” means any letter of credit issued pursuant to this Agreement and shall include each Existing Letter of Credit.

“**Letter of Credit Agreement**” has the meaning assigned to it in Section 2.06(b).

“**Letter of Credit Commitment**” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank’s Letter of Credit Commitment is set forth on Schedule 2.01C, or if an Issuing Bank has entered into an Assignment and Assumption or has otherwise assumed a Letter of Credit Commitment after the Effective Date, the amount set forth for such Issuing Bank as its Letter of Credit Commitment in the Register maintained by the Administrative Agent. The Letter of Credit Commitment of an Issuing Bank may be modified from time to time by agreement between such Issuing Bank and the Borrower, and notified to the Administrative Agent.

“**Liabilities**” means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

“**Lien**” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“**LLC**” means any Person that is a limited liability company under the laws of its jurisdiction of formation.

“**Loan Documents**” means this Agreement, including schedules and exhibits hereto, and any agreements entered into in connection herewith by the Borrower or any Loan Party with or in favor of the Administrative Agent and/or the Lenders, including any amendments, modifications or supplements thereto or waivers thereof, legal opinions issued in connection with the other Loan Documents, flood determinations, letter of credit applications and any agreements between the Borrower and an Issuing Bank regarding the issuance by such Issuing Bank of Letters of Credit hereunder and/or the respective rights and obligations between the Borrower and such Issuing Bank in connection thereunder and any other documents prepared in connection with the other Loan Documents, if any.

“**Loan Parties**” means the Borrower.

“**Loans**” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“**Margin Stock**” means margin stock within the meaning of Regulations T, U and X, as applicable.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Borrower and the Subsidiaries taken as a whole, (b) the ability of the Borrower to perform any of its Obligations or (c) the rights of or benefits available to the Lenders under this Agreement or any other Loan Document.

“**Maturity Date**” means, with respect to any Lender, the later of (a) February 1, 2027 and (b) if the maturity date is extended for such Lender pursuant to Section 2.21, such extended maturity date as determined pursuant to such Section; provided, however, in each case, if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

“**Maximum Rate**” has the meaning assigned to it in Section 9.14.

“**Moody's**” means Moody's Investors Service, Inc.

“**Moody's Rating**” means, at any time, the rating issued by Moody's and then in effect with respect to the Borrower's senior unsecured long-term public debt securities without third-party credit enhancement, it being understood that if the Borrower does not have such an indicative rating, an appropriate fallback will be determined by Administrative Agent in consultation with Borrower.

“**Multiemployer Plan**” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“**Nonrecourse Indebtedness**” means any Indebtedness that finances the acquisition, development, ownership or operation of an asset in respect of which the Person to which such Indebtedness is owed has no recourse whatsoever to the Borrower or any of its Affiliates other than:

(i) recourse to the named obligor with respect to such Indebtedness (the “**Debtor**”) for amounts limited to the cash flow or net cash flow (other than historic cash flow) from the asset;

(ii) recourse to the Debtor for the purpose only of enabling amounts to be claimed in respect of such Indebtedness in an enforcement of any security interest or lien given by the Debtor over the asset or the income, cash flow or other proceeds deriving from the asset (or given by any shareholder or the like in the Debtor over its shares or like interest in the capital of the Debtor) to secure the Indebtedness, but only if the extent of the recourse to the Debtor is limited solely to the amount of any recoveries made on any such enforcement; and

(iii) recourse to the Debtor generally or indirectly to any Affiliate of the Debtor, under any form of assurance, undertaking or support, which recourse is limited to a claim for damages (other than liquidated damages and damages required to be calculated in a specified way) for a breach of an obligation (other than a payment obligation or an obligation to comply or to procure compliance by another with any financial ratios or other tests of financial condition) by the Person against which such recourse is available.

“**Non-extending Lender**” has the meaning assigned to such term in Section 2.21(a).

“**NYFRB**” means the Federal Reserve Bank of New York.

“**NYFRB’s Website**” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

“**NYFRB Rate**” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); *provided* that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a federal funds broker of recognized standing selected by it; *provided, further*, that if any of the aforesaid rates as so determined be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“**Obligations**” means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of any proceeding under any debtor relief laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed or allowable claims in such proceeding. Without limiting the foregoing, the Obligations include (a) the obligation to pay principal, interest, Letter of Credit commissions, charges, expenses, fees, indemnities and other amounts payable by the Borrower under any Loan Document and (b) the obligation of the Borrower to reimburse any

amount in respect of any of the foregoing that the Administrative Agent or any Lender, in each case in its sole discretion, may elect to pay or advance on behalf of the Borrower.

**“Other Connection Taxes”** means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan, Letter of Credit or Loan Document).

**“Other Taxes”** means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

**“Overnight Bank Funding Rate”** means, for any day, the rate comprised of both overnight federal funds and overnight eurodollar transactions denominated in Dollars by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

**“Participant”** has the meaning assigned to such term in Section 9.04(c).

**“Participant Register”** has the meaning assigned to such term in Section 9.04(c).

**“Patriot Act”** has the meaning assigned to it in Section 9.16.

**“Payment”** has the meaning assigned to it in Section 8.06(c).

**“Payment Notice”** has the meaning assigned to it in Section 8.06(c).

**“PBGC”** means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

**“Permitted Encumbrances”** means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under Section 7.01(f);

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(g) leases, licenses, subleases or sublicenses granted to third parties in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Borrower or any Subsidiary;

(h) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions;

(i) Liens on specific items of inventory or other goods (other than fixed or capital assets) and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business;

(j) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business so long as such Liens only cover the related goods; and

(k) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

*provided* that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

**"Permitted Obligations"** mean (1) Hedging Obligations of the Borrower or any Subsidiary arising in the ordinary course of business and in accordance with the applicable Person's established risk management policies that are designed to protect such Person against, among other things, fluctuations in interest rates or currency exchange rates and which in the case of agreements relating to interest rates shall have a notional amount no greater than the payments due with respect to the applicable obligations being hedged and (2) Commodity Trading Obligations.

**"Person"** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

**"Plan"** means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA,

and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“**Plan Asset Regulations**” means 29 CFR § 2510.3-101 et seq., as modified by Section 3(42) of ERISA, as amended from time to time.

“**Prime Rate**” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“**Principal Subsidiary**” means each Subsidiary, other than, except as provided in the proviso below, any Constellation Nuclear Entity, (i) the consolidated assets of which, as of the date of any determination thereof, constitute at least 10% of the consolidated assets of the Borrower or (ii) the consolidated earnings before taxes of which constitute at least 10% of the consolidated earnings before taxes of the Borrower for the most recently completed fiscal year; provided, that, regardless of whether Constellation Nuclear or any of its Subsidiaries is a consolidated Subsidiary of the Borrower, (A) the Constellation Nuclear Entities shall be subject to being tested as Principal Subsidiaries under clauses (i) and (ii) above only at any time that the Borrower shall own, directly or indirectly through one or more other Subsidiaries, 51% or more of the outstanding capital stock (or other comparable interest) of Constellation Nuclear having ordinary voting power (irrespective of whether or not at the time capital stock, or comparable interests, of any other class or classes of such corporation or entity shall or might have voting power upon the occurrence of any contingency), and (B) the assets and earnings of Constellation Nuclear and its Subsidiaries shall be included in the computation of the 10% tests set forth in clauses (i) and (ii) above, as applicable, only to the extent of the Borrower’s proportional Equity Interest in Constellation Nuclear.

“**Proceeding**” means any claim, litigation, investigation, action, suit, arbitration or administrative, judicial or regulatory action or proceeding in any jurisdiction.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Public-Sider**” means a Lender whose representatives may trade in securities of the Borrower or its Controlling person or any of its Subsidiaries while in possession of the financial statements provided by the Borrower under the terms of this Agreement.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“**QFC Credit Support**” has the meaning assigned to it in Section 9.18.

“**Rating Agency**” means each of S&P, Moody’s and Fitch.

“**Recipient**” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

**“Reference Time”** with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the Term SOFR Rate, 5:00 a.m. (Chicago time) on the day that is two Business Days preceding the date of such setting, (2) if the RFR for such Benchmark is Daily Simple SOFR Rate, then four Business Days prior to such setting or (3) if such Benchmark is none of the Term SOFR Rate or Daily Simple SOFR Rate, the time determined by the Administrative Agent in its reasonable discretion.

**“Register”** has the meaning assigned to such term in Section 9.04(b).

**“Regulation D”** means Regulation D of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulation T”** means Regulation T of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulation U”** means Regulation U of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulation X”** means Regulation X of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Related Parties”** means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

**“Relevant Governmental Body”** means, the Federal Reserve Board and/or the NYFRB, the CME Term SOFR Administrator, as applicable, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto.

**“Relevant Rate”** means (i) with respect to any Term Benchmark Borrowing, the Adjusted Term SOFR Rate or (ii) with respect to any RFR Borrowing, the Adjusted Daily Simple SOFR Rate, as applicable.

**“Replacement Lender”** has the meaning assigned to such term in Section 2.21(c).

**“Reportable Event”** means a reportable event as defined in Section 4043 of ERISA and regulations issued under such Section with respect to a Single Employer Plan, excluding such events as to which the requirement of Section 4043(a) of ERISA that the PBGC be notified within 30 days after the occurrence of such event is waived under PBGC Regulation Section 4043, provided that a failure to meet the minimum funding standard of Section 412 of the Code and Section 302 of ERISA shall be a Reportable Event regardless of the issuance of any such waivers in accordance with either Section 4043(a) of ERISA or Section 412(c) of the Code.

**“Required Lenders”** means, subject to Section 2.20, (a) at any time prior to the earlier of the Loans becoming due and payable pursuant to Section 7.01 or the Commitments terminating or expiring, Lenders having Revolving Credit Exposures and Unfunded Commitments representing at least 50% of the sum of the Total Revolving Credit Exposure and Unfunded Commitments at such time, *provided* that, solely for purposes of declaring the Loans to be due and payable pursuant to Section 7.01, the Unfunded Commitment of each Lender shall be deemed to be zero; and (b) for all purposes after the Loans become due and payable pursuant to Section 7.01 or the Commitments expire or terminate, Lenders having Revolving Credit Exposures representing at least 50% of the

Total Revolving Credit Exposure at such time; *provided* that, for the purpose of determining the Required Lenders needed for any waiver, amendment, modification or consent of or under this Agreement or any other Loan Document, any Lender that is the Borrower or an Affiliate of the Borrower shall be disregarded

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Response Date**” has the meaning assigned to such term in Section 2.21(a).

“**Responsible Officer**” means the president, Financial Officer or other executive officer of the Borrower.

“**Reuters**” means, as applicable, Thomson Reuters Corp., Refinitiv, or any successor thereto.

“**Revolving Borrowing**” means Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Term Benchmark Loans, as to which a single Interest Period is in effect.

“**Revolving Credit Exposure**” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure at such time.

“**Revolving Loan**” means a Loan made pursuant to Section 2.03.

“**RFR Borrowing**” means, as to any Borrowing, the RFR Loans comprising such Borrowing.

“**RFR Loan**” means a Loan that bears interest at a rate based on the Adjusted Daily Simple SOFR Rate.

“**S&P**” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business.

“**S&P Rating**” means, at any time, the rating issued by S&P and then in effect with respect to the Borrower’s senior unsecured long-term public debt securities without third-party credit enhancement, it being understood that if the Borrower does not have such an indicative rating, an appropriate fallback will be determined by Administrative Agent in consultation with Borrower.

“**Sanctioned Country**” means, at any time, a country, region or territory which is itself, or whose government is, the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“**Sanctioned Person**” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.



“**Sanctions**” means all economic or financial sanctions or trade embargoes or restrictive measures imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority.

“**SEC**” means the Securities and Exchange Commission of the United State of America.

“**Securitization**” shall mean any transaction or series of transactions entered into by the Borrower or any Subsidiary pursuant to which the Borrower or such Subsidiary, as the case may be, sells, conveys, assigns, grants an interest in or otherwise transfers, from time to time, to one or more Securitization Vehicles the Securitization Assets (and/or grants a security interest in such Securitization Assets transferred or purported to be transferred to such Securitization Vehicle), and which Securitization Vehicle finances the acquisition of such Securitization Assets (i) with proceeds from the issuance of Third Party Securities, (ii) with the issuance to the Borrower or such Subsidiary of Sellers’ Retained Interests or an increase in such Sellers’ Retained Interests, or (iii) with proceeds from the sale or collection of Securitization Assets.

“**Securitization Assets**” shall mean any accounts receivable originated or expected to be originated by (and owed to) the Borrower or any Subsidiary (in each case whether now existing or arising or acquired in the future) and any ancillary assets (including contract rights) which are of the type customarily conveyed with, or in respect of which security interests are customarily granted in connection with, such accounts receivable in a securitization transaction and which are sold, transferred or otherwise conveyed by the Borrower or a Subsidiary to a Securitization Vehicle.

“**Securitization Vehicle**” shall mean a Person that is a direct wholly owned Subsidiary of the Borrower or of any Subsidiary (a) formed for the purpose of effecting a Securitization, (b) to which the Borrower and/or any Subsidiary transfers Securitization Assets and (c) which, in connection therewith, issues Third Party Securities; provided that (i) such Securitization Vehicle shall engage in no business other than the purchase of Securitization Assets pursuant to the Securitization, the issuance of Third Party Securities or other funding of such Securitization and any activities reasonably related thereto.

“**Sellers’ Retained Interests**” means the debt and/or Equity Interests (including any intercompany notes) held by the Borrower or any Subsidiary in a Securitization Vehicle to which Securitization Assets have been transferred in a Securitization, including any such debt or equity received as consideration for, or as a portion of, the purchase price for the Securitization Assets transferred, and any other instrument through which the Borrower or any Subsidiary has rights to or receives distributions in respect of any residual or excess interest in the Securitization Assets.

“**Single Employer Plan**” means a Plan other than a Multiemployer Plan maintained by the Borrower or any other member of the Controlled Group for employees of the Borrower or any other member of the Controlled Group.

“**SOFR**” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“**SOFR Administrator**” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“**SOFR Administrator’s Website**” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“**SOFR Determination Date**” has the meaning specified in the definition of “Daily Simple SOFR Rate”.

“**SOFR Rate Day**” has the meaning specified in the definition of “Daily Simple SOFR Rate”.

“**Spin Transaction**” means (i) the transfer of the membership interests of the Borrower by Exelon Corporation (“**Exelon**”) to SpinCo and (ii) the pro rata distribution of the capital stock of SpinCo to the holders of Exelon’s common stock, at which point SpinCo will become a separate, independent publicly traded company.

“**SpinCo**” means the new company established by Exelon in connection with the Spin Transaction and that as of the effective date of the Spin Transaction, will own, directly, 100% of the issued and outstanding membership interests of the Borrower.

“**subsidiary**” means, with respect to any Person (the “**parent**”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled by the parent and/or one or more subsidiaries of the parent.

“**Subsidiary**” means any subsidiary of the Borrower.

“**Supported QFC**” has the meaning assigned to it in Section 9.18.

“**Swap Agreement**” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Term Benchmark**” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted Term SOFR Rate.

“**Term SOFR Determination Day**” has the meaning assigned to it under the definition of Term SOFR Reference Rate.

“**Term SOFR Rate**” means, with respect to any Term Benchmark Borrowing and for any tenor comparable to the applicable Interest Period, the Term SOFR Reference Rate at approximately 5:00 a.m., Chicago time, two U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator.

“**Term SOFR Reference Rate**” means, for any day and time (such day, the “**Term SOFR Determination Day**”), with respect to any Term Benchmark Borrowing denominated in Dollars and for any tenor comparable to the applicable Interest Period, the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 pm (New York City time) on such Term SOFR Determination Day, the “Term SOFR Reference Rate” for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding Business Day is not more than five (5) Business Days prior to such Term SOFR Determination Day.

“**Test Period**” means, for any date of determination under this Agreement, the four (4) consecutive fiscal quarters of the Borrower most recently ended as of such date of determination for which financial statements have been delivered pursuant to [Section 5.01\(b\)](#).

“**Third Party Securities**” shall mean, with respect to any Securitization, notes, bonds or other debt instruments, beneficial interests in a trust, undivided ownership interests in receivables or other securities issued for cash consideration by the relevant Securitization Vehicle to banks, financing conduits, investors or other financing sources (other than the Borrower or any Subsidiary, except in respect of the Sellers’ Retained Interest) the proceeds of which are used to finance, in whole or in part, the purchase by such Securitization Vehicle of Securitization Assets in a Securitization. The amount of any Third Party Securities shall be deemed to equal the aggregate principal, stated or invested amount of such Third Party Securities which are outstanding at such time.

“**Total Revolving Credit Exposure**” means, at any time, the sum of (a) the outstanding principal amount of the Revolving Loans at such time and (b) the total LC Exposure at such time.

“**Transactions**” means the execution, delivery and performance by the Borrower of this Agreement, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“**Type**”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Term SOFR Rate, the Alternate Base Rate or the Adjusted Daily Simple SOFR Rate.

“**UK Financial Institutions**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which

includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Unadjusted Benchmark Replacement**” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**Unfunded Commitment**” means, with respect to each Lender, the Commitment of such Lender less its Revolving Credit Exposure.

“**Unfunded Liabilities**” means, (i) in the case of any Single Employer Plan, the amount (if any) by which the present value of all vested nonforfeitable benefits under such Plan exceeds the fair market value of all Plan assets allocable to such benefits, all determined as of the then most recent evaluation date for such Plan, and (ii) in the case of any Multiemployer Plan, the withdrawal liability that would be incurred by the Controlled Group if all members of the Controlled Group completely withdrew from such Multiemployer Plan.

“**U.S. Government Securities Business Day**” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“**U.S. Person**” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“**U.S. Special Resolution Regime**” has the meaning assigned to it in Section 9.18.

“**U.S. Tax Compliance Certificate**” has the meaning assigned to such term in Section 2.17(f)(ii)(B)(3).

“**Withdrawal Liability**” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“**Write-Down and Conversion Powers**” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02. *Classification of Loans and Borrowings.* For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Term Benchmark Loan” or an “RFR Loan”) or by Class and Type (e.g., a “Term Benchmark

Revolving Loan” or an “RFR Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Term Benchmark Borrowing” or an “RFR Borrowing”) or by Class and Type (e.g., a “Term Benchmark Revolving Borrowing” or an “RFR Revolving Borrowing”).

Section 1.03. *Terms Generally.* The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law, rule or regulation herein shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified or supplemented from time to time and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.04. *Accounting Terms; GAAP.* (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to (i) any election under Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at “fair value”, as defined therein and (ii) any treatment of Indebtedness under Accounting Standards Codification 470-20 or 2015-03 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) Notwithstanding anything to the contrary contained in Section 1.04(a) or in the definition of “Capital Lease Obligations,” any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842) (“*FAS 842*”), to the extent such adoption would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in

effect on December 31, 2015, such lease shall not be considered a capital lease, and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

Section 1.05. *Interest Rates; Benchmark Notification.* The interest rate on a Loan denominated in dollars may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

Section 1.06. *Letter of Credit Amounts.* Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the amount of such Letter of Credit available to be drawn during the remaining life thereof; provided that with respect to any Letter of Credit that, by its terms or the terms of any Letter of Credit Agreement related thereto, provides for one or more automatic increases in the available amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum amount available to be drawn under such Letter of Credit after giving effect to all such increases, whether or not such maximum amount is available to be drawn at such time.

Section 1.07. *Divisions.* For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

## ARTICLE 2 THE CREDITS

Section 2.01. *Commitments.* Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans in Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in such Lender's Revolving Credit Exposure exceeding such Lender's Commitment. Within the foregoing limits and subject to

the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

Section 2.02. *Loans and Borrowings.* (a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Term Benchmark Loans, as the Borrower may request in accordance herewith. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; *provided* that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Term Benchmark Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$10,000,000. At the time that each ABR Revolving Borrowing and/or RFR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000; *provided* that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Borrowings of more than one Type and Class may be outstanding at the same time; *provided* that there shall not at any time be more than a total of ten Term Benchmark Revolving Borrowings or RFR Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.03. *Requests for Revolving Borrowings.* To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by submitting a Borrowing Request (a)(i) in the case of a Term Benchmark Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of the proposed Borrowing or (ii) in the case of an RFR Borrowing, not later than 12:00 noon, New York City time, five Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, on the date of the proposed Borrowing; *provided* that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable and shall be signed by a Responsible Officer of the Borrower. Each such Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing, a Term Benchmark Borrowing or an RFR Borrowing;

(iv) in the case of a Term Benchmark Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term “Interest Period”; and

(v) the location and number of the Borrower’s account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Term Benchmark Revolving Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month’s duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender’s Loan to be made as part of the requested Borrowing.

Section 2.04. *Optional Increases in Commitments.* The Borrower may, from time to time, by means of a letter delivered to the Administrative Agent substantially in the form of Exhibit G, request that the Commitments be increased by an aggregate amount (for all such increases) not exceeding \$650,000,000 by (a) increasing the Commitments of one or more Lenders that have agreed to such increase (in their sole discretion) and/or (b) adding one or more commercial banks or other Persons as a party hereto (each an “Additional Lender”) with a Commitments in an amount agreed to by any such Additional Lender; provided that (i) any increase in the Commitments shall be in an aggregate amount of \$25,000,000 or a higher integral multiple of \$1,000,000; (ii) no Additional Lender shall be added as a party hereto without the written consent of the Administrative Agent and the Issuing Banks (which consents shall not be unreasonably withheld) or if a Default or Event of Default exists; (iii) subject to Section 9.04(b), no such increase shall be effective without the written consent of the Issuing Banks (which consent shall not be unreasonably withheld or delayed); and (iv) the Borrower may not request an increase in the Commitments unless the Borrower has delivered to the Administrative Agent (with a copy for each Lender) a certificate (A) stating that any applicable governmental authority has approved such increase, (B) attaching evidence, reasonably satisfactory to the Administrative Agent, of each such approval and (C) stating that the representations and warranties contained in Article III are correct on and as of the date of such certificate as though made on and as of such date and that no Default or Event of Default exists on such date. Any increase in the Commitments pursuant to this Section 2.04 shall be effective three Business Days after the date on which the Administrative Agent has received and accepted the applicable increase letter in the form of Annex 1 to Exhibit G (in the case of an increase in the Commitments of an existing Lender) or assumption letter in the form of Annex 2 to Exhibit G (in the case of the addition of a commercial bank or other Person as a new Lender). The Administrative Agent shall promptly notify the Borrower and the Lenders of any increase in the Commitments pursuant to this Section 2.04 and of the Commitments and Pro rata Commitment of each Lender after giving effect thereto. The Borrower shall prepay any Loans outstanding on the effective date of such increase (and pay any additional amounts required pursuant to Section 9.03) to the extent necessary to keep the outstanding Loans ratable among the Lenders in accordance with any revised Pro rata Commitments arising from any non-ratable increase in the Commitments under this Section 2.04; provided that, notwithstanding any other provision of this Agreement, the Administrative Agent, the Borrower and each increasing Lender and Additional Lender, as applicable, may make arrangements satisfactory to such parties to cause an increasing Lender or an Additional Lender to temporarily hold risk participations in the outstanding Loans of the other Lenders (rather than fund its Pro rata Commitment of all outstanding Loans concurrently with the applicable increase) with a view toward minimizing breakage costs and transfers of funds in connection with any increase in the Commitments. To the extent that any increase pursuant to this Section 2.04 is not expressly



authorized pursuant to resolutions or consents delivered pursuant to Section 4.01(c), the Borrower shall, prior to the effectiveness of such increase, deliver to the Administrative Agent a certificate signed by an authorized officer of the Borrower certifying and attaching the resolutions or consents that have been adopted to approve or consent to such increase.

Section 2.05. *[Reserved]*.

Section 2.06. *Letters of Credit*.

(a) *General*. Subject to the terms and conditions set forth herein, the Borrower may request any Issuing Bank to issue Letters of Credit as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to such Issuing Bank, at any time and from time to time during the Availability Period.

(b) *Notice of Issuance, Amendment, Extension; Certain Conditions*. To request the issuance of a Letter of Credit (or the amendment or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the respective Issuing Bank) to an Issuing Bank selected by it and to the Administrative Agent (reasonably in advance of the requested date of issuance, amendment or extension, but in any event no less than three Business Days) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended or extended, and specifying the date of issuance, amendment or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend or extend such Letter of Credit. In addition, as a condition to any such Letter of Credit issuance, the Borrower shall have entered into a continuing agreement (or other letter of credit agreement) for the issuance of letters of credit and/or shall submit a letter of credit application, in each case, as required by the respective Issuing Bank and using such Issuing Bank's standard form (each, a "**Letter of Credit Agreement**"). In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any Letter of Credit Agreement, the terms and conditions of this Agreement shall control. A Letter of Credit shall be issued, amended or extended only if (and upon issuance, amendment or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment or extension (i) (x) the aggregate undrawn amount of all outstanding Letters of Credit issued by any Issuing Bank at such time plus (y) the aggregate amount of all LC Disbursements made by such Issuing Bank that have not yet been reimbursed by or on behalf of the Borrower at such time shall not exceed its Letter of Credit Commitment, (ii) the LC Exposure shall not exceed the total Letter of Credit Commitments and (iii) no Lender's Revolving Credit Exposure shall exceed its Commitment. The Borrower may, at any time and from time to time, reduce the Letter of Credit Commitment of any Issuing Bank with the consent of such Issuing Bank; *provided* that the Borrower shall not reduce the Letter of Credit Commitment of any Issuing Bank if, after giving effect of such reduction, the conditions set forth in clauses (i) through (iii) above shall not be satisfied.

An Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any law applicable to such Issuing Bank shall prohibit, or require that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit

any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense that was not applicable on the Effective Date and that such Issuing Bank in good faith deems material to it; or

(ii) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally.

(c) *Expiration Date.* Each Letter of Credit shall expire (or be subject to termination by notice from the applicable Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any extension of the expiration date thereof, one year after such extension) and (ii) the date that is five Business Days prior to the Maturity Date.

(d) *Participations.* By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Lenders, such Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the respective Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason, including after the Maturity Date. Each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments.

(e) *Reimbursement.* If an Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 12:00 noon, New York City time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 noon, New York City time, on the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; *provided* that, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Revolving Borrowing, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing, as applicable. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the respective Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment

from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the respective Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) *Obligations Absolute.* The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit, any Letter of Credit Agreement or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the respective Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their respective Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms, any error in translation or any consequence arising from causes beyond the control of the respective Issuing Bank; *provided* that the foregoing shall not be construed to excuse an Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) *Disbursement Procedures.* The Issuing Bank for any Letter of Credit shall, within the time allowed by applicable law or the specific terms of the Letter of Credit following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. Such Issuing Bank shall promptly after such examination notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy or electronic mail) of such demand for payment if such Issuing Bank has made or will make an LC Disbursement thereunder; *provided* that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) *Interim Interest.* If the Issuing Bank for any Letter of Credit shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable at the rate per annum then applicable to ABR Revolving Loans and such interest shall be due and payable on the date when such reimbursement is payable; *provided* that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of such Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank for such LC Disbursement shall be for the account of such Lender to the extent of such payment.

(i) *Replacement and Resignation of an Issuing Bank.* (i) An Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (x) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued by it thereafter and (y) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit or extend or otherwise amend any existing Letter of Credit.

(ii) Any Issuing Bank may resign as an Issuing Bank at any time upon thirty days' prior written notice to the Administrative Agent, the Borrower and the Lenders, in which case, such resigning Issuing Bank shall be replaced in accordance with Section 2.06(i)(i) above.

(j) *Cash Collateralization.* If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account or accounts with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "*Collateral Account*"), an amount in cash equal to 105% of the LC Exposure as of such date plus any accrued and unpaid interest thereon; *provided* that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 7.01(e). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. In addition, and without limiting the foregoing or paragraph (c) of this Section, if any LC Exposure remain outstanding after the expiration date specified in said paragraph (c), the Borrower shall immediately deposit into the Collateral Account an amount in cash equal to 105% of such LC Exposure as of such date plus any accrued and unpaid interest thereon.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for LC Disbursements for which it has not been reimbursed, together with related fees, costs and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(k) *Letters of Credit Issued for Account of Subsidiaries.* Notwithstanding that a Letter of Credit issued or outstanding hereunder supports any obligations of, or is for the account of, a Subsidiary, or states that a Subsidiary is the "account party," "applicant," "customer," "instructing party," or the like of or for such Letter of Credit, and without derogating from any rights of the applicable Issuing Bank (whether arising by contract, at law, in equity or otherwise) against such Subsidiary in respect of such Letter of Credit, the Borrower (i) shall reimburse, indemnify and compensate the applicable Issuing Bank hereunder for such Letter of Credit (including to reimburse any and all drawings thereunder) as if such Letter of Credit had been issued solely for the account of the Borrower and (ii) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. The Borrower hereby acknowledges that the issuance of such Letters of Credit for its Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

Section 2.07. *Funding of Borrowings.* (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof solely by wire transfer of immediately available funds, by 12:00 noon, New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. Except in respect of the provisions of this Agreement covering the reimbursement of Letters of Credit, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the funds so received in the aforesaid account of the Administrative Agent to an account of the Borrower maintained with the Administrative Agent in New York City and designated by the Borrower in the applicable Borrowing Request; *provided* that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative

Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

Section 2.08. *Interest Elections.* (a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Term Benchmark Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Term Benchmark Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable and shall be signed by a Responsible Officer of the Borrower.

(c) Each Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Term Benchmark Borrowing or an RFR Borrowing; and

(iv) if the resulting Borrowing is a Term Benchmark Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Term Benchmark Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Term Benchmark Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such

Borrowing shall be deemed to have an Interest Period that is one month. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Term Benchmark Borrowing and (ii) unless repaid, (A) each Term Benchmark Borrowing and (B) each RFR Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.09. *Termination and Reduction of Commitments.* (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments; *provided* that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$10,000,000 and not less than \$50,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, any Lender's Revolving Credit Exposure would exceed its Commitment.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; *provided* that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

Section 2.10. *Repayment of Loans; Evidence of Indebtedness.* (a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; *provided* that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

Section 2.11. *Prepayment of Loans.* (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section.

(b) The Borrower shall notify the Administrative Agent by telephone (confirmed by telecopy or electronic mail) of any prepayment hereunder (i) in the case of prepayment of (1) a Term Benchmark Revolving Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of prepayment or (2) an RFR Revolving Borrowing, not later than 12:00 noon, New York City time, five Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 12:00 noon, New York City time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; *provided* that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.13 and any break funding payments required by Section 2.16.

Section 2.12. *Fees.* (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a facility fee, which shall accrue at the Applicable Rate on the daily amount of the Commitment of such Lender (whether used or unused) during the period from and including the Effective Date to but excluding the date on which such Commitment terminates; *provided* that, if such Lender continues to have any Revolving Credit Exposure after its Commitment terminates, then such facility fee shall continue to accrue on the daily amount of such Lender's Revolving Credit Exposure from and including the date on which its Commitment terminates to but excluding the date on which such Lender ceases to have any Revolving Credit Exposure. Facility fees accrued through and including the last day of March, June, September and December of each year shall be payable in arrears on the fifteenth day following such last day and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof; *provided* that any facility fees accruing after the date on which the Commitments terminate shall be payable on demand. All facility fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day and the last day of each period but excluding the date on which the Commitments terminate).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in each outstanding Letter of Credit, which shall accrue on the daily maximum amount then available to be drawn under such Letter of Credit at the same Applicable Rate used to determine the interest rate applicable to Term Benchmark Revolving Loans, during the period from and including the Effective Date to but



excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank for its own account a fronting fee with respect to each Letter of Credit issued by such Issuing Bank, which shall accrue at the rate or rates per annum separately agreed upon between the Borrower and such Issuing Bank on the daily maximum amount then available to be drawn under such Letter of Credit, during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure with respect to Letters of Credit issued by such Issuing Bank, as well as such Issuing Bank's standard fees with respect to the issuance, amendment or extension of any Letter of Credit and other processing fees, and other standard costs and charges, of such Issuing bank relating the Letters of Credit as from time to time in effect. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the fifteenth day following such last day, commencing on the first such date to occur after the Effective Date; *provided* that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in dollars in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of facility fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

Section 2.13. *Interest.* (a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Term Benchmark Borrowing shall bear interest in the case of a Term Benchmark Revolving Loan, at the Adjusted Term SOFR Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Each RFR Loan shall bear interest at a rate per annum equal to the Adjusted Daily Simple SOFR Rate plus the Applicable Rate.

(d) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(e) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Commitments; *provided* that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of

an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Term Benchmark Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) Interest computed by reference to the Term SOFR Rate or Daily Simple SOFR Rate hereunder shall be computed on the basis of a year of 360 days. Interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). In each case interest shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All interest hereunder on any Loan shall be computed on a daily basis based upon the outstanding principal amount of such Loan as of the applicable date of determination. The applicable Alternate Base Rate, Adjusted Term SOFR Rate, Term SOFR Rate, Adjusted Daily Simple SOFR Rate or Daily Simple SOFR Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.14. *Alternate Rate of Interest.* (a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 2.14, if:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, that adequate and reasonable means do not exist for ascertaining the Adjusted Term SOFR Rate or the Term SOFR Rate (including because the Term SOFR Reference Rate is not available or published on a current basis), for such Interest Period or (B) at any time, that adequate and reasonable means do not exist for ascertaining the applicable Adjusted Daily Simple SOFR Rate, Daily Simple SOFR Rate; or

(ii) the Administrative Agent is advised by the Required Lenders that (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, the Adjusted Term SOFR Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period or (B) at any time, Adjusted Daily Simple SOFR Rate will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, (1) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Term Benchmark Borrowing and any Borrowing Request that requests a Term Benchmark Revolving Borrowing shall instead be deemed to be an Interest Election Request or a Borrowing Request, as applicable, for (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR Rate is not also the subject of Section 2.14(a)(i) or (ii) above or (y) an ABR Borrowing if the Adjusted Daily Simple SOFR Rate also is the subject of Section 2.14(a)(i) or (ii) above and (2) any Borrowing Request that requests an RFR Borrowing shall instead be deemed to be a Borrowing Request, as applicable, for an ABR Borrowing; provided that if the circumstances giving rise to

such notice affect only one Type of Borrowings, then all other Types of Borrowings shall be permitted. Furthermore, if any Term Benchmark Loan or RFR Loan is outstanding on the date of the Borrower's receipt of the notice from the Administrative Agent referred to in this Section 2.14(a) with respect to a Relevant Rate applicable to such Term Benchmark Loan or RFR Loan, then until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, (1) any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR Rate is not also the subject of Section 2.14(a)(i) or (ii) above or (y) an ABR Loan if the Adjusted Daily Simple SOFR Rate also is the subject of Section 2.14(a)(i) or (ii) above, on such day, and (2) any RFR Loan shall on and from such day be converted by the Administrative Agent to, and shall constitute an ABR Loan.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders of each affected Class.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.14, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent

from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.14.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of “Interest Period” for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Term Benchmark Borrowing or RFR Borrowing of, conversion to or continuation of Term Benchmark Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any request for a Term Benchmark Borrowing into a request for a Borrowing of or conversion to (A) an RFR Borrowing so long as the Adjusted Daily Simple SOFR Rate is not the subject of a Benchmark Transition Event or (B) an ABR Borrowing if the Adjusted Daily Simple SOFR Rate is the subject of a Benchmark Transition Event. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any Term Benchmark Loan or RFR Loan is outstanding on the date of the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a Relevant Rate applicable to such Term Benchmark Loan or RFR Loan, then until such time as a Benchmark Replacement is implemented pursuant to this Section 2.14, (1) any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, (x) an RFR Borrowing so long as the Adjusted Daily Simple SOFR Rate is not the subject of a Benchmark Transition Event or (y) an ABR Loan if the Adjusted Daily Simple SOFR Rate is the subject of a Benchmark Transition Event, on such day and (2) any RFR Loan shall on and from such day be converted by the Administrative Agent to, and shall constitute an ABR Loan.

Section 2.15. *Increased Costs.* (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted Term SOFR Rate) or Issuing Bank;

(ii) impose on any Lender or Issuing Bank or the applicable offshore interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender, such Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender, such Issuing Bank or such other Recipient hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender, such Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; *provided* that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; *provided further* that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16. *Break Funding Payments.* (a) With respect to Loans that are not RFR Loans, in the event of (i) the payment of any principal of any Term Benchmark Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or

an optional or mandatory prepayment of Loans), (ii) the conversion of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto, (iii) the failure to borrow, convert, continue or prepay any Term Benchmark Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith) or (iv) the assignment of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(b) With respect to RFR Loans, in the event of (i) the payment of any principal of any RFR Loan other than on the Interest Payment Date applicable thereto (including as a result of an Event of Default or an optional or mandatory prepayment of Loans), (ii) the failure to borrow or prepay any RFR Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith) or (iii) the assignment of any RFR Loan other than on the Interest Payment Date applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.17. *Withholding of Taxes; Gross-Up.*

(a) *Payments Free of Taxes.* Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) *Payment of Other Taxes by the Borrower.* The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) *Evidence of Payments.* As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) *Indemnification by the Borrower.* The Borrower shall indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) *Indemnification by the Lenders.* Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) *Status of Lenders.* (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, an executed copy of IRS Form W-8BEN-E or IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E or IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (y) an executed copy of IRS Form W-8BEN-E or IRS Form W-8BEN; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly



completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) [Reserved].

(h) *Treatment of Certain Refunds.* If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) *Survival.* Each party's obligations under this Section shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) *Defined Terms.* For purposes of this Section, the term “**Lender**” includes any Issuing Bank and the term “**applicable law**” includes FATCA.

Section 2.18. *Payments Generally; Pro Rata Treatment; Sharing of Setoffs.* (a) The Borrower shall make each payment or prepayment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) in Dollars prior to 12:00 noon, New York City time, on the date when due or the date fixed for any prepayment hereunder, in immediately available funds, without setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 383 Madison Avenue, New York, New York, except payments to be made directly to Issuing Banks as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) At any time that payments are not required to be applied in the manner required by Section 7.03, if at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements; *provided* that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received, prior to any date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks pursuant to the terms hereof or any other Loan Document (including any date that is fixed for prepayment by notice from the Borrower to the Administrative Agent pursuant to Section 2.11(b)), notice from the Borrower that the Borrower will not make such payment or prepayment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the NYFRB Rate.

Section 2.19. *Mitigation Obligations; Replacement of Lenders.* (a) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender becomes Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Sections 2.15 or 2.17) and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); *provided* that (i) the Borrower shall have received the prior written consent of the Administrative Agent (and if a Commitment is being assigned, the Issuing Banks), which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each party hereto agrees that (A) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (B) the Lender required to make such

assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to an be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; *provided* that any such documents shall be without recourse to or warranty by the parties thereto.

Section 2.20. *Defaulting Lenders.*

Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the Commitment of such Defaulting Lender pursuant to Section 2.12;

(b) any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 7.03 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank hereunder; third, to cash collateralize LC Exposure with respect to such Defaulting Lender in accordance with this Section; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with this Section; sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Banks against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LC Disbursements owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure are held by the Lenders pro rata in accordance with the Commitments without giving effect to clause (d) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section shall

be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided that this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby;

(d) if any LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that such reallocation does not, as to any non-Defaulting Lender, cause such non-Defaulting Lender's Revolving Credit Exposure to exceed its Commitment;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent prepay, cash collateralize for the benefit of the Issuing Banks only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 7.02(c) for so long as such LC Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all facility fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender's Commitment that was utilized by such LC Exposure) and letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(e) so long as such Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.20(d), and LC Exposure related to any newly issued or increased Letter of Credit

shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(d)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) any Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless the Issuing Banks, as the case may be, shall have entered into arrangements with the Borrower or such Lender, satisfactory to Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder.

In the event that each of the Administrative Agent, the Borrower, and each Issuing Bank agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

Section 2.21. *Extension of Maturity Date.* (a) The Borrower may, by delivering an Extension Request to the Administrative Agent (who shall promptly deliver a copy to each of the Lenders), not less than 60 days in advance of the Maturity Date in effect at such time (the "**Existing Maturity Date**"), request that the Lenders extend the Existing Maturity Date to the first anniversary of such Existing Maturity Date. Each Lender, acting in its sole discretion, shall, by written notice to the Administrative Agent given not later than the date that is the 20th day after the date of the Extension Request, or if such date is not a Business Day, the immediately following Business Day (the "**Response Date**"), advise the Administrative Agent in writing whether or not such Lender agrees to the requested extension. Each Lender that advises the Administrative Agent that it will not extend the Existing Maturity Date is referred to herein as a "**Non-extending Lender**"; *provided*, that any Lender that does not advise the Administrative Agent of its consent to such requested extension by the Response Date and any Lender that is a Defaulting Lender on the Response Date shall be deemed to be a Non-extending Lender. The Administrative Agent shall notify the Borrower, in writing, of the Lenders' elections promptly following the Response Date. The election of any Lender to agree to such an extension shall not obligate any other Lender to so agree. The Maturity Date may be extended no more than two times pursuant to this Section 2.21.

(b) (i) If, by the Response Date, Lenders holding Commitments that aggregate 50% or more of the total Commitments shall constitute Non-extending Lenders, then the Existing Maturity Date shall not be extended and the outstanding principal balance of all Loans and other amounts payable hereunder shall be payable, and the Commitments shall terminate, on the Existing Maturity Date in effect prior to such extension.

(ii) If (and only if), by the Response Date, Lenders holding Commitments that aggregate more than 50% of the total Commitments shall have agreed to extend the Existing Maturity Date (each such consenting Lender, an "**Extending Lender**"), then effective as of the Existing Maturity Date, the Maturity Date for such Extending Lenders shall be extended to the first anniversary of the Existing Maturity Date (subject to satisfaction of the conditions set forth in Section 2.21(d)). In the event of such extension, the Commitment of each Non-extending Lender shall terminate on the Existing Maturity Date in effect for such Non-extending Lender prior to such extension and the outstanding principal balance of all Loans and other amounts payable hereunder to such Non-extending Lender shall become due and payable on such Existing Maturity Date and, subject to

Section 2.21(c) below, the total Commitments hereunder shall be reduced by the Commitments of the Non-extending Lenders so terminated on such Existing Maturity Date.

(c) In the event of any extension of the Existing Maturity Date pursuant to Section 2.21(b)(ii), the Borrower shall have the right on or before the Existing Maturity Date, at its own expense, to require any Non-extending Lender to transfer and assign without recourse (in accordance with and subject to the restrictions contained in Section 9.04) all its interests, rights (other than its rights to payments pursuant to Section 2.15, Section 2.16, Section 2.17 or Section 9.03 arising prior to the effectiveness of such assignment) and obligations under this Agreement to one or more banks or other financial institutions identified to the Non-extending Lender by the Borrower, which may include any existing Lender (each a "**Replacement Lender**"); *provided* that (i) such Replacement Lender, if not already a Lender hereunder, shall be subject to the approval of the Administrative Agent and each Issuing Bank (such approvals to not be unreasonably withheld) to the extent the consent of the Administrative Agent or the Issuing Banks would be required to effect an assignment under Section 9.04(b), (ii) such assignment shall become effective as of a date specified by the Borrower (which shall not be later than the Existing Maturity Date in effect for such Non-extending Lender prior to the effective date of the requested extension) and (iii) the Replacement Lender shall pay to such Non-extending Lender in immediately available funds on the effective date of such assignment the principal of and interest accrued to the date of payment on the outstanding principal amount Loans made by it hereunder and all other amounts accrued and unpaid for its account or otherwise owed to it hereunder on such date.

(d) As a condition precedent to each such extension of the Existing Maturity Date pursuant to Section 2.21(b)(ii), the Borrower shall (i) deliver to the Administrative Agent a certificate of the Borrower dated as of the Existing Maturity Date signed by a Responsible Officer of the Borrower certifying that, as of such date, both before and immediately after giving effect to such extension, (A) the representations and warranties of the Borrower set forth in this Agreement shall be true and correct and (B) no Default shall have occurred and be continuing and (ii) first make such prepayments of the outstanding Loans and second provide such cash collateral (or make such other arrangements satisfactory to the applicable Issuing Bank) with respect to the outstanding Letters of Credit as shall be required such that, after giving effect to the termination of the Commitments of the Non-extending Lenders pursuant to Section 2.21(b) and any assignment pursuant to Section 2.21(c), the aggregate Revolving Credit Exposure less the face amount of any Letter of Credit supported by any such cash collateral (or other satisfactory arrangements) so provided does not exceed the aggregate amount of Commitments being extended.

(e) For the avoidance of doubt, (i) no consent of any Lender (other than the existing Lenders participating in the extension of the Existing Maturity Date) shall be required for any extension of the Maturity Date pursuant to this Section 2.21 and (ii) the operation of this Section 2.21 in accordance with its terms is not an amendment subject to Section 9.02.

### ARTICLE 3 REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lenders that:

Section 3.01. *Organization; Powers.* The Borrower is a limited liability company (or after a transaction contemplated by Section 6.02(iii), a corporation) duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania

Section 3.02. *Authorization; Enforceability.* The Transactions are within the Borrower's corporate or other organizational powers and have been duly authorized by all necessary organizational action. This Agreement has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.03. *Governmental Approvals; No Conflicts.* The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Borrower or any order of any Governmental Authority, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or its assets, or give rise to a right thereunder to require any payment to be made by the Borrower, and (d) will not result in the creation or imposition of, or the requirement to create, any Lien on any asset of the Borrower.

Section 3.04. *Financial Condition; No Material Adverse Effect.* (i) The consolidated balance sheet of the Borrower and its Subsidiaries as at December 31, 2020 and the related consolidated statements of operations, changes in shareholders' equity and cash flows of the Borrower and its Subsidiaries for the fiscal year then ended, certified by Pricewaterhouse Coopers LLP, copies of which have been furnished to each Lender, fairly present in all material respects the consolidated financial condition of the Borrower and its Subsidiaries as at such dates and the consolidated results of the operations of the Borrower and its Subsidiaries for the periods ended on such dates in accordance with GAAP; and (ii) since December 31, 2020, there has been no Material Adverse Effect.

Section 3.05. *Reserved.*

Section 3.06. *Litigation and Environmental Matters.* (a) Except as disclosed in the Borrower's annual, quarterly or current Reports, each as delivered in connection with Section 5.01 and/or filed with the Securities and Exchange Commission and delivered to the Lenders prior to the Effective Date, there is no pending or threatened action, investigation or proceeding affecting the Borrower or any Subsidiary before any court, governmental agency or arbitrator that may reasonably be anticipated to have a Material Adverse Effect. There is no pending or threatened action or proceeding against the Borrower or any Subsidiary that purports to affect the legality, validity, binding effect or enforceability against the Borrower of this Agreement.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, the Borrower (i) has not failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has not become subject to any Environmental Liability, (iii) has not received notice of any claim with respect to any Environmental Liability or (iv) has no knowledge of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.



Section 3.07. *Compliance with Laws and Agreements.* The Borrower is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

Section 3.08. *Investment Company Status.* The Borrower is not required to register as an “investment company” as defined in the Investment Company Act of 1940.

Section 3.09. *Taxes.* The Borrower has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 3.10. *ERISA.* No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect.

Section 3.11. *Beneficial Ownership.* As of the Effective Date, to the best knowledge of the Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Effective Date to any Lender in connection with this Agreement is true and correct in all respects.

Section 3.12. *Reserved.*

Section 3.13. *Anti-Corruption Laws and Sanctions.* None of (a) the Borrower, any Subsidiary, any of their respective directors or officers, or (b) to the knowledge of the Borrower, any affiliate, agent or employee of the Borrower or any Subsidiary have engaged in any activity or conduct which would violate any applicable Anti-Corruption Laws or any applicable Sanctions and the Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. None of (a) the Borrower, any Subsidiary, any of their respective directors or officers or employees, or (b) to the knowledge of the Borrower, any affiliate or agent of the Borrower or any Subsidiary is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or other transaction contemplated by this Agreement will violate any Anti-Corruption Law or applicable Sanctions.

Section 3.14. *Affected Financial Institutions.* The Borrower is not an Affected Financial Institution.

Section 3.15. *Reserved.*

Section 3.16. *Margin Regulations.* The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds of any Borrowing and no Letter of Credit issued hereunder will be used to buy or carry any Margin Stock. Following the application of the proceeds of each Borrowing or drawing under each Letter of Credit, not more than 25% of the value of the assets (either of the Borrower only or of the Borrower and its Subsidiaries on a consolidated basis) will be Margin Stock.

Section 3.17. *Reserved.*

Section 3.18. *Exchange Act.* No proceeds of any Loan have been or will be used directly or indirectly in connection with the acquisition of in excess of 5% of any class of equity securities that is registered pursuant to Section 12 of the Exchange Act or any transaction subject to the requirements of Section 13 or 14 of the Exchange Act.

#### ARTICLE 4 CONDITIONS

Section 4.01. *Effective Date.* The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto a counterpart of this Agreement signed on behalf of such party (which, subject to Section 9.06(b), may include any Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page).

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Ballard Spahr LLP, counsel for the Borrower, substantially in the form of Exhibit D, and covering such other matters relating to the Borrower, this Agreement or the Transactions as the Required Lenders shall reasonably request. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrower, the authorization of the Transactions and any other legal matters relating to the Borrower, this Agreement or the Transactions, all in form and substance satisfactory to the Administrative Agent and its counsel.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or Financial Officer of the Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out of pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(f) The Administrative Agent shall have received the audited financial statements and the unaudited quarterly financial statements of the Borrower referred to in Section 5.01.

(g) (i) The Administrative Agent shall have received, at least five days prior to the Effective Date, all documentation and other information regarding the Borrower requested in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, to the extent requested in writing of the Borrower at least 10 days prior to the Effective Date and (ii) to the extent the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, at least five days prior to the Effective Date, any Lender that has requested, in a written notice to the Borrower at least 10 days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its

signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

(h) The Administrative Agent shall have received such other documents as the Administrative Agent or the Required Lenders (through the Administrative Agent) may reasonably request.

(i) The Administrative Agent shall have received evidence of consummation of the Spin Transaction in form and substance satisfactory to Administrative Agent.

(j) Administrative Agent shall have received evidence, that outstanding indebtedness under the (x) Credit Agreements among Administrative Agent, certain other parties thereto and (i) Baltimore Gas & Electric Company, (ii) Commonwealth Edison Company, (iii) Exelon Corporation, (iv) Exelon Generation Company and (v) PECO Energy Company, in each case dated as of March 23, 2011 and (y) Second Amended and Restated Credit Agreement, dated as of August 1, 2011, among Potomac Electric Power Company, Delmarva Power & Light Company, Atlantic City Electric Company and Wells Fargo Bank, National Association shall be paid in full and the credit facilities extended in connection therewith shall be terminated.

Section 4.02. *Each Credit Event.* The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of each Issuing Bank to issue, amend or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Agreement (excluding the representations and warranties set forth in Section 3.04(a)(ii) and the first sentence of Section 3.06(a)) shall be true and correct on and as of the date of such Borrowing or the date of issuance, amendment or extension of such Letter of Credit, as applicable.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

## ARTICLE 5 AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been irrevocably paid in full and all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower and, in the case of Sections 5.03, 5.04, 5.05, 5.06, 5.07 and 5.08 the Principal Subsidiaries, covenant(s) and agree(s) with the Lenders that:

Section 5.01. *Financial Statements; Ratings Change and Other Information.* The Borrower will furnish to the Administrative Agent and each Lender, including their Public-Siders:

(a) as soon as available and in any event within 60 days after the end of each of the first three quarters of each fiscal year of the Borrower, a copy of the Borrower's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission with respect to such quarter (or, if

the Borrower is not required to file a Quarterly Report on Form 10-Q, copies of an unaudited consolidated balance sheet of the Borrower as of the end of such quarter and the related consolidated statement of operations of the Borrower for the portion of the Borrower's fiscal year ending on the last day of such quarter, in each case prepared in accordance with GAAP, subject to the absence of footnotes and to year-end adjustments), together with a certificate of an authorized officer of the Borrower stating that no Default or Event of Default has occurred and is continuing or, if any such Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which the Borrower proposes to take with respect thereto;

(b) as soon as available and in any event within 105 days after the end of each fiscal year of the Borrower, a copy of the Borrower's Annual Report on Form 10-K filed with the Securities and Exchange Commission with respect to such fiscal year (or, if the Borrower is not required to file an Annual Report on Form 10-K, the consolidated balance sheet of the Borrower and its subsidiaries as of the last day of such fiscal year and the related consolidated statements of operations, changes in shareholders' equity (if applicable) and cash flows of the Borrower for such fiscal year, certified by PricewaterhouseCoopers LLP or other certified public accountants of recognized national standing), together with a certificate of an authorized officer of the Borrower stating that no Default or Event of Default has occurred and is continuing or, if any such Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action which the Borrower proposes to take with respect thereto;

(c) concurrently with the delivery of the quarterly and annual reports referred to in subsections (a) and (b) above, a compliance certificate in substantially the form set forth in Exhibit E, duly completed and signed by a Financial Officer of the Borrower;

(d) except as otherwise provided in clause (a) or (b) above, promptly after the sending or filing thereof, copies of all reports that the Borrower sends to its security holders generally, and copies of all Reports on Form 10-K, 10-Q or 8-K, and registration statements and prospectuses that the Borrower or any Subsidiary files with the Securities and Exchange Commission or any national securities exchange (except to the extent that any such registration statement or prospectus relates solely to the issuance of securities pursuant to employee purchase, benefit or dividend reinvestment plans of the Borrower or a Subsidiary);

(e) promptly upon becoming aware of the institution of any steps by the Borrower or any other Person to terminate any Plan, or the failure to make a required contribution to any Plan if such failure is sufficient to give rise to a lien under section 430(k) of the Code, or the taking of any action with respect to a Plan which could result in the requirement that the Borrower furnish a bond or other security to the PBGC or such Plan, or the occurrence of any event with respect to any Plan which could result in the incurrence by the Borrower or any other member of the Controlled Group of any material liability, fine or penalty, notice thereof and a statement as to the action the Borrower or such member of the Controlled Group proposes to take with respect thereto;

(f) promptly after any Rating Agency shall have announced a change in the rating established or deemed to have been established for the Index Debt, written notice of such rating change;

(g) promptly following any request therefor, (x) such other information regarding the operations, business affairs and financial condition of the Borrower or any Principal Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request and (y) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with

applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation; and

(h) such other information respecting the condition, operations or business, financial or otherwise, of the Borrower or any Subsidiary as any Lender, through the Administrative Agent, may from time to time reasonably request (including any information that any Lender reasonably requests in order to comply with its obligations under any “know your customer” or anti-money laundering laws or regulations, including the Patriot Act and the Beneficial Ownership Regulation).

Documents required to be delivered pursuant to Section 5.01(a), (b) or (e) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which such materials are publicly available as posted on the Electronic Data Gathering, Analysis and Retrieval system (EDGAR); or (ii) on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether made available by the Administrative Agent); *provided* that: (A) upon written request by the Administrative Agent (or any Lender through the Administrative Agent) to the Borrower, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender and (B) the Borrower shall notify the Administrative Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such document to it and maintaining its copies of such documents.

Section 5.02. *Notices of Material Events.* The Borrower will furnish to the Administrative Agent and each Lender prompt written notice of the following:

(a) as soon as possible, and in any event within five Business Days after the occurrence of any Default or Event of Default with respect to the Borrower continuing on the date of such statement, a statement of an authorized officer of the Borrower setting forth details of such Default or Event of Default and the action which the Borrower proposes to take with respect thereto;

(b) any change in the credit ratings from a credit rating agency, or the placement by a credit rating agency of the Borrower or its parent on a “CreditWatch” or “WatchList” or any similar list, in each case with negative implications, or the cessation by a credit rating agency of, or its intent to cease, rating the Borrower’s debt; and

(c) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

Each notice delivered under this Section (i) shall be in writing, (ii) shall contain a heading or a reference line that reads “Notice under Section 5.02 of Constellation Credit Agreement dated February 1, 2022” and (iii) shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.03. *Existence; Conduct of Business.* The Borrower will do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; *provided* that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.02.

Section 5.04. *Payment of Obligations.* The Borrower will pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

Section 5.05. *Maintenance of Properties; Insurance.* The Borrower will, and will cause each of its Principal Subsidiaries to, (a) keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

Section 5.06. *Books and Records; Inspection Rights.* The Borrower will, at any reasonable time and from time to time, pursuant to prior notice delivered to the Borrower, permit any Lender, or any agent or representative of any thereof, to examine and, at such Lender's expense, make copies of, and abstracts from the records and books of account of, and visit the properties of, the Borrower and any Principal Subsidiary and to discuss the affairs, finances and accounts of the Borrower and any Principal Subsidiary with any of their respective officers; *provided* that any non-public information (which has been identified as such by the Borrower or the applicable Principal Subsidiary) obtained by any Lender or any of its agents or representatives pursuant to this Section 5.06 shall be treated confidentially by such Person; *provided, further,* that such Person may disclose such information to (a) any other party to this Agreement, its examiners, Affiliates, outside auditors, counsel or other professional advisors in connection with this Agreement, (b) to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligations under this Agreement, (c) to any credit insurance provider or (d) if otherwise required to do so by law or regulatory process (it being understood that, unless prevented from doing so by any applicable law or governmental authority, such Person shall use reasonable efforts to notify the Borrower of any demand or request for any such information promptly upon receipt thereof so that the Borrower may seek a protective order or take other appropriate action).

Section 5.07. *Compliance with Laws.* The Borrower will comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

Section 5.08. *Use of Proceeds and Letters of Credit.* The proceeds of the Loans will be used only for general limited liability company or corporate purposes (including the making of acquisitions), but in no event for any purpose that would be contrary to Section 3.13, 3.16 or 3.18. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T,

U and X. The Borrower will not request any Borrowing or use any Letter of Credit, and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, directly or indirectly, the proceeds of any Borrowing or Letter of Credit (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto (including any Person participating in the Loans hereunder, whether as underwriter, advisor, investor, lender, hedge provider, facility or security agent or otherwise).

Section 5.09. *Accuracy of Information.* The Borrower will ensure that any information, including financial statements or other documents, furnished to the Administrative Agent or the Lenders in connection with this Agreement or any amendment or modification hereof or waiver hereunder contains no material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and the furnishing of such information shall be deemed to be a representation and warranty by the Borrower on the date thereof as to the matters specified in this Section.

## ARTICLE 6 NEGATIVE COVENANTS

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

Section 6.01. *Liens.* The Borrower will not create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

- (a) Liens imposed by law, such as carriers', warehousemen's, landlords' repairmen's, materialmen's and mechanics' Liens and other similar Liens arising in the ordinary course of business;
- (b) Liens on the capital stock of or any other Equity Interest in any Subsidiary to secure Nonrecourse Indebtedness;
- (c) Liens for taxes, assessments or governmental charges, levies, or fines (including such amounts arising under environmental law) on property of the Borrower if the same shall not at the time be delinquent or thereafter can be paid without a material penalty, or are being contested in good faith and by appropriate proceedings;
- (d) Liens upon or in any property acquired in the ordinary course of business to secure the purchase price of such property or to secure any obligation incurred solely for the purpose of financing the acquisition of such property;
- (e) Liens existing on property at the time of the acquisition thereof (other than any such Lien created in contemplation of such acquisition unless permitted by the preceding clause (d));

(f) Liens granted in connection with any financing arrangement for the purchase of nuclear fuel or the financing of pollution control facilities, limited to the fuel or facilities so purchased or acquired;

(g) Liens arising in connection with sales or transfers of, or financing secured by, accounts receivable or related contracts, provided that any such sale, transfer or financing shall be on arms' length terms;

(h) Liens securing Permitted Obligations and reimbursement obligations in respect of letters of credit issued to support Permitted Obligations (for the avoidance of doubt, the Electric Reliability Council of Texas (ERCOT) program and any other similar agreement or arrangement, including with any Independent System Operator or Regional Transmission Organization, are permitted under this clause (i));

(i) Permitted Encumbrances;

(j) Liens arising in connection with sale and leaseback transactions entered into by the Borrower, but only to the extent that the aggregate purchase price of all assets sold by the Borrower during the term of this Agreement pursuant to such sale and leaseback transactions does not exceed \$1,000,000,000;

(k) Liens arising out of pledges or deposits under worker's compensation laws, unemployment insurance, compensation arrangements, supplemental retirement plans arising out of pledges or deposits under worker's compensation laws, unemployment insurance, compensation arrangements, supplemental retirement plans or other social security or similar legislation;

(l) Liens constituting attachment, judgment and other similar Liens arising in connection with court proceedings to the extent not constituting an Event of Default under Section 7.01(f);

(m) Liens created in the ordinary course of business to secure liability to insurance carriers and Liens on insurance policies and the proceeds thereof (whether accrued or not), rights or claims against an insurer or other similar asset securing insurance premium financings;

(n) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(o) Liens in the nature of rights of setoff, bankers' liens, revocation, refund, chargeback, counterclaim, netting of cash amounts or similar rights as to deposit accounts, commodity accounts or securities accounts or other funds maintained with a credit or depository institution;

(p) Liens consisting of pledges of industrial development, pollution control or similar revenue bonds in connection with the remarketing of such bonds;

(q) Liens created under Section 2.20 and similar cash collateralization obligations relating to defaulting lenders and remedies upon default;

(r) Liens resulting from any restriction on any Equity Interest (or project interest, interests in any energy facility (including undivided interests)) of a Person providing for a breach, termination or default under any owners, participation, shared facility, joint venture, stockholder,



membership, limited liability company or partnership agreement between such Person and one or more other holders of Equity Interest (or project interest, interests in any energy facility (including undivided interests)) of such Person, to the extent a security interest or other Lien is created on any such interest as a result thereof;

(s) Liens granted on cash or cash equivalents to defease or repay Indebtedness of the Borrower no later than 60 days after the creation of such Lien;

(t) Liens created in connection with sales, transfers, leases, assignment or other conveyances or Dispositions of assets, including (A) Liens on assets or securities granted or deemed to arise in connection with and as a result of the execution, delivery or performance of contracts to purchase or sell such assets or securities, and (B) rights of first refusal, options or other contractual rights or obligations to sell, assign or otherwise dispose of any interest therein; and

(u) Liens, other than those described above in this Section 6.01, provided that the aggregate amount of all Indebtedness secured by Liens permitted by this clause (v) shall not exceed in the aggregate at any one time outstanding \$100,000,000.

*Section 6.02. Fundamental Changes; Mergers and Consolidations; Disposition of Assets.* Merge with or into or consolidate with or into, or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to any Person or permit any Principal Subsidiary to do so, except that (i) any Principal Subsidiary may merge with or into or consolidate with or transfer assets to any other Principal Subsidiary, (ii) any Principal Subsidiary may merge with or into or consolidate with or transfer assets to the Borrower, (iii) the Borrower may merge or consolidate with or into a Subsidiary thereof formed for the purpose of converting the Borrower into a corporation and (iv) the Borrower or any Principal Subsidiary may merge with or into or consolidate with or transfer assets to any other Person; provided that, in each case, (A) immediately before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing (except in the case where any Principal Subsidiary may merge with or into or consolidate with or transfer assets to any other Principal Subsidiary), (B) in the case of any such merger, consolidation or transfer of assets to which the Borrower is a party, either (x) the Borrower shall be the surviving entity or (y) the surviving entity shall be an Eligible Successor and shall have assumed all of the obligations of the Borrower under this Agreement and the Letters of Credit pursuant to a written instrument in form and substance satisfactory to the Administrative Agent and the Administrative Agent shall have received an opinion of counsel in form and substance satisfactory to it as to the enforceability of such obligations assumed, and (C) subject to clause (B) above, in the case of any such merger, consolidation or transfer of assets to which any Principal Subsidiary is a party, a Principal Subsidiary shall be the surviving entity or transferee (as applicable).

*Section 6.03. Continuation of Businesses.* Engage, or permit any Subsidiary to engage, in any line of business which is material to the Borrower and its Subsidiaries, taken as a whole, other than businesses engaged in by the Borrower and its Subsidiaries as of the date hereof and reasonable extensions thereof.

*Section 6.04. Restrictive Agreements.* The Borrower will not, and will not permit any of its Subsidiaries (other than any Excluded Subsidiary) to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary; *provided* that (i) the foregoing

shall not apply to restrictions and conditions imposed by law or by this Agreement, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.04 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition) and (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale; *provided* that such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder.

Section 6.05. *Consolidated Leverage Ratio.* The Borrower will not permit the Consolidated Leverage Ratio as of the last day of any Test Period to exceed 3.50:1.00.

#### ARTICLE 7 EVENTS OF DEFAULT

Section 7.01. *Events of Default.* If any of the following events ("*Events of Default*") shall occur:

(a) The Borrower shall fail to pay (i) any principal of any Loan when the same becomes due and payable, (ii) any reimbursement obligation in respect of any LC Disbursement within one Business Day after the same becomes due and payable or (iii) any interest on any Loan or any other amount payable by the Borrower hereunder within three Business Days after the same becomes due and payable;

(b) Any representation or warranty made or deemed made by or on behalf of the Borrower herein or by the Borrower (or any of its officers) pursuant to the terms of this Agreement shall prove to have been incorrect or misleading in any material respect when made;

(c) The Borrower shall fail to perform or observe (i) any term, covenant or agreement contained in Section 5.02, 5.03 (with respect to Borrower's existence), 5.08 or Article 6 or (ii) any other term, covenant or agreement contained in this Agreement on its part to be performed or observed if the failure to perform or observe such other term, covenant or agreement shall remain unremedied for 30 days after written notice thereof shall have been given to the Borrower by the Administrative Agent (which notice shall be given by the Administrative Agent at the written request of any Lender);

(d) The Borrower or any Principal Subsidiary shall fail to pay any principal of or premium or interest on any Indebtedness that is outstanding in a principal amount in excess of \$100,000,000 in the aggregate (but excluding Indebtedness hereunder and Nonrecourse Indebtedness) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness; or any other event shall occur or condition shall exist under any agreement or instrument relating to any such Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or any such Indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), prior to the stated maturity thereof, other than any acceleration of any Indebtedness secured by equipment leases or fuel leases of the Borrower or a Principal Subsidiary as a result of the occurrence of any event requiring a prepayment (whether or not characterized as such) thereunder, which prepayment will not result in a Material Adverse Effect;

(e) The Borrower or any Principal Subsidiary shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Borrower or any Principal Subsidiary seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 60 days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Borrower or any Principal Subsidiary shall take any corporate or limited liability company action to authorize or to consent to any of the actions set forth above in this Section 7.01(e);

(f) One or more judgments or orders for the payment of money in an aggregate amount exceeding \$100,000,000 (excluding any such judgments or orders to the extent covered by insurance, subject to any customary deductible, and under which the applicable insurance carrier has not denied coverage) shall be rendered against the Borrower or any Principal Subsidiary and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order or (ii) there shall be any period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;

(g) (i) Any Reportable Event that the Required Lenders determine in good faith is reasonably likely to result in the termination of any Single Employer Plan or in the appointment by the appropriate United States District Court of a trustee to administer a Single Employer Plan shall have occurred and be continuing 60 days after written notice to such effect shall have been given to the Borrower by the Administrative Agent; (ii) any Single Employer Plan shall be terminated; (iii) a Trustee shall be appointed by an appropriate United States District Court to administer any Single Employer Plan; (iv) the PBGC shall institute proceedings to terminate any Single Employer Plan or to appoint a trustee to administer any Single Employer Plan; or (v) the Borrower or any other member of the Controlled Group withdraws from any Multiemployer Plan; provided that on the date of any event described in clauses (i) through (v) above, the Unfunded Liabilities of the applicable Plan exceed \$100,000,000;

(h) Spinco shall fail to own, directly or indirectly, free and clear of all Liens, 100% of the Equity Interests of the Borrower;

(i) any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all Obligations, ceases to be in full force and effect; or the Borrower or any other Person contests in writing the validity or enforceability of any provision of any Loan Document; or the Borrower denies in writing that it has any or further liability or obligation under any Loan Document, or purports in writing to revoke, terminate or rescind any Loan Document; or

(j) a Change in Control shall have occurred.

Section 7.02. *Remedies Upon an Event of Default.* If an Event of Default occurs (other than an event with respect to the Borrower described in Section 7.01(e), and at any time thereafter during the continuance of such Event of Default, the Administrative Agent may with the consent of

the Required Lenders, and shall at the request of the Required Lenders, by notice to the Borrower, take any or all of the following actions, at the same or different times:

- (a) terminate the Commitments, and thereupon the Commitments shall terminate immediately;
- (b) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder and under any other Loan Document, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;
- (c) require that the Borrower provide cash collateral as required in Section 2.06(j); and
- (d) exercise on behalf of itself, the Lenders and the Issuing Banks all rights and remedies available to it, the Lenders and the Issuing Banks under the Loan Documents and Applicable Law.

If an Event of Default described in Section 7.01(e) occurs with respect to the Borrower, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder and under any other Loan Document including any break funding payment or prepayment premium, shall automatically become due and payable, and the obligation of the Borrower to cash collateralize the LC Exposure as provided in clause (c) above shall automatically become effective, in each case, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

Section 7.03. *Application of Payments.* Notwithstanding anything herein to the contrary, following the occurrence and during the continuance of an Event of Default, and notice thereof to the Administrative Agent by the Borrower or the Required Lenders:

- (a) all payments received on account of the Obligations shall, subject to Section 2.20, be applied by the Administrative Agent as follows:
  - (i) *first*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts payable to the Administrative Agent (including fees and disbursements and other charges of counsel to the Administrative Agent payable under Section 9.03 and amounts pursuant to Section 2.12(c) payable to the Administrative Agent in its capacity as such);
  - (ii) *second*, to payment of that portion of the Obligations constituting fees, expenses, indemnities and other amounts (other than principal, reimbursement obligations in respect of LC Disbursements, interest and Letter of Credit fees) payable to the Lenders and the Issuing Banks (including fees and disbursements and other charges of counsel to the Lenders and the Issuing Banks payable under Section 9.03) arising under the Loan Documents, ratably among them in proportion to the respective amounts described in this clause (ii) payable to them;
  - (iii) *third*, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and charges and interest on the Loans and unreimbursed

LC Disbursements, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (iii) payable to them;

(iv) *fourth*, (A) to payment of that portion of the Obligations constituting unpaid principal of the Loans and unreimbursed LC Disbursements and (B) to cash collateralize that portion of LC Exposure comprising the undrawn amount of Letters of Credit to the extent not otherwise cash collateralized by the Borrower pursuant to Section 2.06 or 2.20, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (iv) payable to them; *provided* that (x) any such amounts applied pursuant to subclause (B) above shall be paid to the Administrative Agent for the ratable account of the applicable Issuing Banks to cash collateralize Obligations in respect of Letters of Credit, (y) subject to Section 2.06 or 2.20, amounts used to cash collateralize the aggregate amount of Letters of Credit pursuant to this clause (iv) shall be used to satisfy drawings under such Letters of Credit as they occur and (z) upon the expiration of any Letter of Credit (without any pending drawings), the pro rata Commitment of cash collateral shall be distributed to the other Obligations, if any, in the order set forth in this Section 7.03;

(v) *fifth*, to the payment in full of all other Obligations, in each case ratably among the Administrative Agent, the Lenders and the Issuing Banks based upon the respective aggregate amounts of all such Obligations owing to them in accordance with the respective amounts thereof then due and payable; and

(vi) *finally*, the balance, if any, after all Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by law; and

(b) if any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired (without any pending drawings), such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

## ARTICLE 8 THE ADMINISTRATIVE AGENT

Section 8.01. *Authorization and Action.* (a) Each Lender and each Issuing Bank hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as the administrative agent under the Loan Documents and each Lender and each Issuing Bank authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender and each Issuing Bank hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, and to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender and each Issuing Bank; *provided, however*, that the Administrative

Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification and is exculpated in a manner satisfactory to it from the Lenders and the Issuing Banks with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; *provided, further*, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders and the Issuing Banks (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, Issuing Bank or holder of any other obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term “agent” (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and/or the transactions contemplated hereby;

(ii) [Reserved];

(iii) [Reserved]; and

(iv) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account;

(d) The Administrative Agent may perform any of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may

perform any of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any Co-Documentation Agents or Arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any reimbursement obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Disbursements and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender, each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Borrower or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions.

Section 8.02. *Administrative Agent's Reliance, Limitation of Liability, Etc.* (a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or

omitted to be taken by such party, the Administrative Agent or any of its Related Parties under or in connection with this Agreement or the other Loan Documents (x) with the consent of or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document (including, for the avoidance of doubt, in connection with the Administrative Agent's reliance on any Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page) or for any failure of to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any (i) notice of any of the events or circumstances set forth or described in Section 5.02 unless and until written notice thereof stating that it is a "notice under Section 5.02" in respect of this Agreement and identifying the specific clause under said Section is given to the Administrative Agent by the Borrower, or (ii) notice of any Default or Event of Default unless and until written notice thereof (stating that it is a "notice of Default" or a "notice of an Event of Default") is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank. Further, the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with any Loan Document, (B) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, (D) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or (E) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items (which on their face purport to be such items) expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not be liable for, or be responsible for any Liabilities, costs or expenses suffered by the Borrower, any Subsidiary, any Lender or any Issuing Bank as a result of, any determination of the Revolving Credit Exposure, any of the component amounts thereof or any portion thereof attributable to each Lender or Issuing Bank.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender or Issuing Bank and shall not be responsible to any Lender or Issuing Bank for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, may



presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank sufficiently in advance of the making of such Loan or the issuance of such Letter of Credit and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Section 8.03. *Posting of Communications.* (a) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Banks by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic platform chosen by the Administrative Agent to be its electronic transmission system (the “*Approved Electronic Platform*”).

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, each of the Issuing Banks and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution. Each of the Lenders, each of the Issuing Banks and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY CO-DOCUMENTATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “*APPLICABLE PARTIES*”) HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY’S OR THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

“*Communications*” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender and each Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, each of the Issuing Banks and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent’s generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Bank to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

Section 8.04. *The Administrative Agent Individually.* With respect to its Commitment, Loans, Letter of Credit Commitments and Letters of Credit, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or Issuing Bank, as the case may be. The terms “Issuing Banks”, “Lenders”, “Required Lenders” and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender, Issuing Bank or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, the Borrower, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders or the Issuing Banks.

Section 8.05. *Successor Administrative Agent.* (a) The Administrative Agent may resign at any time by giving 30 days’ prior written notice thereof to the Lenders, the Issuing Banks and the Borrower, whether or not a successor Administrative Agent has been appointed. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within 30 days after the retiring Administrative Agent’s giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. Such appointment shall be subject to the prior written approval of the Borrower (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall

be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; *provided* that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Section 8.06. *Acknowledgements of Lenders and Issuing Banks.* (a) Each Lender and each Issuing Bank acknowledges that (i) the Loan Documents set forth the terms of a commercial lending facility, (ii) it is engaged in making, acquiring or holding commercial loans and in providing other facilities set forth herein as may be applicable to such Lender or Issuing Bank, in each case in the ordinary course of business and is making the Loans hereunder as commercial loans in the ordinary course of its business, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument (and each Lender and each Issuing Bank agrees not to assert a claim in contravention of the foregoing), (iii) it has, independently and without reliance upon the Administrative Agent, any Arranger, any Co-Documentation Agent or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder and (iv) it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such Issuing Bank, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger, any Co-Documentation Agent or any other Lender or Issuing Bank, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date.

(c) (i) Each Lender hereby agrees that (x) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "**Payment**") were erroneously transmitted to such Lender (whether or not known to such Lender), and demands the return of such Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (y) to the extent permitted by applicable law, such Lender shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender under this Section 8.06(c) shall be conclusive, absent manifest error.

(ii) Each Lender hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "**Payment Notice**") or (y) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(iii) The Borrower and each other Loan Party hereby agrees that (x) in the event an erroneous Payment (or portion thereof) are not recovered from any Lender that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount and (y) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party.

(iv) Each party's obligations under this Section 8.06(c) shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

Section 8.07. *[Reserved]*.

Section 8.08. *[Reserved]*.

Section 8.09. *Certain ERISA Matters.* (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and

their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, or any Arranger, any Co-Documentation Agent or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, each Arranger and each Co-Documentation Agent hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

#### ARTICLE 9 MISCELLANEOUS

Section 9.01. *Notices.* (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower, to it at 10 S. Dearborn, 54th Floor, Chicago, IL 60603, Attention: Chief Financial Officer, facsimile: 312-394-5443;

(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., JPMorgan Loan Services, 500 Stanton Christiana Road, NCC5, Floor 1, Newark, DE 19713, Attention of Suzanna Gallagher, Wholesale Lending Services, Investment Bank (Fax No. (302) 634-3301);

(iii) if to JPMorgan Chase Bank, 1-800-634-1969 and [gts.client.services@jpmchase.com](mailto:gts.client.services@jpmchase.com); and

(iv) if to any other Lender, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through Approved Electronic Platforms, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Borrower, the Lenders and the Issuing Banks hereunder may be delivered or furnished by using Approved Electronic Platforms pursuant to procedures approved by the Administrative Agent; *provided* that the foregoing shall not apply to notices pursuant to Article 2 unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; *provided* that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(d) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

Section 9.02. *Waivers; Amendments.* (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Subject to Section 2.14(b) and (c) and Section 9.02(c) below, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; *provided* that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.09(c) or 2.18(b) or (c) in a manner that would alter the ratable reduction of Commitments or the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change the payment waterfall provisions of Section 2.20(b) or 7.03 without the written consent of

each Lender, or (vi) change any of the provisions of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender; *provided further* that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Issuing Banks without the prior written consent of the Administrative Agent or the Issuing Banks, as the case may be; and *provided further* that no such agreement shall amend or modify the provisions of Section 2.06 without the prior written consent of the Administrative Agent and the Issuing Banks.

(c) If the Administrative Agent and the Borrower acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Borrower shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement.

Section 9.03. *Expenses; Limitation of Liability; Indemnity, Etc.*

(a) *Expenses.* The Borrower shall pay (i) all reasonable out of pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, any Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) *Limitation of Liability.* To the extent permitted by applicable law (i) the Borrower shall not assert, and the Borrower hereby waives, any claim against the Administrative Agent, any Arranger, any Co-Documentation Agent, any Issuing Bank and any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a “**Lender-Related Person**”) for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet), and (ii) no party hereto shall assert, and each such party hereby waives, any Liabilities against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; *provided* that, nothing in this Section 9.03(b) shall relieve the Borrower of any obligation it may have to indemnify an Indemnatee, as provided in Section 9.03(c), against any special, indirect, consequential or punitive damages asserted against such Indemnatee by a third party.



(c) *Indemnity.* The Borrower shall indemnify the Administrative Agent, each Arranger, each Co-Documentation Agent, each Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all Liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, (ii) the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (iii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by an Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iv) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (v) any actual or prospective Proceeding relating to any of the foregoing, whether or not such Proceeding is brought by the Borrower or its equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such Liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted primarily from the gross negligence or willful misconduct of such Indemnitee. This Section 9.03(c) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(d) *Lender Reimbursement.* Each Lender severally agrees to pay any amount required to be paid by the Borrower under paragraphs (a), (b) or (c) of this Section 9.03 to the Administrative Agent, each Issuing Bank, and each Related Party of any of the foregoing Persons (each, an “**Agent-Related Person**”) (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Applicable Percentage in effect on the date on which such payment is sought under this Section (or, if such payment is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), and agrees to indemnify and hold each Agent-Related Person harmless from and against any and all Liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent-Related Person in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent-Related Person under or in connection with any of the foregoing; *provided* that the unreimbursed expense or Liability or related expense, as the case may be, was incurred by or asserted against such Agent-Related Person in its capacity as such; *provided further* that no Lender shall be liable for the payment of any portion of such Liabilities, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted primarily from such Agent-Related Person’s gross negligence or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(e) *Payments.* All amounts due under this Section 9.03 shall be payable promptly after written demand therefor.

Section 9.04. *Successors and Assigns.* (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment, participations in Letters of Credit and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of:

(A) the Borrower; *provided* that, the Borrower shall be deemed to have consented to an assignment of all or a portion of the Revolving Loans and Commitments unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof *provided* that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent; *provided* that no consent of the Administrative Agent shall be required for an assignment of any Commitment to an assignee that is a Lender (other than a Defaulting Lender) with a Commitment immediately prior to giving effect to such assignment; and

(C) each Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent; *provided* that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; *provided* that this clause shall not be construed to prohibit the

assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more Credit Contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its related parties or its securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the term "**Approved Fund**" and "**Ineligible Institution**" have the following meanings:

"**Approved Fund**" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"**Ineligible Institution**" means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (d) the Borrower or any of its Affiliates; *provided* that, with respect to clause (c), such company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than \$25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business; *provided, further*, that upon the occurrence and during the continuance of an Event of Default, any Person (other than a Lender) shall be an Ineligible Institution if after giving effect to any proposed assignment to such Person, such Person would hold more than 25% of the then outstanding Total Revolving Credit Exposure or Commitments, as the case may be.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under

this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; *provided* that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(d), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of, or notice to, the Borrower, the Administrative Agent, the Issuing Banks, sell participations to one or more banks or other entities (a "**Participant**"), other than an Ineligible Institution, in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged; (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (iii) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Section 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Sections 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender and the information)) to the same extent as if it were a Lender

and had acquired its interest by assignment pursuant to paragraph (b) of this Section; *provided* that such Participant (A) agrees to be subject to the provisions of Section 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.15 or 2.17, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.19(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank, and this Section shall not apply to any such pledge or assignment of a security interest; *provided* that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.05. *Survival.* All covenants, agreements, representations and warranties made by the Borrower herein and in the other Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Documents shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

Section 9.06. *Counterparts; Integration; Effectiveness; Electronic Execution.* (a) This Agreement may be executed in counterparts (and by different parties hereto on different

counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and any separate letter agreements with respect to (i) fees payable to the Administrative Agent and (ii) the reductions of the Letter of Credit Commitment of any Issuing Bank constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Loan Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each an "**Ancillary Document**") that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; *provided* that nothing herein shall require the Administrative Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; *provided, further*, without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Borrower without further verification thereof and without any obligation to review the appearance or form of any such Electronic signature and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Borrower hereby (A) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders, the Borrower, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (B) the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (C) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (D) waives any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative

Agent's and/or any Lender's reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf, or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of the Borrower to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

Section 9.07. *Severability.* Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.08. *Right of Setoff.* If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to setoff and apply any and all deposits (general or special, time or demand, provisional or final) at any time held, and other obligations at any time owing, by such Lender, such Issuing Bank or any such Affiliate, to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, Issuing Bank or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender or such Issuing Bank different from the branch office or Affiliate holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.20 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; *provided* that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.09. *Governing Law; Jurisdiction; Consent to Service of Process.* (a) This Agreement and the other Loan Documents shall be construed in accordance with and governed by the law of the State of New York.

(b) Each of the Lenders and the Administrative Agent hereby irrevocably and unconditionally agrees that, notwithstanding the governing law provisions of any applicable Loan Document, any claims brought against the Administrative Agent by any Lender relating to this Agreement, any other Loan Document or the consummation or administration of the transactions contemplated hereby or thereby shall be construed in accordance with and governed by the law of the State of New York.

(c) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan (or if such court lacks subject matter

jurisdiction, the Supreme Court of the State of New York sitting in the Borough of Manhattan), and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may (and any such claims, cross-claims or third party claims brought against the Administrative Agent or any of its Related Parties may only) be heard and determined in such Federal (to the extent permitted by law) or New York State court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrower or its properties in the courts of any jurisdiction.

(d) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (c) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 9.10. *WAIVER OF JURY TRIAL.* EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.11. *Headings.* Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.12. *Confidentiality.* Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of



any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder or under any other Loan Document, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided for herein, (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of identification numbers with respect to the credit facilities provided for herein or (iii) insurers, reinsurers and brokers to the Administrative Agent, the Issuing Banks or any Lender, (h) with the consent of the Borrower or (i) to the extent such Information (ii) becomes publicly available other than as a result of a breach of this Section or (iii) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis from a source other than the Borrower. For the purposes of this Section, “**Information**” means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrower and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; *provided* that, in the case of information received from the Borrower after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 9.13. *Material Non-Public Information.* (a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN Section 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 9.14. *Interest Rate Limitation.* Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the “**Charges**”), shall exceed the maximum lawful rate (the “**Maximum Rate**”) which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with

applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

Section 9.15. *No Fiduciary Duty, etc.* (a) The Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transactions contemplated herein and therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated herein or in the other Loan Documents, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

(b) The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

(c) In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

Section 9.16. *USA PATRIOT Act.* Each Lender that is subject to the requirements of the USA PATRIOT Act of 2001 (the "*Patriot Act*") hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies

the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

Section 9.17. *Acknowledgement and Consent to Bail-In of Affected Financial Institutions.* Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 9.18. *Acknowledgement Regarding Any Supported QFCs.* To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support “**QFC Credit Support**” and each such QFC a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were

governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 9.19. *Judgment Currency.* If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “*Judgment Currency*”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “*Agreement Currency*”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

Section 9.20. *Payments Set Aside.* To the extent that the Borrower makes a payment or payments to the Administrative Agent or any Lender, or Administrative Agent or any Lender exercises its rights of set-off, and such payment or payments or the proceeds of such set-off or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or any Lender in its discretion) to be repaid to a trustee, receiver or any other party in connection with any bankruptcy, insolvency or similar proceeding, or otherwise, then (a) to the extent of such recovery, the obligation hereunder or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its ratable share of the total amount so recovered from or repaid by the Administrative Agent to the extent paid to such Lender.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the day and year first above written.

CONSTELLATION ENERGY GENERATION,  
LLC

By: /s/ Shane Smith  
Name: Shane Smith  
Title: Vice President and Treasurer

JPMORGAN CHASE BANK, N.A., as  
Administrative Agent, and a Lender,

By: /s/ Nancy R. Barwig  
Name: Nancy R. Barwig  
Title: Executive Director

Bank of America, N.A.

By: /s/ Dee Dee Farkas  
Name: Dee Dee Farkas  
Title: Managing Director

Barclays Bank PLC, as Lender and Issuing Bank

By: /s/ Craig Malloy  
Name: Craig Malloy  
Title: Director



BNP Paribas, as Lender

By: /s/ Nicole Rodriguez  
Name: Nicole Rodriguez  
Title: Director

By: /s/ Nicole Doche  
Name: Nicole Doche  
Title: Vice President

CITIBANK, N.A.

By: /s/ Ashwani Khubani  
Name: Ashwani Khubani  
Title: Managing Director/Vice President

CREDIT AGRICOLE CORPORATE AND  
INVESTMENT BANK

By: /s/ Dixon Schultz  
Name: Dixon Schultz  
Title: Managing Director

By: /s/ Michael Willis  
Name: Michael Willis  
Title: Managing Director

CREDIT SUISSE AG, NEW YORK BRANCH

By: /s/ Judy Smith  
Name: Judy Smith  
Title: Authorized Signatory

By: /s/ Michael Dieffenbacher  
Name: Michael Dieffenbacher  
Title: Authorized Signatory

GOLDMAN SACHS BANK USA

By: /s/ William Briggs IV  
Name: William Briggs IV  
Title: Authorized Signatory

MORGAN STANLEY BANK, N.A., as Lender

By: /s/ Alysha Salinger  
Name: Alysha Salinger  
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING,  
INC., as Lender

By: /s/ Alysha Salinger  
Name: Alysha Salinger  
Title: Authorized Signatory

ROYAL BANK OF CANADA

By: /s/ Martina Wellik  
Name: Martina Wellik  
Title: Authorized Signatory



BANK OF NOVA SCOTIA

By: /s/ David Dewar  
Name: David Dewar  
Title: Director

MIZUHO BANK, LTD

By: /s/ Edward Sacks  
Name: Edward Sacks  
Title: Authorized Signatory

MUFG Bank, Ltd.

By: /s/ Viet-Linh Fujitaki  
Name: Viet-Linh Fujitaki  
Title: Director

PNC Bank, National Association

By: /s/ Alex Rolfe  
Name: Alex Rolfe  
Title: Vice President

SUMITOMO MITSUI BANKING  
CORPORATION

By: /s/ Gail Motonaga  
Name: Gail Motonaga  
Title: Executive Director

TRUIST BANK

By: /s/ Justin Lien  
Name: Justin Lien  
Title: Director

BANCO SANTANDER, S.A., NEW YORK  
BRANCH

By: /s/ Andres Barbosa  
Name: Andres Barbosa  
Title: Managing Director

By: /s/ Rita Walz-Cuccioli  
Name: Rita Walz-Cuccioli  
Title: Executive Director

Bank of China, Chicago Branch

By: /s/ Xu Yang  
Name: Xu Yang  
Title: SVP



MANUFACTURERS AND TRADERS TRUST  
COMPANY, as Lender

By: /s/ Joanna Rombro  
Name: Joanna Rombro  
Title: Vice President

THE HUNTINGTON NATIONAL BANK

By: /s/ Nolan Woodbury  
Name: Nolan Woodbury  
Title: Assistant Vice President

The Northern Trust Company

By: /s/ Keith L. Burson  
Name: Keith L. Burson  
Title: Senior Vice President

SCHEDULE 2.01A

Commitments

Lender	Commitment
J.P. Morgan Chase Bank, N.A.	\$205,000,000.00
Bank of America, N.A.	\$205,000,000.00
Barclays Bank PLC	\$205,000,000.00
BNP Paribas	\$205,000,000.00
Citibank, N.A.	\$205,000,000.00
Credit Agricole Corporate & Investment Bank	\$205,000,000.00
Credit Suisse AG, New York Branch	\$205,000,000.00
Goldman Sachs Bank USA	\$205,000,000.00
Morgan Stanley Bank, N.A.	\$105,000,000.00
Morgan Stanley Senior Funding, Inc.	\$100,000,000.00
Royal Bank of Canada	\$205,000,000.00
The Bank of Nova Scotia	\$205,000,000.00
Mizuho Bank, Ltd.	\$159,000,000.00
MUFG Bank, Ltd.	\$159,000,000.00
PNC Bank, National Association	\$159,000,000.00
Sumitomo Mitsui Banking Corporation	\$159,000,000.00
Truist Bank	\$159,000,000.00
Banco Santander, S.A., New York Branch	\$90,000,000.00
Bank of China, Chicago Branch	\$90,000,000.00
M&T Bank	\$90,000,000.00
The Huntington National Bank	\$90,000,000.00
The Northern Trust Company	\$90,000,000.00
<b>TOTAL</b>	<b><i>\$3,500,000,000.00</i></b>

SCHEDULE 2.01C

Letter of Credit Commitments

Lender	Commitment
J.P. Morgan Chase Bank, N.A.	\$227,272,727.28
Bank of America, N.A.	\$227,272,727.28
Barclays Bank PLC	\$227,272,727.27
BNP Paribas Securities Corp.	\$227,272,727.27
Citibank, N.A.	\$227,272,727.27
Goldman Sachs Bank USA	\$227,272,727.27
The Bank of Nova Scotia	\$227,272,727.27
Credit Agricole Corporate & Investment Bank	\$227,272,727.27
Credit Suisse AG, New York Branch	\$227,272,727.27
Royal Bank of Canada	\$227,272,727.27
Morgan Stanley Senior Funding, Inc.	\$227,272,727.28
<b>TOTAL</b>	<b>\$2,500,000,000.00</b>

## SCHEDULE 3.06

### Disclosed Matters

Nothing other than what has been previously disclosed in the Borrower's Annual Report on Form 10-K for the year ended December 31, 2020, Quarterly Reports on Form 10-Q for the periods ending March 31, 2021, June 30, 2021 and September 30, 2021, and Periodic Reports on Form 8-K filed by the Borrower with the United States Securities and Exchange Commission during the period between January 1, 2021 and the date hereof.

SCHEDULE 6.04  
Existing Restrictions

None.





## CONSTELLATION NON-EMPLOYEE DIRECTORS' DEFERRED STOCK UNIT PROGRAM

Effective February 1, 2022

1. **Effective Date; Purpose.** This Constellation Non-Employee Directors' Deferred Stock Unit Program (the "**Program**") shall be effective as of the date on which shares of Common Stock (as defined below) are distributed to the stockholders of Exelon Corporation ("**Exelon**," and such date, the "**Effective Date**") pursuant to the Separation Agreement between Constellation Energy Corporation, a Pennsylvania corporation (the "**Company**"), and Exelon, entered into in connection with such distribution (the "**Separation Agreement**," and such transactions contemplated by the Separation Agreement, the "**Spin-Off**"). The purpose of this Program is to set forth certain provisions which shall be deemed a part of, and govern, equity compensation awards granted by the Company on or after the Effective Date to non-employee directors of the Company pursuant to the Constellation Energy Corporation 2022 Long-Term Incentive Plan (the "**Plan**"), including any such awards granted in substitution of awards that were granted by Exelon prior to the Spin-Off under its equity compensation plans (an "**Exelon Plan**"), pursuant to the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off (the "**Employee Matters Agreement**").

2. **Definitions.** Except as otherwise defined herein, the defined terms used in this Program shall have the meanings set forth below or in the Plan:

"**Account**" means the Company's record established pursuant to Section 5, which reflects the number of Units credited to a Participant under the Program.

"**Beneficiary**" means the person(s) designated by a Participant to receive any benefits payable under this Program after the Participant's death. The Company's Secretary shall provide a form for this purpose. If the Participant is not survived by a designated Beneficiary, the Participant's Beneficiary shall be the Participant's executor, administrator, legal representative or similar person. If one or more Beneficiaries survive the Participant, but all designated Beneficiaries die before the entire balance payable under this Program has been distributed, any remaining balance shall be paid to the estate of the last surviving Beneficiary. A Participant may change his or her Beneficiary designation at any time until his or her death by filing a written Beneficiary Designation Form with the Secretary, in the manner specified by the Secretary.

"**Board**" means the Board of Directors of the Company.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Committee**" means the Corporate Governance Committee of the Board, or such other Committee appointed by the Board or, if no such Committee is currently appointed, the Secretary of the Company.

"**Common Stock**" means the common stock of the Company.

"**Company**" means Constellation Energy Corporation and any successor thereto.

"**Director**" means a member of the Board who is not an employee of the Company or any of its subsidiaries or other entities controlling or controlled by it.

"**Dividend Date**" means the date on which any quarterly dividend declared by the Board on the Common Stock is paid to shareholders.

**“Dividend Equivalent”** means an amount determined by multiplying the number of Units credited to a Participant’s Account on the record date for the payment of a dividend on the Common Stock, by (i) the per share amount of a cash dividend, (ii) the per share Fair Market Value of any stock dividend, or (iii) the per share fair market value (as determined by the Committee) of any dividend in consideration other than cash or Common Stock, paid by the Company on its Common Stock with respect to such dividend record date.

**“Fair Market Value”** of Common Stock means the closing sales price thereof on the national securities exchange or quotation service through which the Common Stock is listed or traded on the day on which Fair Market Value is being determined. In the event that there are no Common Stock transactions on the national securities exchange or quotation service through which the Common Stock is listed or traded on such day, the Fair Market Value will be determined as of the immediately preceding day on which there were Common Stock transactions.

**“Participant”** means any Director who is eligible to participate in the Program under Section 4. An individual shall remain a Participant until that individual has received full distribution of any amount credited to the Participant’s Account.

**“Separates from Service”** or **“Separation from Service”** means the Director’s termination of service as a member of the Board (and the board of directors of all subsidiaries, if applicable) for any reason other than death. A Separation from Service shall be determined in accordance with Section 409A of the Code and shall be deemed to have occurred when the Director’s service to the Company ceases, without reference to any compensation continuation arrangement that may be applicable.

**“Unit”** means a Deferred Stock Unit as defined in the Plan.

**“Unit Value”** means, at any time, unless otherwise specified in the Program, the value of each Unit granted under the Program, which value shall be equal to the Fair Market Value of a share of Common Stock on such date.

3. **Administration.** Awards granted to Participants under this Program shall be administered by the Committee, which shall have full power and authority to interpret the Program, to prescribe, amend and rescind any rules, forms and procedures as it deems necessary or appropriate for the proper administration and to make any other determinations, including factual determinations, and take such other actions as it deems necessary or advisable in carrying out its duties under the Program. All decisions and determinations by the Committee shall be final and binding on other persons having or claiming an interest hereunder.

4. **Participation.** Each Director of the Company shall become a Participant in the Program on the later of (i) the Effective Date or (ii) the date such individual first becomes a Director. In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Director, as defined in the Employee Matters Agreement, who was participating in the Exelon Corporation Non-Employee Directors’ Deferred Stock Unit Program (the **“Exelon Program”**) as of immediately prior to the Spin-Off shall automatically become a Participant in the Program as of the Effective Date.

5. **Award of Units.**

5.1 **Award of Units.** The Committee will determine an annual value that shall be used for calculating the total number of Units awarded to Participants (the **“Annual Award Value”**). On the last day of each calendar quarter, each Participant who is a Director on that date shall be granted an award of a number of Units equal to one-quarter of the Annual Award Value divided by the Fair Market Value of a

share of Common Stock. The Fair Market Value shall be the closing price of the Common Stock on the Dividend Date occurring during such calendar quarter or if no dividend is paid during such calendar quarter, the closing price of the Common Stock on the 10<sup>th</sup> day of the last month of such calendar quarter. Such awarded Units shall be credited to each Participant's Account as specified in Section 5.3 below. The Board may review the Annual Award Value under this Section 5.1 periodically and amend the Program to adjust such award if and to the extent appropriate. For any Participant who was not a director for any part of a calendar quarter, the award shall be prorated accordingly.

5.2 Dividend Equivalents. From the date of grant of each Unit to a Participant until the Participant's Account has been fully distributed, the Company shall credit to each Participant's Account on each Dividend Date, a number of Units equal to (i) the Dividend Equivalent for such dividend payment date, divided by (ii) the Fair Market Value of a share of Common Stock on such Dividend Date. If Units are awarded under Section 5.1 and this Section 5.2 as of the same date, the award under this Section 5.2 shall be determined before any Units are credited to a Participant's Account under Section 5.1.

5.3 Accounts. The Company shall keep records to reflect the number of Units credited to each Participant hereunder; provided, however, that (i) this Program shall be unfunded, (ii) the Company shall not be required to establish any special or separate fund or to make any other segregation of assets to assure redemption of Units granted under this Program, and (iii) no Participant or any other person shall under any circumstances acquire any property interest in any specific assets of the Company. Fractional Units shall accumulate in the Participant's Account and shall be added together to create whole Units. Nothing contained in this Program and no action taken pursuant hereto shall create or be construed to create a fiduciary relationship between the Company and any Participant or any other person. To the extent that any person acquires a right to receive payment from the Company hereunder, such right shall be no greater than the right of any unsecured general creditor of the Company.

5.4 Adjustments. In the event of any equity restructuring, change in corporate capitalization, corporate transaction or change in control, the number of Units credited to Participants' Accounts shall be appropriately adjusted by the Committee as set forth in Sections 6.8 and 6.9 of the Plan. Any adjustments determined by the Committee shall be final, binding and conclusive. If and to the extent that any such change in the number of shares of Common Stock outstanding is effected solely by application of a mathematical formula (e.g., a 2-for-1 stock split), the adjustment described in this Section 5.4 shall be made and shall occur automatically by application of such formula, without further action by the Committee.

5.5 Spin-Off. As of the Effective Date, (a) any then-outstanding deferred stock units granted under an Exelon Plan to any Constellation Director, as defined in the Employee Matters Agreement, shall be replaced with a grant of Units in accordance with the terms of the Employee Matters Agreement, (b) the Company and the Program shall assume all liabilities under the Exelon Program for any benefits under such program of all Constellation Directors who participated in the Exelon Program immediately prior to the Spin-Off, and (c) such benefits shall be administered and paid under the terms of this Program. All elections made by such Constellation Directors under the Exelon Program with respect to any period prior to the Effective Date shall continue to apply and shall be administered under this Program.

## 6. Events Requiring Redemption of Units.

### 6.1 Separation from Service.

(a) Timing. The Units credited to a Participant's Account shall be distributed to the Participant in, or beginning in, the month of April of the year next beginning after the occurrence of one of the following distribution events selected by the Participant and submitted in

accordance with procedures established by the Company (a “**Stock Distribution Election Form**”): (i) the Participant’s Separation from Service; (ii) the Participant’s 65th birthday; or (iii) the Participant’s 72nd birthday.

(b) Method of Payment. Distributions shall be paid in a lump sum payment or in annual installments over a period of up to 10 years, as the Participant shall direct in his or her Stock Distribution Election Form. For purposes of Section 409A of the Code, a series of annual installments shall be considered a single payment. If a Participant elects to receive installments, Dividend Equivalents will be credited to such Participant’s Account in accordance with Section 5 until the full amount of the Participant’s Account has been distributed. Each installment payment shall include shares of Common Stock equal to the largest number of whole Units determined by dividing the Participant’s total Account balance as of such payment date by the number of payments remaining in the installment period, and the last such installment shall also include cash in an amount equal to the Unit Value of any remaining fractional Unit. In the event a Participant who has elected a distribution event based on his or her 65th or 72nd birthday continues to serve as a Director after the date such distributions commence, then in the year prior to the year in which such distributions commence, such Director shall file a new Stock Distribution Election Form governing any amounts credited to his or her Account after the date such distributions commence. If the Director does not file such new Stock Distribution Election Form, then the Director shall be deemed to have elected to receive a lump sum distribution of any such amounts upon the Director’s Separation from Service.

(c) Form of Payment. All distributions shall be paid in the form of whole shares of Common Stock and cash in an amount equal to the Unit Value of any remaining fractional Unit.

(d) Timing of Elections. If a Director is a Participant as of the Effective Date, such Director’s election or deemed election in effect as of the Effective Date under the Company’s prior equity compensation plan shall remain in effect under the Program. Each Director who is not a Participant as of the Effective Date must submit a Stock Distribution Election Form not later than 30 days after the date on which such Director first becomes eligible to participate in the Program. If a Director does not submit a Stock Distribution Election Form during this period, then such Director shall be deemed to have elected to receive his or her Account balance in the form of a lump sum payable upon the Director’s Separation from Service.

(e) Changes to Elections. A Participant may elect to change the time and/or method of his or her distributions payable under the Program in accordance with procedures prescribed by the Committee; provided that, in accordance with Section 409A of the Code, any such change in a distribution election (i) shall not be effective until 12 months after it is submitted to the Committee, (ii) must be submitted to the Committee at least 12 months prior to the date on which such distributions were previously scheduled to commence, and (iii) must provide for distributions to commence at least five years after the date on which such distributions were previously scheduled to commence.

6.2 Death. If a Participant dies before any Units credited to his or her Account have been distributed in accordance with Section 6.1, whether death occurs before or after a Separation from Service, the Company shall distribute all Units credited to the Participant’s Account as of the date of his or her death and distribute to the Participant’s Beneficiary as soon as practicable, in a single distribution, shares of Common Stock equal to the number of whole Units credited to the Participant’s Account as of the date of his or her death and cash in an amount equal to the Unit Value of any remaining fractional Unit.

6.3 Common Stock for Redemption of Units. Distributed shares shall be made from the pool of shares available for awards as set forth in the Plan.

7. **Miscellaneous.**

7.1 No Rights as Shareholder. No Participant shall have any rights as a shareholder of the Company, including the right to any cash dividends, or the right to vote, as a result of the grant to the Participant, or the Participant's holding of, any Units.

7.2 No Rights to Continued Service. Nothing in this Program, and no action taken pursuant hereto, shall affect the Participant's term of service as a Director.

7.3 Amendment of Program. The terms of this Program may be amended, suspended, or terminated at any time by the Committee or the Board (or their respective delegates), provided that, the Secretary of the Company may amend the Program to comply with applicable law, to make administrative changes or to carry out directives of the Board or the Committee.

7.4 Incompetents. If the Committee shall find that any person to whom any distribution or payment is payable under this Program is unable to care for his or her affairs because of illness or accident, or is a minor (unless a prior claim therefor shall have been made by a duly appointed guardian, committee or other legal representative), any distribution or payment due may be paid to the spouse, a child, a parent, or a brother or sister, or to any person deemed by the Committee to have incurred expense for such person otherwise entitled to payment, in such manner and proportions as the Committee may determine. Any such distribution or payment shall be a complete discharge of the liabilities of the Company under this Program.

7.5 Compliance with Section 409A of the Code. This Program is intended to comply with the provisions of Section 409A of the Code and shall be interpreted and construed accordingly. The Company shall have the discretion and authority to amend the Program at any time to satisfy any requirements of Section 409A of the Code or guidance provided by the U.S. Treasury Department to the extent applicable to the Program.

7.6 Binding Effect. This Program shall be binding upon and inure to the benefit of the Company, its successors and assigns and the Participant and his or her heirs, executors, administrators and legal representatives.

7.7 Governing Law. This Program and each Award granted hereunder shall be construed in accordance with, and governed by, the law of the Commonwealth of Pennsylvania to the extent not preempted by applicable federal law.

7.8 Interpretation. In the event of any conflicting terms between this Program and the Plan, the terms of the Plan shall control.

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## Constellation Unfunded Deferred Compensation Plan for Directors

(Effective February 1, 2022)

The purpose of this Unfunded Deferred Compensation Plan for Directors (the “**Plan**”) is to permit Directors of Constellation Energy Corporation (“**Constellation**”) to elect to defer receipt of directors’ fees. This Plan shall be effective as of the date on which shares of common stock of Constellation are distributed to the stockholders of Exelon Corporation (“**Exelon**,” and such date, the “**Effective Date**”) pursuant to the Separation Agreement between Constellation and Exelon, entered into in connection with such distribution (the “**Separation Agreement**,” and such transactions contemplated by the Separation Agreement, the “**Spin-Off**”).

1. **Administration.** The Plan shall be administered by the Corporate Secretary of Constellation or his or her designee (the “**Secretary**”), or such other individual or individuals as designated by the Board of Directors of Constellation (the “**Constellation Board**”). The Secretary shall interpret the Plan and establish such rules and regulations of plan administration that he or she deems appropriate. The cost of plan administration shall be paid by Constellation and its participating subsidiaries and shall not be charged against the deferred accounts of Plan participants.

2. **Eligibility.** All Directors of Constellation (other than full-time employees of Constellation or its subsidiaries) shall be eligible to participate in the Plan. In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement between Constellation and Exelon, entered into in connection with the Spin-Off (the “**Employee Matters Agreement**”), each Constellation Director, as defined in the Employee Matters Agreement, who was participating in the Exelon Corporation Unfunded Deferred Compensation Plan for Directors (the “**Exelon Plan**”) as of immediately prior to the Spin-Off shall automatically become eligible to participate in this Plan as of the Effective Date.

3. **Deferrals.**

(a) Prior to the first day of each calendar year, each eligible Director may elect in writing to defer the receipt of all or a portion of his or her directors’ fees earned with respect to his or her service on the board of directors of a Participating Company (each such board of

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directors, a “**Board**”) for such calendar year, by filing a written Director’s deferral agreement form with the Secretary with respect to each such Board on which the Director serves. A Director who first becomes eligible to participate in the Plan after the first day of any calendar year shall be permitted to make the election described in this Section 3 not later than 30 days after becoming eligible to participate in the Plan, and such election shall apply only to directors’ fees earned during the remainder of such calendar year. In all events, each deferral election made under this Plan shall apply only to fees earned after the date of such election. Deferred amounts under the Plan, together with deferred amounts and attributable earnings under the Exelon Plan, shall be credited to a deferral account in the participant’s name (“**Deferral Account**”) for later distribution. Each participant’s Deferral Account shall be a bookkeeping entry only, and none of the Participating Companies shall be required to fund the Deferral Account. Any assets that may be held to fund a Deferral Account shall at all times remain unrestricted assets of the Participating Company in its corporate capacity and not as a fiduciary and shall be subject to the claims of its general creditors. Pending distribution, each participant’s Deferral Account shall be credited with earnings or interest as provided in Section 3(b).

(b) (1) For purposes of measuring the earnings or losses credited to a participant’s Deferral Account, the participant may select, from among the investment funds available from time to time under the Constellation Employee Savings Plan (the “**Savings Plan**”) and designated by the Secretary, the investment funds in which all or part of his or her Deferral Account shall be deemed to be invested.

(2) The participant shall make an investment designation in the form and manner prescribed by the Secretary, which shall remain effective until another valid designation has been made by the participant as herein provided. The Secretary may, but need not, permit separate investment designations with respect to amounts attributable to fees earned with respect to service on each Board. The participant may amend his or her investment designation at such times and in such manner as prescribed by the Secretary. A timely change to the participant’s investment designation shall become effective as soon as administratively practicable after such designation is submitted.



(3) The investment funds deemed to be made available to the participant, and any limitation on the maximum or minimum percentages of the participant's Deferral Account that may be deemed to be invested in any particular fund, shall be the same as available or in effect from time to time under the Savings Plan.

(4) Except as provided below, the participant's Deferral Account shall be deemed to be invested in accordance with his or her investment designations, and the Deferral Account shall be credited with earnings (or losses) as if invested as directed by the participant. To the extent that the participant does not furnish complete investment instructions, then the Deferral Account shall be deemed invested in the default investment fund then in effect under the Savings Plan. The Deferral Accounts maintained pursuant to the Plan are for bookkeeping purposes only and Constellation is under no obligation to invest such amounts. Constellation shall provide a statement to each participant not less frequently than annually showing such information as is appropriate, including the aggregate amount in his or her Deferral Account, as of a reasonably current date.

(c) Spin-Off.

(1) As of the Effective Date, Constellation and the Plan shall assume all liabilities under the Exelon Plan for any benefits under such plan of all Constellation Directors who participated in the Exelon Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Plan. All deferral, investment and distribution elections made by such participants under the Exelon Plan with respect to any plan year prior to the Effective Date and the plan year in which the Effective Date occurs will continue to apply and shall be administered under this Plan; provided that to the extent a Constellation Director's account is invested in notional shares of Exelon common stock, then (i) such Constellation Director's account shall be credited with a number of notional shares of Constellation common stock equal to the number of shares of Constellation common stock that would have been distributed to the Constellation Director if the notional shares of Exelon common stock held in the Constellation

Director's account had been issued and outstanding and (ii) the notional shares of Exelon common stock credited to such Constellation Director's account shall be deemed to have been sold as of the Effective Date, based on the value of such shares as of the Effective Date, and reinvested in the default investment fund maintained under the Plan.

(2) As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Exelon Plan in respect of all Constellation Directors who participated in the Exelon Plan immediately prior to the Spin-Off.

**4. Distributions.**

(a) The amount credited to a participant's Deferral Account with respect to his or her participation on each Board shall be distributed to the participant in, or beginning in, April of the first year beginning after the occurrence of one of the following distribution events, as the participant shall direct in his or her Benefit Distribution Election Form: (i) the participant's separation from service, within the meaning of Section 409A of the Internal Revenue Code of 1986, as amended (the "**Code**"), as a Director of the Participating Companies and their affiliates, (ii) the participant's 65th birthday or (iii) the participant's 72nd birthday. Distributions shall be paid in a lump sum payment or in annual installments over a period of up to 10 years, as the participant shall direct in his or her Benefit Distribution Election Form. Each installment payment shall be determined by multiplying the balance remaining to the credit of the Deferral Account as of March 31 of such year (including earnings or interest credited under Section 3) by a fraction, the numerator of which is "1" and the denominator of which is the number of years (including the current year) for which payments are yet to be made. Any unpaid balance in the Deferral Account shall be credited with earnings or interest as provided in Section 3. In the event a Director who has elected a distribution event based on his or her 65th or 72nd birthday continues to serve as a Director after the date such distributions commence, then in the year prior to the year in which such distributions commence such Director shall file a new Benefit Distribution Election Form governing any amounts credited to his or her Deferral Account after the date such distributions commence. If the Director does not file such new Benefit Distribution Election Form, then the

Director shall be deemed to have elected to receive a lump sum distribution of any such amounts upon the Director's separation from service.

(b) Except as permitted under Section 4(c), each Director must submit a Benefit Distribution Election Form for amounts attributable to fees earned with respect to service on a Board at the time such Director makes his or her initial deferral election under the Plan with respect to his or her service on such Board. If a Director does not submit a Benefit Distribution Election Form during this period, then such Director shall be deemed to have elected to receive the portion of his or her Account attributable to fees earned for service on such Board in the form of installments payments over a period of ten years upon the Director's separation from service.

(c) A Director may elect to change the time and/or method of his or her distributions payable under the Plan in accordance with procedures prescribed by the Secretary; provided that, in accordance with Section 409A of the Code, any such change in a distribution election (i) shall not be effective until 12 months after it is submitted to the Secretary, (ii) must be submitted to the Secretary at least 12 months prior to the date on which such distributions were previously scheduled to commence and (iii) must provide for distributions to commence at least five years after the date on which such distributions were previously scheduled to commence. No more than one such election change shall be permissible with respect to the portion of a Director's account attributable to service with any Board.

**5. Death Benefits.** Each participant shall designate a beneficiary or beneficiaries to receive any remaining amounts payable from his or her Deferral Account after the participant's death. The beneficiaries, and any priority or allocation between them, shall be designated in the manner specified by the Secretary. If a participant dies before the entire balance in his or her Deferral Account has been paid out, the remaining balance shall be paid to the beneficiary in a lump sum upon the participant's death. If the participant is not survived by a designated beneficiary, the participant's beneficiary shall be the participant's spouse, if living, or otherwise, the participant's estate. If a beneficiary survives the participant but dies before the entire balance payable to him or her has been distributed, any remaining balance shall be paid to the beneficiary's estate in a lump sum. In the absence of contrary proof, the participant shall be deemed to have survived any designated beneficiary. A participant may change his or her beneficiary designation

under this Section at any time until his or her death by filing a written beneficiary designation with the Secretary, in the manner specified by the Secretary.

**6. Unforeseeable Financial Emergency.** The Secretary may, in his or her discretion, direct that a participant be paid an amount in cash (not in excess of the balance of his or her Deferral Account) sufficient to meet an unforeseeable emergency. An “*unforeseeable emergency*” means (i) a severe financial hardship to a Director resulting from an illness or accident of the Director, or the spouse or a dependent (as defined in Section 152(a) of the Code) of the Director, (ii) the loss of a Director’s property due to casualty or (iii) such other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Director, within the meaning of Section 409A of the Code. A Director’s written request for such a payment shall describe the circumstances which the Director believes justify the payment and an estimate of the amount necessary to eliminate the unforeseeable emergency. An immediate payment to satisfy an unforeseeable emergency will be made only to the extent necessary to satisfy the emergency need, plus an amount necessary to pay any taxes reasonably anticipated as a result of such payment, and will not be made to the extent the need is or may be relieved through reimbursement or compensation, by insurance or otherwise or by liquidation of the Director’s assets (to the extent such liquidation itself would not cause severe financial hardship). Any payment from a Director’s Deferral Account on account of an unforeseeable emergency shall be deemed to cancel any Deferral Election of the Director then in effect and the Director shall not be permitted to participate in the Plan until the next following calendar year.

**7. No Assignment or Alienation of Benefits.** Except as hereinafter provided with respect to a domestic relations order, a participant’s Deferral Account may not be voluntarily or involuntarily assigned or alienated. In cases of marital dispute, Constellation will observe the terms of the Plan unless and until ordered to do otherwise pursuant to a domestic relations order, as defined in Section 414(p)(1)(B) of the Code. As a condition of participation, a participant agrees to hold Constellation harmless from any claim that arises out of Constellation’s obeying the terms of a domestic relations order, whether such order effects a judgment of such court or is issued to enforce a judgment or order of another court.

**8. Amendment or Termination.** The Plan may be altered, amended, suspended, or terminated at any time by the Constellation Board, provided that, except as otherwise provided

herein or as permitted under Section 409A of the Code, no such action shall result in the distribution of amounts credited to the Deferral Accounts of any participant in any manner other than is provided in the Plan, nor shall such action reduce the availability of amounts previously deferred. To the extent permitted by Section 409A, the Constellation Board may, in its discretion, terminate the Plan with respect to any or all Participating Companies and accelerate the payment of all Deferral Accounts to the extent related to service on the Board for which the Plan is terminated:

(a) within 12 months of a corporate dissolution taxed under Section 331 of the Code, or with the approval of a bankruptcy court pursuant to 11 U.S.C. §503(b)(1)(A), provided that the payments with respect to each such Deferral Account are included in the Director's gross income in the later of (i) the calendar year in which the Plan termination occurs or (ii) the first calendar year in which the payments are administratively practicable;

(b) in connection with a "*change in control event*," as defined in, and to the extent permitted under, Treasury regulations promulgated under Section 409A of the Code; or

(c) upon any other termination event permitted under Section 409A of the Code.

**9. Compliance with Section 409A of the Code.** The Plan is intended to comply with the provisions of Section 409A of the Code and shall be interpreted and construed accordingly. Constellation shall have the discretion and authority to amend the Plan at any time to satisfy any requirements of Section 409A of the Code or guidance provided by the U.S. Treasury Department to the extent applicable to the Plan.

**10. Governing Law.** The Plan shall be governed by the law of the Commonwealth of Pennsylvania to the extent not preempted by applicable federal law.



**Constellation  
Deferred Compensation Plan  
For Non-Employee Directors**

**Effective  
February 1, 2022**

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1. **Purpose and Nature of the Plan.** The objective of the Constellation Deferred Compensation Plan for Non-Employee Directors (“**Plan**”) is to provide for payments by Constellation Energy Corporation (the “**Company**”) of certain amounts accrued prior to January 31, 2022 under the Constellation Energy Group, Inc. Deferred Compensation Plan for Non-Employee Directors in the form of Stock Units. The Plan is divided into sections that separately address benefits earned and vested on or after January 1, 2005, which are subject to Internal Revenue Code section 409A, and benefits earned and vested before January 1, 2005, which are “grandfathered” under Internal Revenue Code section 409A. This Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“**Exelon**,” and such date, the “**Effective Date**”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “**Separation Agreement**,” and such transactions contemplated by the Separation Agreement, the “**Spin-Off**”). References herein to the “Company” shall be deemed to include, where the context so requires, the applicable subsidiary or affiliate of the Company.
2. **Definitions.** As used herein, the following terms will have the meaning specified below:
  - “**Board**” means the Board of Directors of the Company.
  - “**Cash Account**” means an account by that name established pursuant to Section 5. The maintenance of Cash Accounts is for bookkeeping purposes only.
  - “**Change in Control**” means the occurrence of any one of the following events:
    - (i) individuals who, on February 1, 2022, constitute the Board (the “**Incumbent Directors**”) cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to February 1, 2022, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director;
    - (ii) any “person” (as such term is defined in Section 3(a)(9) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”) and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) is or becomes a “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 20% or more of the combined voting power of the Company’s then outstanding securities eligible to vote for the election of the Board (the “**Company Voting Securities**”); provided, however, that the event described in this paragraph (ii) shall not be deemed to be a Change in Control by virtue of any of the following acquisitions: (A) by the Company or any corporation with respect to which the Company owns a majority of the outstanding shares of common stock or has the power to vote or direct the voting of sufficient securities to elect a majority of the directors (a “**Subsidiary Company**”), (B) by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary Company, (C) by any underwriter temporarily holding securities pursuant to an offering of such securities, (D) pursuant to a Non-Qualifying Transaction (as defined in paragraph (iii)), or (E)

pursuant to any acquisition by Plan participant or any group of persons including Plan participant (or any entity controlled by Plan participant or any group of persons including Plan participant);

- (iii) consummation of a merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company or any of its Subsidiary Companies, (a "**Business Combination**"), unless immediately following such Business Combination: (A) more than 60% of the total voting power of (x) the corporation resulting from such Business Combination (the "**Surviving Corporation**"), or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial ownership of at least 95% of the voting securities eligible to elect directors of the Surviving Corporation (the "**Parent Corporation**"), is represented by Company Voting Securities that were outstanding immediately prior to such Business Combination (or, if applicable, is represented by shares into which such Company Voting Securities were converted pursuant to such Business Combination), and such voting power among the holders thereof is in substantially the same proportion as the voting power of such Company Voting Securities among the holders thereof immediately prior to the Business Combination, (B) no person (other than any employee benefit plan (or related trust) sponsored or maintained by the Surviving Corporation or the Parent Corporation), is or becomes the beneficial owner, directly or indirectly, of 20% or more of the total voting power of the outstanding voting securities eligible to elect directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) and (C) at least a majority of the members of the board of directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination (any Business Combination which satisfies all of the criteria specified in (A), (B), and (C) above shall be deemed to be a "**Non-Qualifying Transaction**"); or
- (iv) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company, or the consummation of a sale of all or substantially all of the Company's assets.

Notwithstanding the foregoing, a Change in Control of the Company shall not be deemed to occur solely because any person acquires beneficial ownership of more than 20% of the Company Voting Securities as a result of the acquisition of Company Voting Securities by the Company which reduces the number of Company Voting Securities outstanding; provided, that if after such acquisition by the Company such person becomes the beneficial owner of additional Company Voting Securities that increases the percentage of outstanding Company Voting Securities beneficially owned by such person, a Change in Control of the Company shall then occur.

"**Committee**" means the Compensation Committee of the Board.

"**Common Stock**" means the common stock, without par value, of the Company.

"**Director**" means a member of the Board who is not an employee of the Company or any of its subsidiaries/ affiliates.

"**Disability**" or "**Disabled**" means:

- (i) For amounts earned and vested before January 1, 2005, that the Plan Administrator has determined that the participant is unable to fulfill his/her responsibilities of Board membership because of illness or injury. For purposes of this Plan, a participant's eligibility to participate shall be deemed to have terminated on the date he/she is determined by the Plan Administrator to be Disabled.
- (ii) For amounts earned and vested on or after January 1, 2005, that the participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to last a continuous period of not less than 12 months or result in death. For purposes of this Plan, a participant's eligibility to participate shall be deemed to have terminated on the date the Plan Administrator receives the documentation of Disability.

"Earnings" means, with respect to the Cash Account, hypothetical interest credited to the Cash Account.

"Earnings" means, with respect to the Stock Account, hypothetical dividends credited to the Stock Account.

"Employee Matters Agreement" means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

"Fair Market Value" means, as of any specified date, the average closing price of a share of Common Stock on The NASDAQ Global Select Market ("Nasdaq") averaged for the most recent 20 days during which Common Stock was traded on Nasdaq (including such valuation date if a trading date).

"Plan Accounts" means a participant's Cash Account and/or Stock Account. The maintenance of Plan Accounts is for bookkeeping purposes only.

"Plan Administrator" means, as set forth in Section 3, the Board.

"Stock Account" means an account by that name established pursuant to Section 6. The maintenance of Stock Accounts is for bookkeeping purposes only.

"Stock Unit(s)" means the share equivalents credited to a Participant's Stock Account pursuant to the Plan. The use of Stock Units is for bookkeeping purposes only; the Stock Units are not actual shares of Common Stock. The Company will not reserve or otherwise set aside any Common Stock for or to any Stock Account.

"VP-HR" means the chief human resources officer of the Company.

3. Plan Administration.

- (a) Plan Administrator – The Plan is administered by the Board, who has sole authority to interpret the Plan, and, in general, to make all other determinations advisable for the administration of the Plan to achieve its stated objective. Decisions by the Plan Administrator shall be final and binding upon all persons for all purposes. The Plan Administrator shall have the power to delegate all or any part of its non-discretionary duties to one or more designees, and to withdraw such authority, by written designation.

- (b) Amendment – This Plan may be amended from time to time or suspended or terminated at any time, at the written direction of the Plan Administrator. However, amendments required to keep the Plan in compliance with applicable laws and regulations may be made by the VP-HR on advice of counsel. Nothing herein creates a vested right.
- (c) Indemnification – The Plan Administrator (and its designees), Chair of the Board, Chief Executive Officer, President, and VP-HR and all other employees of the Company or its subsidiaries/affiliates whose assigned duties include matters under the Plan, shall be indemnified by the Company or its subsidiaries/affiliates or from proceeds under insurance policies purchased by the Company or its subsidiaries/affiliates, against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Plan, including expenses reasonably incurred in the defense of any related claim.

4. Eligibility and Participation.

In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Director (as defined in the Employee Matters Agreement) who was participating in the Constellation Energy Group, Inc. Deferred Compensation Plan for Non-Employee Directors (the “**Predecessor Plan**”) as of immediately prior to the Spin-Off shall automatically become a participant in this Plan as of the Effective Date. As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Constellation Directors who participated in the Predecessor Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Plan. All distribution elections made by such participants under the Predecessor Plan with respect to any plan year prior to the Effective Date and the plan year in which the Effective Date occurs will continue to apply and shall be administered under this Plan. As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of all Constellation Directors who participated in the Predecessor Plan immediately prior to the Spin-Off.

- 5. Cash Accounts. As of the Effective Date, a Cash Account shall be established for the benefit of each participant and be credited with an amount equal to the amount credited to such participant’s Cash Account under the Predecessor Plan. Each participant’s Cash Account shall thereafter be credited with deemed earnings or losses at the rate determined under the Fixed Income Fund under the Constellation Employee Savings Plan (or such other fund as shall replace such short term investment fund under such plan from time to time), except to the extent that the participant elects, at the time and in the manner prescribed by the Plan Administrator, to have deemed earnings and losses credited to such account at the rate or rates determined under such other fund or funds as may be designated by the Plan Administrator hereunder from time to time from the funds then available under the Constellation Employee Savings Plan (excluding the Company stock fund).
- 6. Stock Accounts. As of the Effective Date, a Stock Account shall be established for the benefit of each participant and be credited with a number of Stock Units equal to the number of Exelon stock units credited to such participant’s Stock Account under the Predecessor Plan, multiplied by the Constellation Conversion Ratio, as defined in the Employee Matters Agreement.

As of any dividend distribution date for the Common Stock, the participant’s Stock Account shall be credited with additional Stock Units equal to the number of shares of

Common Stock (including fractions of a share) that could have been purchased, at the closing price of a share of Common Stock on such date as reported on Nasdaq, with the amount which would have been paid as dividends on that number of shares (including fractions of a share) of Common Stock which is equal to the number of Stock Units then credited to the participant's Stock Account.

In the event of any change in the outstanding shares of Common Stock by reason of any stock dividend or split, recapitalization, combination or exchange of shares or other similar changes in the Common Stock, then appropriate adjustments shall be made in the number of Stock Units in each participant's Stock Account. Such adjustments shall be made effective on the date of the change related to the Common Stock.

7. Distributions of Plan Accounts.

(a) Generally. Distributions of Plan Accounts shall be made in cash only, from the general assets of the Company.

(b) Timing of distribution.

(i) For amounts earned and vested before January 1, 2005: A participant may elect (by notification in the form and manner established by the VP-HR from time to time) to begin distributions (i) in the calendar year following the calendar year that eligibility to participate terminates, (ii) in the calendar year following the calendar year in which a participant attains age 70, if later, or (iii) any calendar year between (i) and (ii). Such election must be made prior to the end of the calendar year in which eligibility to participate terminates. Alternatively, a participant who reaches age 70 while still a Director may elect to begin distributions, in the calendar year following the calendar year that the participant reaches age 70, of amounts in his/her Plan Accounts as of the end of the calendar year the participant reaches age 70. Such election must be made prior to the end of the calendar year in which the participant reaches age 70, and a distribution election to receive any subsequently deferred amounts beginning in the calendar year following the calendar year that eligibility to participate terminates, must be made prior to the end of the calendar year in which eligibility to participate terminates.

(ii) For amounts earned and vested on or after January 1, 2005:

(1) Initial elections. At the time of the participant's initial deferral election under the Predecessor Plan, the participant elected to begin distributions (a) in the calendar year following the calendar year that eligibility to participate terminates, (b) in the calendar year following the calendar year in which a participant attains age 70, if later, or (c) any calendar year between (a) and (b).

(2) Subsequent elections. A participant can make a subsequent distribution election as to timing. However, such election shall take effect no earlier than 12 months from the date the subsequent election is received by the VP-HR, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid. A participant may revoke an election as to timing no later than 12 months before the scheduled payment date.

- (c) Form of distribution.
- (i) For amounts earned and vested before January 1, 2005: A participant may elect (by notification in the form and manner established by the VP-HR from time to time) to receive distributions in a single payment or in annual installments during a period not to exceed fifteen years. The single payment or the first installment payment, whichever is applicable, shall be made within the first sixty (60) calendar days of the calendar year elected for distribution. Subsequent installments, if any, shall be made within the first sixty (60) calendar days of each succeeding calendar year until the participant's Plan Accounts have been paid out.
- (ii) For amounts earned and vested on or after January 1, 2005:
- (1) Initial elections. At the time of the participant's initial deferral election under the Predecessor Plan, the participant elected to receive distributions in a single payment or in annual installments during a period not to exceed ten (10) years. The single payment or the first installment payment, whichever is applicable, shall be made within the first sixty (60) calendar days of the calendar year elected for distribution. Subsequent installments, if any, shall be made within the first sixty (60) calendar days of each succeeding calendar year until the participant's Plan Accounts have been paid out.
- (2) Subsequent elections. A participant can make a subsequent distribution election as to form. However, such election shall take effect no earlier than 12 months from the date the subsequent election is received by the VP-HR, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid. A participant may revoke an election as to form no later than 12 months before the scheduled payment date.
- (d) Default election. In the event applicable elections are not timely made, a participant shall receive a distribution in a single payment within the first sixty (60) calendar days of the calendar year following the calendar year that eligibility to participate terminates. Any subsequent change to such election shall be subject to delay in accordance with Sections 7(b)(ii)(2) or (c)(ii)(2).
- (e) Earnings. Earnings are credited to the Cash Account through the date of distribution, and amounts held for installment payments shall continue to be credited with Earnings. The value of the Cash Account that is payable in cash on the date of the single payment distribution is equal to the balance in the Cash Account on the date that is no earlier than five (5) calendar days prior to the day of such distribution ("**Distribution Valuation Date**"). The amount of any cash distribution to be made in installments from the Cash Account will be determined by multiplying (i) the balance in such Cash Account on the Distribution Valuation Date by (ii) a fraction, the numerator of which is one and the denominator of which is the number of installments in which distributions remain to be made (including the current distribution).
- (f) Death or disability.

- (i) Amount of payment. If a participant dies or becomes Disabled, the entire unpaid balance of his/her Plan Accounts shall be paid to the beneficiary(ies) designated in accordance with Section 8. If no designation was made, in the event of death, the balance of the Plan Accounts shall be paid to the estate of the participant, and in the event of Disability, to the participant.

The value of the Stock Account, which is equal to the number of Stock Units in the Stock Account multiplied by the Fair Market Value on the date of the participant's death or Disability, is transferred to the Cash Account on such date. Earnings are credited to the Cash Account through the date of distribution, and amounts held for installment payments shall continue to be credited with Earnings. The value of the Cash Account that is payable in cash on the date of the single payment distribution is equal to the balance in the Cash Account on the date that is no earlier than five (5) calendar days prior to the day of such distribution ("**Beneficiary Distribution Valuation Date**"). The amount of any cash distribution to be made in installments from the Cash Account will be determined by multiplying (i) the balance in such Cash Account on the Beneficiary Distribution Valuation Date by (ii) a fraction, the numerator of which is one and the denominator of which is the number of installments in which distributions remain to be made (including the current distribution).

- (ii) Timing of payment.

(1) Payment shall be made within sixty (60) calendar days after notice of death or Disability is received by the VP-HR, unless the participant elected (in the form and manner established by the VP-HR from time to time) a delayed and/or installment distribution option for designated beneficiary(ies) in accordance with the provisions in Section 7(f)(iii)(2) or (3) as applicable; provided, however that (i) such a distribution option election shall be effective only if the value of the participant's Plan Accounts is more than \$50,000 on the date of the participant's death or Disability; and (ii) the final distribution must be made to such beneficiary(ies) no later than 15 years after the participant's death or Disability.

(2) For amounts earned and vested before January 1, 2005: A participant may elect in the form and manner established by the VP-HR from time to time for payments to a beneficiary to be paid within 60 days of the participant's Death or disability, or within the first 60 days of a calendar year that is no more than 15 years after the participant's death. After the end of the calendar year that a participant's eligibility to participate terminates, a participant's election regarding the timing of a distribution for a particular beneficiary is irrevocable; provided, however, that the participant may make a timing election for a new beneficiary who is initially designated after the participant's eligibility to participate terminates, and such election is irrevocable with respect to the new beneficiary.

- (3) For amounts earned and vested on or after January 1, 2005: Payments to a designated beneficiary shall be at the same time as elected by the participant in accordance with Section 7(b)(ii).
- (iii) Form of payment.
- (1) Default form of payment. If the participant's Plan Account balances are less than \$50,000 on the date of the participant's death or Disability, the payment shall be in the form of a lump sum. For balances that exceed \$50,000, payments shall be in the form specified in Section 7(f)(iii)(2) or (3) as applicable.
- (2) For amounts earned and vested before January 1, 2005: At any time up until the end of the calendar year that a participant's eligibility to participate terminates, the participant may elect (in the form and manner established by the VP-HR from time to time) a form of distribution for each designated beneficiary. The form shall either be a lump sum or annual installments. After the end of the calendar year that a participant's eligibility to participate terminates, a distribution option election for a particular beneficiary is irrevocable. However, the participant may make a distribution option election for a new beneficiary who is initially designated after the participant's eligibility to participate terminates, and such election is irrevocable with respect to the new beneficiary.
- (3) For amounts earned and vested on or after January 1, 2005: Payments to a designated beneficiary shall be in the same form as elected by the participant in accordance with Section 7(c)(ii).
- (iv) Upon the death of a participant's beneficiary entitled to a delayed and/or installment distribution, the entire unpaid balance of the participant's Cash Account shall be paid to the beneficiary(ies) designated by the participant's beneficiary by notification in the form and manner established by the VP-HR from time to time or, if no designation was made, to the estate of the participant's beneficiary. Payment shall be made within sixty (60) calendar days after notice of death is received by such VP-HR. The value of the Cash Account that is payable in cash is equal to the balance in the Cash Account on the date that is no earlier than five (5) calendar days prior to the day of such distribution.
- (v) Administrator's discretion over "grandfathered" amounts. Notwithstanding anything herein contained to the contrary, for amounts earned and vested before January 1, 2005, the Plan Administrator shall have the right in its sole discretion to (1) vary the manner and timing of distributions of a participant or beneficiary entitled to a distribution under this Section 7, and may make such distributions in a single payment or over a shorter or longer period of time than that elected by a participant; and (2) vary the period during which the closing price of Common Stock is referenced to determine the value of the Stock Account that is transferred to the Cash Account on the date on which the participant's eligibility to participate terminates. Any affected participants will not participate in exercising such discretion.



8. Beneficiaries. A participant shall have the right to designate, change or rescind a beneficiary(ies) who is to receive a distribution(s) pursuant to Section 7 in the event of the death of the participant. A participant's beneficiary(ies) for whom a delayed and/or installment distribution option was elected shall have the right to designate a beneficiary(ies) who is to receive a distribution pursuant to Section 7 in the event of the death of the participant's beneficiary(ies).

Any designation, change or rescission of the designation of beneficiary shall be made by notification in the form and manner established by the VP-HR from time to time. The last designation of beneficiary received by such VP-HR shall be controlling over any testamentary or purported disposition by the participant (or, if applicable, the participant's beneficiary(ies)), provided that no designation, rescission or change thereof shall be effective unless received by such VP-HR prior to the death of the participant (or, if applicable, the death of the participant's beneficiary(ies)).

If the designated beneficiary is the estate, or the executor or administrator of the estate, of the participant (or, if applicable, the participant's beneficiary(ies)), a distribution pursuant to Section 7 may be made to the person(s) or entity (including a trust) entitled thereto under the will of the participant (or, if applicable, the participant's beneficiary(ies)), or, in the case of intestacy, under the laws relating to intestacy.

9. Valuation of Plan Accounts. The Plan Administrator shall cause the value of a participant's Plan Accounts to be determined and reported to the Company and the participant at least once per year as of the last business day of the calendar year. The value of the Stock Account will equal the number of Stock Units in the Stock Account multiplied by the closing price of a share of Common Stock on the last business day of the calendar year as reported on Nasdaq. The value of the Cash Account will equal the balance in the Cash Account on the last business day of the calendar year.

10. Withdrawals. No withdrawals of Plan Accounts may be made, except a participant may at any time request a hardship withdrawal from his/her Plan Accounts if he/she has incurred an unforeseeable financial emergency. An unforeseeable financial emergency is defined as severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant (or of his/her dependents), loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The need to send a child to college or the desire to purchase a home are not considered to be unforeseeable emergencies. The circumstance that will constitute an unforeseeable emergency will depend upon the facts of each case.

A hardship withdrawal will be permitted by the Plan Administrator only as necessary to satisfy an immediate and heavy financial need. A hardship withdrawal may be permitted only to the extent reasonably necessary to satisfy the financial need and any anticipated taxes that arise from the distribution. Payment may not be made to the extent that such hardship is or may be relieved (a) through reimbursement or compensation by insurance or otherwise, (b) by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or (c) by cessation of deferrals under the Plan.

The request for hardship withdrawal shall be made by notification in the form and manner established by the Plan Administrator from time to time. Such hardship withdrawal will be permitted only with approval of the Plan Administrator. The participant will receive a lump sum payment after the Plan Administrator has had reasonable time to consider and then approve the request.

The value of the Stock Account for purposes of processing a hardship cash withdrawal is equal to the number of Stock Units in the Stock Account multiplied by the Fair Market Value on the date on which the hardship withdrawal is processed. The value of the Cash Account for purposes of processing a hardship cash withdrawal is equal to the balance in the Cash Account on the date on which the hardship withdrawal is processed.

11. Change in Control. The terms of this Section 11 shall immediately become operative, without further action or consent by any person or entity, upon a Change in Control, and once operative shall supersede and control over any other provisions of this Plan. Upon the occurrence of a Change in Control followed within one year of the date of such Change in Control by the participant's cessation of Board membership for any reason, such participant shall be paid the value of his/her Plan Accounts in a single, lump sum cash payment. The value of the Stock Account, which is equal to the number of Stock Units in the Stock Account multiplied by the Fair Market Value on the date of the participant's cessation of Board membership, is transferred to the Cash Account on such date. Earnings are credited to the Cash Account through the date of distribution. The value of the Cash Account that is payable in cash on the date of the single lump sum cash payment is equal to the balance in the Cash Account on the date that is no earlier than five (5) calendar days prior to the day of such distribution. Such payment shall be made as soon as practicable, but in no event later than thirty (30) calendar days after the date of the participant's cessation of Board membership. On or after a Change in Control, no action, including, but not by way of limitation, the amendment, suspension or termination of the Plan, shall be taken which would affect the rights of any participant or the operation of this Plan with respect to the balance in the participant's Plan Accounts.
12. Withholding. The Company may withhold to the extent required by law all applicable income and other taxes from amounts deferred or distributed under the Plan.
13. Compliance with Code section 409A. This Plan is intended to comply and shall be administered in a manner that is intended to comply with section 409A of the Code and shall be construed and interpreted in accordance with such intent. To the extent that an Award and/or payment is subject to section 409A of the Code, it shall be awarded and/or paid in a manner that will comply with section 409A of the Code, including proposed, temporary or final regulations or any other guidance issued by the Secretary of the Treasury and the Internal Revenue Service with respect thereto. Any provision of this Plan that would cause an Award and/or payment to fail to satisfy section 409A of the Code shall have no force and effect until amended to comply with Code section 409A (which amendment may be retroactive to the extent permitted by applicable law).
14. Copies of Plan Available. Copies of the Plan and any and all amendments thereto shall be made available to all participants during normal business hours at the office of the Plan Administrator.
15. Miscellaneous.
  - (a) Inalienability of benefits – Except as may otherwise be required by law or court order, the interest of each participant or beneficiary under the Plan cannot be sold, pledged, assigned, alienated or transferred in any manner or be subject to attachment or other legal process of whatever nature; provided, however, that any applicable taxes may be withheld from any cash benefit payment made under this Plan.

- (b) Controlling law – The Plan and its administration shall be governed by the laws of the State of Pennsylvania, without respect to any conflicts of law principles, except to the extent preempted by federal law.
- (c) Gender and number – A masculine pronoun when used herein refers to both men and women and words used in the singular are intended to include the plural, and vice versa, whenever appropriate.
- (d) Titles and headings – Titles and headings to articles and sections in the Plan are placed herein solely for convenience of reference and in any case of conflict, the text of the Plan rather than such titles and headings shall control.
- (e) References to law – All references to specific provisions of any federal or state law, rule or regulation shall be deemed to also include references to any successor provisions or amendments.
- (f) Funding and expenses – Benefits under the Plan are not vested or funded, and shall be paid out of the general assets of the Company. To the extent that any person acquires a right to receive payments from the Company under this Plan, such rights shall be no greater than the right of any unsecured general creditor of the Company. The expenses of administering the Plan will be borne by the Company.
- (g) Not a contract – Participation in this Plan shall not constitute a contract of employment or Board membership between the Company and any person and shall not be deemed to be consideration for, or a condition of, continued employment or Board membership of any person.
- (h) Successors – In the event the Company becomes a party to a merger, consolidation, sale of substantially all of its assets or any other corporate reorganization in which the Company will not be the surviving corporation or in which the holders of the common stock of the Company will receive securities of another corporation (in any such case, the “New Company”), then the New Company shall assume the rights and obligations of the Company under this Plan.

## CONSTELLATION SENIOR MANAGEMENT SEVERANCE PLAN

### 1. **PURPOSE OF THE PLAN**

The Constellation Senior Management Severance Plan (the “Plan”), is effective as of February 1, 2022 (the “Effective Date”) except as otherwise specifically provided herein. The Plan is intended to encourage the attraction and retention of executives of Constellation Energy Corporation and its participating subsidiaries.

### 2. **ELIGIBILITY**

Each employee of the Company selected by the Plan Administrator whose position is in Salary Band E09 (or its post-Spin-Off equivalent) (an “Executive”) shall be eligible to participate in the Plan in the event of his or her Termination of Employment, other than an Executive whose Termination of Employment is governed by the terms and conditions of another separation or change in control plan or agreement between such Executive and the Company or an affiliate thereof. For the avoidance of doubt, references in this Plan to an Executive’s employment with, or termination of employment from, the Company shall, to the extent applicable, be deemed to refer to such Executive’s employment with, or termination of employment from, Constellation Energy Generation, LLC, or another participating subsidiary of the Company.

### 3. **PARTICIPATION**

Each eligible Executive shall become a participant in the Plan (a “Participant”) as of his or her Termination Date, subject to his or her timely execution of, and compliance with the terms and conditions of (a) a separation agreement with the Company (“Separation Agreement”), (b) a waiver and release of claims which has become irrevocable (“Waiver and Release”) and (c) non-solicitation, confidential information, and intellectual property covenants and, in the discretion of the Plan Administrator, non-competition covenants (collectively, “Restrictive Covenants”), each of the foregoing documents in such form as the Plan Administrator, in its sole discretion, may require.

### 4. **BENEFITS**

In addition to payment of all Accrued Obligations, a Participant shall be entitled to the following benefits upon his or her Termination of Employment:

4.1. Severance Pay. Continued payment of (a) his or her Base Salary, and (b) if the Participant is a participant in the Annual Incentive Plan for the year in which the Termination Date occurs, his or her Target Incentive, each payable during the Severance Period in substantially equal regular payroll installments commencing within 45 days after his or her Termination Date.

4.2. Annual Incentive Awards. Each Participant who is a participant in the Annual Incentive Plan for the year in which the Termination Date occurs shall remain eligible to receive a pro-rated Annual Incentive based on the number of days elapsed during such year as of the Termination Date, payable at the time such awards are paid to active employees for such year (but not later than March 15 of the year following the Termination Date). A Participant who is not a participant in the Annual Incentive Plan for the year in which the Termination Date occurs shall not be entitled to an Annual Incentive for such year, and the amount (if any) payable under any other annual incentive plan in which the Participant participates for such year shall be determined by the Plan Administrator in its sole discretion.

4.3. Long-Term Incentive Awards. Each of the Participant's outstanding awards (if any) under the LTIP, including stock options, restricted stock, restricted stock units, restricted cash, performance shares, performance units and similar stock or cash incentive awards, shall become vested and payable to a Participant solely to the extent (and at the time) provided under the terms of the LTIP, applicable program and/or award agreement under which such awards are granted.

4.4. Health Care Coverage.

- (a) COBRA Coverage. During the Severance Period, a Participant (and his or her eligible dependents) who so elects shall be eligible to participate in the health care plans under which he or she was covered immediately prior to the Termination Date, in accordance with and subject to the terms and conditions of such plans as in effect from time to time. The Participant's out of pocket costs (including premiums, deductibles and co-payments) for such coverage shall be the same as those in effect from time to time for active peer employees during such period. Such coverage shall be provided during the Severance Period in satisfaction of continuation coverage under Section 4980B of the Code and Section 601 to 609 of ERISA ("COBRA") for such period. At the end of the Severance Period, COBRA continuation coverage at the Participant's expense may be continued for any remaining balance of the statutory COBRA coverage period.
- (b) Retiree Coverage. A Participant who, as of the last day of the Severance Period, has attained at least age 50 and completed at least 10 years of service, taking into account service with the Company and its subsidiaries and, with respect to an Executive who was employed by Exelon Corporation and its subsidiaries immediately prior to the Spin-Off, service with Exelon Corporation and its subsidiaries (or who has completed such other age and service requirement then in effect under the Constellation Energy Generation Severance Benefit Plan or any successor plan as of the relevant time set forth in such plan), shall be entitled to elect to participate in such Company group health care programs that are then available to similarly situated retirees of his or her legacy Company. The eligibility for coverage and availability of programs or plans, the amounts charged for coverage, and the other terms, conditions and limitations under the Company's group health care programs or plans shall remain subject to the Company's right to amend, change or terminate such programs or plans at any time.

4.5. SERP / Other Deferred Compensation. With respect to a Participant who has a vested benefit and actively participates in the SERP as of his or her Termination Date, the Severance Period (but not to exceed 24 months unless such Participant was entitled to a greater period as of January 1, 2004 under a plan or agreement then in effect (including a plan or agreement assumed by the Company in connection with the Spin-Off)) shall be taken into account as service solely for purposes of determining, to the extent relevant under the qualified defined benefit pension plan then covering the Participant, the amount of the Participant's regular accrued SERP benefit, but not for purposes of determining eligibility for early retirement benefits (including any social security supplement) or any other purpose. In determining the amount of the Participant's benefit, if any, the severance payments made under Section 4.1 shall be considered as if such payments were normal base salary and incentive payments. All amounts previously deferred by, or accrued to the benefit of, such Participant under a non-qualified deferred compensation plan of the Company shall, to the extent vested, be paid in accordance with the Participant's distribution election in effect thereunder as of the Termination Date (or, if no affirmative election is in effect as of such date, the default election applicable to the Participant).

4.6. Life Insurance and Disability Coverage. A Participant shall be eligible for continued coverage under the applicable life insurance and executive-only long term disability plans

sponsored by the Company (or other equivalent coverage or benefits) through the last day of the Severance Period applicable to such Participant on the same terms and subject to the same terms and conditions as are applicable to active peer employees (including, without limitation, submission of proof by an Executive who seeks long term disability benefits that such Executive would have satisfied the conditions for such benefits had the Executive been an employee during the Severance Period and terminated employment on or before the last day of such period).

4.7. Outplacement and Financial Counseling Services. During the twelve-month period following the Termination Date, the Company shall reimburse the Participant for reasonable fees as incurred for services rendered by a professional outplacement organization approved by the Plan Administrator to provide individual outplacement services, and the Participant shall be eligible to receive financial counseling services consistent with the terms and conditions applicable to active peer executives under the Company's executive perquisite policy.

5. CHANGE IN CONTROL BENEFITS

A Participant, whose Termination Date occurs during the period commencing ninety (90) days before a Change Date and ending on the second anniversary of such Change Date, shall be entitled to the payment of all Accrued Obligations and the following benefits in lieu of the benefits described in Section 4 hereof:

5.1. Severance Pay. Continued payment of (a) his or her Base Salary, and (b) if the Participant is a participant in the Annual Incentive Plan for the year in which the Termination Date occurs, his or her Target Incentive, each payable during the Severance Period in substantially equal regular payroll installments commencing within 45 days after his or her Termination Date.

5.2. Annual Incentive for Year of Termination. A pro-rated Annual Incentive under the annual incentive plan applicable to such Participant for the year in which the Termination Date occurs, based on the number of days elapsed during such year as of the Termination Date, payable at the time such awards are paid to active employees for such year (but not later than March 15 of the year following the Termination Date).

5.3. Long-Term Incentive Awards.

- (a) Stock Options. Each outstanding stock option granted to the Participant under the LTIP shall (i) become fully vested as of the Termination Date, and (ii) thereafter remain exercisable until the fifth anniversary of the Termination Date or, if earlier, the expiration date of any such stock option, provided that this provision shall not limit the right of the Company to cancel such stock options in connection with a Change in Control in accordance with the terms and conditions of the LTIP.
- (b) Restricted Stock, Stock Unit and Cash Awards. All forfeiture conditions that are applicable as of the Termination Date to any outstanding shares of restricted stock, restricted stock units or restricted cash awarded to the Participant under the LTIP shall (except as expressly provided to the contrary in such awards) lapse and such awards shall become fully vested as of the Termination Date.
- (c) Other LTIP Awards. To the extent the performance period applicable to any outstanding performance shares, performance units or similar stock or cash incentive awards granted to the Executive under the LTIP has ended as of the Termination Date (or, if later, the Change Date), including performance periods that are terminated early in connection with the Change in Control, such awards shall become fully vested and payable (to the extent not already paid), based on

the performance level attained (or deemed to have been attained in connection with the Change in Control). To the extent the performance period applicable to any such award has not ended as of the Termination Date (or, if later, the Change Date), such award shall become fully vested and payable based on the extent to which the performance goals established under the LTIP for such performance period are attained as of the last day of the performance period.

5.4. Make-Whole if Termination Date Precedes Change Date. Notwithstanding the foregoing provisions of this Section 5, in the event the Participant's Termination Date occurs during the 90-day period preceding the Change Date, then (i) any payments that would have been to the Participant earlier under Sections 5.1 or 5.2, had the Change Date preceded his or her Termination Date, will be paid in a lump sum within 45 days after the Change Date, (ii) none of the Participant's LTIP awards described in Section 5.3 shall expire or be forfeited during the 90-day period preceding the Change Date, except to the extent they would have expired or been forfeited had the Participant remained employed until the Change Date, and (iii) any lapse of restrictions and vesting of such LTIP awards that would have occurred as of the Termination Date, had it been preceded by the Change Date, shall occur as of the Change Date.

5.5. Continuation of Welfare Benefits.

- (a) **COBRA Coverage.** During the Severance Period, a Participant (and his or her dependents) who so elects shall be eligible to participate in the health care plans under which he or she was covered immediately prior to the Termination Date, in accordance with and subject to the terms and conditions of such plans as in effect from time to time. The Participant's out of pocket costs (including premiums, deductibles and co-payments) for such coverage shall be the same as those in effect from time to time for active peer employees during such period. Such coverage shall be provided during the Severance Period in satisfaction of continuation coverage under COBRA for such period. At the end of the Severance Period, COBRA continuation coverage at the Participant's expense may be continued for the remaining balance of the statutory COBRA coverage period, if any.
- (b) **Retiree Coverage.** A Participant who, as of the last day of the Severance Period, has attained at least age 50 and completed at least 10 years of service, taking into account service with the Company and its subsidiaries and, with respect to an Executive who was employed by Exelon Corporation and its subsidiaries immediately prior to the Spin-Off, service with Exelon Corporation and its subsidiaries (or who has completed such other age and service requirement then in effect under the Constellation Energy Generation Severance Benefit Plan or any successor plan as of the relevant time set forth in such plan), shall be entitled to elect to participate in such Company group health care programs that are then available to similarly situated retirees of his or her legacy Company. The eligibility for coverage and availability of programs or plans, the amounts charged for coverage, and the other terms, conditions and limitations under the Company's group health care programs or plans shall remain subject to the Company's right to amend, change or terminate such programs or plans at any time.

5.6. SERP/ Other Deferred Compensation. For purposes of the Participant's SERP benefit (if the Participant then actively participates in the SERP), the Severance Period (but not to exceed 24 months unless such Participant was entitled to a greater period as of January 1, 2004 under a plan or agreement then in effect (including a plan or agreement assumed by the Company in connection with the Spin-Off)) shall be taken into account as service solely for purposes of determining whether the Participant is vested and, to the extent relevant under the qualified

defined benefit pension plan then covering the Participant, the amount of the Participant's regular accrued SERP benefit, but not for purposes of determining eligibility for early retirement benefits (including any social security supplement) or any other purpose. In determining the amount of the Participant's vested benefit, if any, the severance payments made under Section 5.1 shall be considered as if such payments were normal base salary and incentive payments. All amounts previously deferred by, or accrued to the benefit of, such Participant under a non-qualified deferred compensation plan of the Company shall, to the extent vested, be paid in accordance with the Participant's distribution election in effect thereunder as of the Termination Date (or, if no affirmative election is in effect as of such date, the default election applicable to the Participant)

5.7. Life Insurance and Disability Coverage. A Participant shall be eligible for continued coverage under the applicable life insurance and executive-only long term disability plans or programs sponsored by the Company (or other equivalent coverage or benefits) through the last day of the Severance Period applicable to such Participant on the same terms and subject to the same terms and conditions as are applicable to active peer employees (including, without limitation, submission of proof by an Executive who seeks long term disability benefits that such Executive would have satisfied the conditions for such benefits had the Executive been an employee during the Severance Period and terminated employment on or before the last day of such period).

5.8. Outplacement and Financial Counseling Services. During the 12-month period following the Termination Date, the Company shall pay or cause to be paid on behalf of such Participant, as incurred, all reasonable fees and costs charged by a nationally recognized outplacement firm selected by such Participant for outplacement services. During such period, the Participant also shall be eligible to receive financial counseling services consistent with the terms and conditions applicable to active peer executives under the Company's executive perquisite policy as of the Termination Date.

5.9. Procedural Requirements. The Company shall strictly observe or cause to be strictly observed each of the following procedures in connection with any termination for Cause during the period commencing on a Change Date and ending on the second anniversary of such Change Date: an eligible Executive's termination of employment shall not be deemed to be for Cause unless and until there shall have been delivered to such Executive a written notice of the determination of the Chief Executive Officer of the Company which is the Executive's employer ("CEO") (after reasonable written notice of such consideration by the CEO of acts or omissions alleged to constitute Cause is provided to such Executive and such Executive is given an opportunity to present a written response to the CEO regarding such allegations), finding that, in his or her good faith opinion, such Executive's acts, or failure to act, constitutes Cause and specifying the particulars thereof in detail.

5.10. Sole and Exclusive Obligations. The obligations of the Company under this Plan with respect to any Termination of Employment under this Section 5 shall supersede and not duplicate any severance obligations of the Company in any other plan of the Company or prior agreement between such Participant and the Company or its predecessor in interest.

5.11. Payment Capped. If the Plan Administrator determines that any benefits paid or payable under this Plan to a Participant would give rise to liability of the Participant for the excise tax imposed by Section 4999 of the Code or any successor provision, then the amount payable to the Participant hereunder shall be reduced by the Company to the extent necessary so that no portion is subject to such excise tax; provided, however, such reduction shall be made only if it results in the Participant retaining a greater amount of benefits on an after-tax basis (taking into account the excise tax and applicable federal, state, and local income and payroll taxes) than the amount of benefits on an after-tax basis (taking into account the excise tax and applicable federal, state,



and local income and payroll taxes) the Participant would have retained absent such reduction. In the event benefits are required to be reduced pursuant to this Section 5.11, then they shall be reduced in the following order of priority in a manner consistent with Section 409A of the Code: (i) first from cash benefits (ii) next from performance-vested equity benefits, with benefits having later payments dates being reduced first; (iii) next from time-vested equity benefits, with benefits having later payment dates being reduced first; and (iv) in the case of equity benefits having the same payments dates, pro-rata amongst all such benefits. The Plan Administrator shall, in its sole discretion, choose an independent public accounting firm or professional consulting services provider of national reputation and experience to make in writing in good faith all calculations and determinations under this Section 5.11 including the assumptions to be used in arriving at any calculations. For purposes of making the calculations and determinations under this Section 5.11, the accountants may make reasonable assumptions and approximations concerning the application of Sections 280G and 4999 of the Code. The Plan Administrator shall furnish to the accountants information and documents as the Accountants may reasonably request to make the calculations and determinations under this Section 5.11 and shall bear all costs the accountants incur in connection with any calculations contemplated hereby.

6. **TERMINATION OF PARTICIPATION; CESSATION OF BENEFITS; RECOUPMENT**

A Participant's benefits under the Plan shall terminate on the last day of the Participant's Severance Period; provided that a Participant's right to benefits shall terminate immediately on the date that the Participant breaches any of the terms of his or her Separation Agreement, Restrictive Covenants or Waiver and Release, or if at any time the Company determines (in accordance with Section 5.9 with respect to a Participant receiving benefits under Section 5) that in the course of his or her employment the Executive engaged in conduct described in Section 7.5(b), (c), (d) or (e), in which case the Company may require the repayment of amounts paid pursuant to Section 4 or Section 5 (other than any Accrued Obligations) prior to such breach or other conduct, and shall discontinue the payment of any additional amounts under the Plan.

To the extent that the Company makes payments and provides benefits to an Executive and the Executive either does not timely execute and deliver the Waiver and Release to the Company or revokes the Waiver and Release in accordance with its terms, Executive shall pay to the Company within 10 days following the expiration of the consideration period of the Waiver and Release or the date such Waiver and Release was revoked, a lump sum payment of all payments and the value of all benefits (other than Accrued Obligations) received by Executive to date hereunder.

Notwithstanding any provision of the Plan or any Separation Agreement to the contrary, benefits paid or payable to a Participant under the Plan shall be subject to any executive or officer recoupment or claw back policy of the Company as in effect as of the Termination Date. Any termination and/or recoupment of benefits under the Plan shall be in addition and without prejudice to any other remedies that the Company may elect to assert.

7. **DEFINITIONS**

In addition to terms previously defined, when used in the Plan, the following capitalized terms shall have the following meanings unless the context clearly indicates otherwise:

7.1. "**Accrued Obligations**" means, the sum of a Participant's (a) Base Salary (b) any annual incentive with respect to the preceding fiscal year, (c) any unused vacation or paid time off days and (d) any properly reimbursable business expenses; in each case which are accrued but unpaid as of the Termination Date.

7.2. “Annual Incentive” means (a) for purposes of Section 4 hereof, an amount to which a Participant would have been entitled under the Annual Incentive Plan based on the actual performance goals established pursuant to such plan and assuming a “meaningful impact” individual performance rating, or (b) for purposes of Section 5 hereof, an amount to which a Participant would have been entitled under the Annual Incentive Plan (or any other short-term incentive plan of the Company or its successor applicable to such Participant in lieu of the Annual Incentive Plan) based on the actual achievement of performance goals established pursuant to such plan (or if such performance cannot reasonably be determined, the average of the actual Annual Incentives paid or payable to the Participant for each of the two calendar years preceding the Termination Date), assuming a “meaningful impact” individual performance rating (if applicable) and disregarding any reduction in a Participant’s Base Salary or Target Incentive (if any) occurring during the period beginning 90 days prior to the Change Date.

7.3. “Annual Incentive Plan”, means the Company’s Annual Incentive Plan (but not any other short-term incentive plan of a Company), or any successor plan thereto (including but not limited to any annual incentive plan of a successor to the Company pursuant to a Change in Control).

7.4. “Base Salary” means (a) for purposes of Section 4, the annualized base salary payable to the Participant as of his or her Termination Date, and (b) for purposes of Section 5, the greater of the amount determined in the immediately preceding clause and 12 times the highest annualized base salary paid or payable to the Participant by the Company in respect of the 12-month period immediately before the Change Date.

7.5. “Cause” means, with respect to any Executive:

- (a) the refusal to perform or habitual neglect in the performance of the Executive’s duties or responsibilities, or of specific directives of the Board of Directors of a Company or the officer or other executive to whom the Executive reports which are not materially inconsistent with the scope and nature of the Executive’s employment duties and responsibilities;
- (b) the Executive’s willful or reckless commission of act(s) or omission(s) which have resulted in, or in the Company’s reasonable judgment are likely to result in, a material loss to, or material damage to the reputation of the Company or any of its affiliates, or that compromise the safety of any employee or other person;
- (c) the Executive’s commission of a felony or any crime involving dishonesty or moral turpitude;
- (d) the Executive’s material violation of the Company’s or any of its affiliates’ Code of Business Conduct (including the corporate policies referenced therein), or of any statutory or common law duty of loyalty to the Company or any of its affiliates; or
- (e) any breach by the Executive of one or more of the Restrictive Covenants.

7.6. “Change Date” means the date on which a Change in Control occurs.

7.7. “Change in Control” has the meaning set forth in the definition of such term in the LTIP.

7.8. “COBRA” has the meaning set forth in Section 4.4 hereof.

7.9. “Code” means the Internal Revenue Code of 1986, as amended.

- 7.10. "Company," means Constellation Energy Corporation, a Pennsylvania corporation.
- 7.11. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.
- 7.12. "Executive" has the meaning set forth in Section 2 hereof.
- 7.13. "Good Reason" means:
- (a) for purposes of Section 4 hereof,
    - (i) a material reduction of an Executive's base salary unless such reduction is part of a policy, program or arrangement applicable to peer executives of the Company or of the Executive's business unit (and, for avoidance of doubt, excluding any reduction of less than 10% that occurs effective upon the consummation of the Spin-Off);
    - (ii) a demotion below the Executive level; or
    - (iii) with respect to the Company's Chief Executive Officer, a material adverse reduction in his or her position or duties, but excluding any such change caused solely by a disposition of all or a significant portion of a Company's business or operations.
  - (b) for purposes of Section 5 hereof, the occurrence of any one or more of the following actions or omissions that occurs during the period commencing on a Change Date and ending on the second anniversary of such Change Date:
    - (i) a material reduction of an Executive's base salary, incentive compensation opportunity or aggregate benefits;
    - (ii) a material adverse reduction in the Executive's position, duties or responsibilities (excluding, with respect to an Executive other than the Chief Executive Officer of a Company, a change in the position or level of officer to whom the Executive reports);
    - (iii) a relocation by more than 50 miles of (A) the Executive's primary workplace, or (B) the principal offices of the Company or its successor (if such offices are such Executive's workplace), in each case without the Executive's consent; provided, however, in both cases of (A) and (B) of this subsection (b)(iii), such new location is farther from the Executive's residence than the prior location; or
    - (iv) a material breach of this Plan by the Company or its successor.
  - (c) Limitations on Good Reason. Notwithstanding the foregoing provisions of this Section, no act or omission shall constitute a material breach of this Plan by the Company, nor grounds for "Good Reason":
    - (i) unless the Executive gives the Plan Administrator a Notice of Termination at least 30 days prior to the Executive's Termination Date, and the Company fails to cure such act or omission within the 30-day period;

- (ii) if the Executive first acquired knowledge of such act or omission more than 90 days before such Participant gives the Plan Administrator such Notice or Termination; or
- (iii) if the Executive has consented in writing to such act or omission.

7.14. “including” means including without limitation.

7.15. “LTIP” means the Constellation 2022 Long-Term Incentive Plan, as amended from time to time, or any successor thereto.

7.16. “Notice of Termination” means a written notice given by an Executive to the executive or officer to whom he or she reports and to the Plan Administrator which sets forth in reasonable detail the specific facts and circumstances claimed to provide a basis for a Termination of Employment for Good Reason.

7.17. “Participant” has the meaning set forth in Section 3 hereof.

7.18. “Person” means any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, entity or government instrumentality, division, agency, body or department.

7.19. “Plan Administrator” means the Company’s Vice President, Compensation or, in the event the person holding such position as of a Change Date ceases to hold such position during the succeeding 24 months, a person appointed by the majority of the member of the board of directors who were directors of the Company immediately prior to the Change Date.

7.20. “Restrictive Covenants” has the meaning set forth in Section 3 hereof.

7.21. “Section” means, unless the context otherwise requires, a section of this Plan.

7.22. “Senior Executive Management” means the Company’s Chief Executive Officer and each Senior Vice President or above of the Company who reports directly to the Company’s Chief Executive Officer and/or who is the Company’s Chief Financial, Human Resources or Legal Officer.

7.23. “Separation Agreement” has the meaning set forth in Section 3 hereof.

7.24. “SERP” means the non-qualified supplemental defined benefit pension plan of the Company, if any, in which an Executive actively participates as of his or her Termination Date.

7.25. “Severance Period” means the period during which Base Salary and Target Incentive is payable to a Participant, based on his or her level of seniority and period of continuous service with the Company immediately preceding the Termination Date, as set forth below.

(a) For purposes of Section 4 hereof, the Severance Period with respect to:

- (i) Senior Executive Management shall be 24 months (18 months if less than 2 continuous years of service; 12 months if less than one continuous year of service);
- (ii) any other Senior Vice President or above of the Company shall be 18 months (12 months if less than 2 continuous years of service; 6 months if less than 1 continuous year of service, in each case taking into account

service with Exelon Corporation and its subsidiaries prior to the date of the Spin-Off); and

- (iii) any other Executive shall be 15 months (12 months if less than 2 continuous years of service; 6 months if less than 1 continuous year of service, in each case taking into account service with Exelon Corporation and its subsidiaries prior to the date of the Spin-Off).
- (b) For purposes of Section 5 (i.e., Change in Control) hereof, the Severance Period with respect to:
- (i) Senior Executive Management shall be 2.99 years;
  - (ii) any other Senior Vice President or above of the Company shall be 24 months; and
  - (iii) any other Executive shall be 15 months.

7.26. "Specified Employee" means a "specified employee" within the meaning of Section 409A of the Code.

7.27. "Spin-Off" means the distribution of shares of common stock of the Company to the stockholders of Exelon Corporation Inc. as of February 1, 2022 pursuant to the Separation Agreement between the Company and Exelon Corporation, entered into in connection with such distribution.

7.28. "Target Incentive" means an amount equal to the percentage of the Participant's Base Salary (if any) to which he or she would have been entitled immediately prior to such date under the Annual Incentive Plan for the year in which the Termination Date occurs if the Participant were employed for the entire year and the performance goals established pursuant to such plan were achieved at the 100% (target) level.

7.29. "Termination Date" means the effective date of an eligible Executive's Termination of Employment with the Company, which shall be the date on which such Executive has a "separation from service," within the meaning of Section 409A of the Code; provided, however, that if the Executive terminates his or her employment for Good Reason, the Termination Date shall not be earlier than the thirtieth day following the Company's receipt of such Executive's Notice of Termination, unless the Plan Administrator consents in writing to an earlier Termination Date.

7.30. "Termination of Employment" means:

- (a) a termination of an eligible Executive's employment by the Company and its participating subsidiaries after the consummation of the Spin-Off for reasons other than for Cause or disability; or
- (b) a resignation by an eligible Executive from the Company and its participating subsidiaries after the consummation of the Spin-Off for Good Reason.

The following shall not constitute a Termination of Employment for purposes of the Plan: (i) a termination of employment for Cause, (ii) an Executive's resignation for any reason other than for Good Reason, (iii) the cessation of an Executive's employment with the Company or any Affiliate due to death or disability (as determined by the Plan Administrator in good faith), or (iv) the cessation of an Executive's employment with the Company or any subsidiary thereof

as the result of the sale, spin-off or other divestiture of a plant, division, business unit or subsidiary or a merger or other business combination followed by employment or reemployment with the purchaser or successor in interest to the Executive's employer with regard to such plant, division, business unit or subsidiary, or an offer of employment by such purchaser or successor in interest on terms and conditions substantially comparable in the aggregate (as determined by the Plan Administrator in its sole discretion) to the terms and conditions of the Executive's employment with the Company or its subsidiary immediately prior to such transaction. For the avoidance of doubt, any termination of employment with Exelon Corporation followed by employment with the Company or one of its subsidiaries in connection with the Spin-Off shall not constitute a Termination of Employment for purposes of this Plan or the Exelon Corporation Senior Management Severance Plan.

7.31. "Waiver and Release" has the meaning set forth in Section 3 hereof.

## 8. FUNDING

The Plan is an unfunded employee welfare benefit plan maintained for the purpose of providing severance benefits to a select group of management or highly compensated employees. Nothing in the Plan shall be interpreted as requiring the Company to set aside any of its assets for the purpose of funding its obligations under the Plan. No person entitled to benefits under the Plan shall have any right, title or claim in or to any specific assets of the Company, but shall have the right only as a general creditor to receive benefits from the Company on the terms and conditions provided in the Plan.

## 9. ADMINISTRATION OF THE PLAN

The Plan shall be administered on a day-to-day basis by the Plan Administrator. The Plan Administrator has the sole and absolute power and authority to interpret and apply the provisions of this Plan to a particular circumstance, make all factual and legal determinations, construe uncertain or disputed terms and make eligibility and benefit determinations in such manner and to such extent as the Plan Administrator, in his or her sole discretion may determine. Benefits under the Plan will be paid only if the Plan Administrator, in his or her discretion, determines that an individual is entitled to them; provided, however, that any dispute after the claims procedure under Section 10 has been exhausted regarding whether an Executive's termination of employment for purposes of Section 5 is based on either Good Reason or Cause may, at the election of the Executive, be submitted to binding arbitration pursuant to Section 11.

The Plan Administrator may promulgate any rules and regulations it deems necessary to carry out the purposes of the Plan or to interpret the terms and conditions of the Plan; provided, however, that no rule, regulation or interpretation shall be contrary to the provisions of the Plan. The rules, regulations and interpretations made by the Plan Administrator shall, where appropriate, be applied on a consistent basis with respect to similarly situated Executives, and shall be final and binding on any Executive or former Executive and any successor in interest.

The Plan Administrator may delegate any administrative duties, including, without limitation, duties with respect to the processing, review, investigation, approval and payment of severance pay and provision of severance benefits, to designated individuals or committees. The Plan Administrator may amend any Participant's Separation Agreement to the extent the Plan Administrator determines it is reasonably necessary or appropriate to do so to comply with section 409A of the Code.

10. **CLAIMS PROCEDURE**

The Plan Administrator shall determine the status of an individual as an Executive and the eligibility and rights of any Executive or former Executive as a Participant to any severance pay or benefits hereunder. Any Executive or former Executive who believes that he or she is entitled to receive severance pay or benefits under the Plan, including severance pay or benefits other than those initially determined by the Plan Administrator, may file a claim in writing with the Plan Administrator. Within 90 days after the receipt of the claim the Plan Administrator shall either allow or deny the claim in writing, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as practicable, but not later than 180 days after receipt of a request for review.

A claimant whose claim is denied (or his or her duly authorized representative) may, within 60 days after receipt of the denial of his or her claim, request a review upon written application to the Company's Chief Human Resources Officer or other officer designated by the Company and specified in the claim denial; review (without charge) relevant documents; and submit written comments, documents, records and other information relating to the claim.

The Chief Human Resources Officer or other designated officer shall notify the claimant of his or her decision on review within 60 days after receipt of a request for review unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. Notice of the decision on review shall be in writing. The officer's decision on review shall be final and binding on any claimant or any successor in interest.

In reviewing a claim or an appeal of a claim denial, the Plan Administrator and the Chief Human Resources Officer or other officer designated by the Company shall have all of the powers and authority granted to the Plan Administrator pursuant to Section 9.

11. **STATUTE OF LIMITATIONS; ARBITRATION**

No Executive (or representative thereof) may bring any legal or equitable action to recover benefits under the Plan until he or she has exhausted the internal claims and appeals process described above. Any such action must be commenced no later than the first anniversary of a final decision on a claim for benefits (or such earlier date provided in any applicable statute of limitations). Any such action shall be brought exclusively in the federal courts in the Northern District of Illinois, provided that any dispute, controversy or claim between the parties hereto concerning whether an Executive's termination of employment for purposes of Section 5 is based on either Good Reason or Cause may, at the election of the Executive, be settled by binding arbitration in Philadelphia, Pennsylvania, before an impartial arbitrator pursuant to the rules and regulations of the American Arbitration Association ("AAA") pertaining to the arbitration of commercial disputes. The costs and fees of the arbitrator shall be borne equally by the parties, regardless of the result of the arbitration. Notwithstanding anything to the contrary contained in this Section or elsewhere in this Plan, any party may seek relief in the form of specific performance, injunctive or other equitable relief in order to enforce the decision of the arbitrator, and the Company may seek injunctive relief to enforce the above-referenced statutes of limitations.

12. **AMENDMENT OR TERMINATION OF PLAN**

The Compensation Committee of the Company's Board of Directors (or its delegate) may amend, modify or terminate the Plan at any time, and the Company's Chief Human Resources Officer may amend the Plan with respect to matters other than eligibility and severance levels of executive officers at any time; provided, however, that no amendment, modification or

termination shall deprive any Participant of any payment or benefit that the Plan Administrator previously has determined is payable under the Plan. Notwithstanding the foregoing, no amendment or termination that reduces the severance payments or materially adversely affects any Participant's other benefits under Section 5 shall become effective as to such Participant during the 24-month period following a Change Date unless such Participant consents to such termination or amendment. Any purported Plan termination or amendment in violation of this Section 12 shall be void and of no effect.

### 13. MISCELLANEOUS

13.1. Limitation on Rights. Participation in the Plan is limited to the individuals described in Sections 2 and 3, and the benefits under the Plan shall not be payable with respect to any voluntary or involuntary termination of employment that is not a Termination of Employment.

#### 13.2. Offset; No Mitigation.

- (a) To the extent permitted by Section 409A of the Code, the amount of a Participant's payments under Section 4 of this Plan may be reduced to the extent necessary to defray amounts owed by the Participant due to unused expense account balances, overpayment of salary, awards or bonuses, advances or loans.
- (b) A Participant shall not have any duty to mitigate the amounts payable by the Company under this Plan by seeking new employment following termination. Except as specifically otherwise provided in this Plan, all amounts payable pursuant to this Plan shall be paid without reduction regardless of any amounts of salary, compensation or other amounts which may be paid or payable to the Executive as the result of the Executive's employment by another, unaffiliated employer.

13.3. Indemnification. Each Participant shall be indemnified and held harmless by the Company to the greatest extent permitted under applicable law and the Company's by-laws (as in effect immediately preceding the Change Date with respect to a termination pursuant to Section 5) if such Participant was, is, or is threatened to be, made a party to any pending, completed or threatened action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding brought by a third party whether civil, criminal, administrative or investigative, and whether formal or informal, by reason of the fact that such Participant is or was, or had agreed to become, a director, officer, employee, agent, or fiduciary of the Company or any other entity which such Participant is or was serving at the request of the Company ("Proceeding"), against all expenses (including all reasonable attorneys' fees) and all claims, damages, liabilities and losses incurred or suffered by such Participant or to which such Participant may become subject for any reason; provided, that the Participant provides the Plan Administrator written notice of any such Proceeding promptly after receipt and such that the Company's ability to defend shall not be prejudiced in any fashion and the Company shall have the right to direct the defense, approve any settlement and shall not be required to indemnify the Participant in connection with any proceeding initiated by the Participant, including a counterclaim or crossclaim.

13.4. Severability. If any one or more Sections, subsections or other portions of this Plan are declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not serve to invalidate any Section, subsection or other portion not so declared to be unlawful or invalid. Any Section, subsection or other portion so declared to be unlawful or invalid shall be construed so as to effectuate the terms of such Section, subsection or other portion to the fullest extent possible while remaining lawful and valid. Notwithstanding the foregoing, in the event a determination is made that the Restrictive Covenants are invalid or



unenforceable in whole or in part, then the Separation Agreement with respect to the Participant subject to such determination shall be void and the Company shall have no obligation to provide benefits under this Plan to such Participant.

13.5. Governing Law. The Plan shall be construed and enforced in accordance with the applicable provisions of ERISA and Section 409A of the Code.

13.6. No Right to Continued Employment. Nothing in this Plan shall guarantee the right of a Participant to continue in employment, and the Company retains the right to terminate a Participant's employment at any time for any reason or for no reason.

13.7. Successors and Assigns. This Plan shall be binding upon and inure to the benefit of the Company and its successors and assigns and shall be binding upon and inure to the benefit of a Participant and his or her legal representatives, heirs and legatees. No rights, obligations or liabilities of a Participant hereunder shall be assignable without the Plan Administrator's prior written consent. In the event of the death of a Participant prior to receipt of severance pay or benefits to which he or she is entitled hereunder (and, with respect to benefits under Section 4 or Section 5, after he or she has signed the Waiver and Release), the severance pay described in Section 4.1 or 5.1, as applicable, shall be paid to his or her estate, and the Participant's dependents who are covered under any health care plans maintained by the Company shall be entitled to continued rights under Section 4.4 or Section 5.5, as applicable; provided that the estate or other successor of the Participant has not revoked such Waiver and Release.

13.8. Notices. All notices and other communications under this Plan shall be in writing and delivered by hand, by nationally recognized delivery service that promises overnight delivery, or by first-class registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

- (a) If to a Participant, to such Participant at his most recent home address on file with the Company;
- (b) If to the Company, to the Plan Administrator;
- (c) or to such other address as either party shall have furnished to the other in writing. Notice and communications shall be effective upon notice of delivery to the addressee.

13.9. Tax Withholding. The Company may withhold from any amounts payable under this Plan or otherwise payable to a Participant or beneficiary any federal, state, city and other taxes the Company determines to be appropriate under applicable law and may report all such amounts payable to such authority in accordance with any applicable law or regulation.

13.10. Section 409A and Changes to Law.

- (a) It is the intention of the Company that the provisions of this Plan comply with Section 409A of the Code, and all provisions of this Plan shall be construed and interpreted in a manner consistent with Section 409A of the Code. The Company shall administer and operate this Plan in compliance with Section 409A of the Code and any rules, regulations or other guidance promulgated thereunder as in effect from time to time and in the event that the Company determines that any provision of this Plan does not comply with Section 409A of the Code or any such rules, regulations or guidance and that as a result any Participant may become subject to a tax under Section 409A of the Code, notwithstanding Section 12, the Company shall have the discretion to amend or modify such provision to avoid

the application of such tax, and in no event shall any Participant's consent be required for such amendment or modification. Notwithstanding any provision of this Plan to the contrary, each Participant shall be solely responsible and liable for the satisfaction of all taxes and penalties that may arise in connection with amounts payable pursuant to this Plan (including any taxes arising under Section 409A of the Code), and the Company not shall have any obligation to indemnify or otherwise hold such Participant harmless from any or all of such taxes.

- (b) In the event that the Company determines that any provision of this Plan violates, or would result in any material liability (other than liabilities for the severance benefits) to the Company, under any law, regulation, rule or similar authority of any governmental agency the Company shall be entitled, notwithstanding Section 12, to amend or modify such provision as the Company determines in its discretion to be necessary or desirable to avoid such violation or liability, and in no event shall any Participant's consent be required for such amendment or modification.
- (c) The payments under this Plan are designated as separate payments for purposes of the short-term deferral rule under Treasury Regulation Section 1.409A-1(b)(4), the exemption for involuntary terminations under separation pay plans under Treasury Regulation Section 1.409A 1(b)(9)(iii), and the exemption for medical expense reimbursements under Treasury Regulation Section 1.409A 1(b)(9)(v)(B). As a result, (A) payments that are made on or before the 15th day of the third month of the calendar year following the year that includes the Participant's Termination Date, (B) any additional payments that are made on or before the last day of the second calendar year following the year of the Participant's Termination Date and do not exceed the lesser of two times the Participant's annual rate of pay in the year prior to his termination or two times the limit under Section 401(a)(17) of the Code then in effect, and (C) continued medical expense reimbursements during the applicable COBRA period, are exempt from the requirements of Section 409A of the Code.
- (d) To the extent any amounts under this Plan are payable by reference to a Participant's Termination of Employment, such term and similar terms shall be deemed to refer to such Participant's "separation from service," within the meaning of Section 409A of the Code. Notwithstanding any other provision in this Plan, to the extent any payments hereunder constitute "nonqualified deferred compensation," within the meaning of Section 409A of the Code (a "Section 409A Payment"), and the Participant is a specified employee, within the meaning of Treasury Regulation Section 1.409A-1(i), as determined by the Company in accordance with any method permitted under Section 409A of the Code, as of the date of the Participant's separation from service, each such Section 409A Payment that is payable upon such Participant's separation from service and would have been paid prior to the six-month anniversary of such Participant's separation from service, shall be delayed until the earlier to occur of (i) the six-month anniversary of Participant's separation from service and (ii) the date of Participant's death. Further, to the extent that any amount is a Section 409A Payment and such payment is conditioned upon Participant's execution of a release and which is to be paid or provided during a designated period that begins in one taxable year and ends in a second taxable year, then such Section 409A Payment shall be paid or provided in the later of the two taxable years.
- (e) Any reimbursements payable to a Participant pursuant to this Plan or otherwise shall be paid to such Participant in no event later than the last day of the calendar

year following the calendar year in which such Participant incurred the reimbursable expense. Any amount of expenses eligible for reimbursement, or in-kind benefit provided, during a calendar year shall not affect the amount of expenses eligible for reimbursement, or in-kind benefit to be provided, during any other calendar year. The right to any reimbursement or in-kind benefit pursuant to this Plan shall not be subject to liquidation or exchange for any other benefit. Any tax gross-up payment payable to a Participant, whether under this Plan or otherwise, shall be paid to the Participant or to the applicable taxing authorities on the Participant's behalf as soon as practicable after the related taxes are due, but in any event not later than the last day of the calendar year following the calendar year in which the related taxes are remitted to the taxing authorities.

**CONSTELLATION DEFERRED COMPENSATION PLAN**  
**(Effective February 1, 2022)**

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**CONSTELLATION DEFERRED COMPENSATION PLAN**  
**(Effective February 1, 2022)**

ARTICLE I.

Plan Merger; Purpose

Constellation Energy Corporation, a Pennsylvania corporation (the “Company”), hereby establishes this Constellation Deferred Compensation Plan (the “Plan”). The purpose of the Plan is to restore to a select group of management or highly compensated employees (within the meaning of sections 201(2), 301(a)(3) and 401(a)(1) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and Department of Labor Regulation 29 CFR § 2520.104-23) the benefits that would be paid under any 401(k) Plan sponsored by the Company or any Subsidiary that sponsors such a plan for the benefit of its employees but for the application of any of the Limitations, to provide for payment of deferred compensation to such employees, and to provide uniform rules and regulations of plan administration. This Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“Exelon,” and such date, the “Effective Date”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “Separation Agreement”).

ARTICLE II.

Definitions

All capitalized terms used herein shall have the respective meanings set forth in Article I or below:

(a) “Compensation” means, with respect to any Participant, such Participant’s compensation taken into account under the Participant’s 401(k) Plan for the Plan Year, except that the dollar limitation imposed on tax-qualified plans under section 401(a)(17) of the Code shall not apply.

(b) “Eligible Employee” means, for any Plan Year, an individual who is an active employee of an Employer that has adopted the Plan, has been notified of his or her eligibility to participate in the Plan and who is either of the following, in each case as determined by the Plan Administrator:

- (i) an executive of an Employer; or
- (ii) a key manager of an Employer.



In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each employee of the Company or its Subsidiaries who was participating in the Exelon Plan as of the Effective Date shall automatically become an Eligible Employee as of the Effective Date.

(c) “Employee Matters Agreement” means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

(d) “Employer” means the Company or any Subsidiary that, with the consent of the Company, has adopted the Plan.

(e) “Exelon Plan” means the Exelon Corporation Deferred Compensation Plan as of the Effective Date.

(f) “401(k) Plan” means, with respect to any Participant, the Constellation Employee Savings Plan or such other tax-qualified defined contribution plan adopted by the Participant’s Employer which contains a qualified cash or deferred arrangement (within the meaning of Section 401(k) of the Code).

(g) “Matching Contribution Account” means the bookkeeping account established on behalf of a Participant pursuant to Section 5.2.

(h) “Participant” means an individual who has satisfied the participation requirements of Section 3.1 and has not terminated participation in the Plan pursuant to Section 3.2.

(i) “Plan Administrator” means the individual or institution described in Section 8.1.

(j) “Plan Year” means the calendar year.

(k) “Retirement Account” means the bookkeeping account established on behalf of a Participant pursuant to Section 5.1.

(l) “Retirement Age” shall mean a Participant’s separation from service with the Employers either (i) on or after attainment of age 60 or (ii) on or after attainment of age 50 and completion of at least ten years of service with the Employers, taking into account service with Exelon and its subsidiaries prior to the Spin-Off.

(m) “Spin-Off” shall mean the distribution of shares of common stock of the Company to the stockholders of Exelon pursuant to the Separation Agreement.

(n) “Subsidiary” means a corporation in which the Company owns, directly or indirectly, at least 50% of the combined voting power of all classes of stock entitled to vote.

## ARTICLE III.

### Eligibility and Participation

3.1 Commencement of Participation. Any Eligible Employee may, by filing an election in accordance with Article IV, become a Participant as of the effective date of such election. All Constellation Employees, as defined in the Employee Matters Agreement, who were participants in the Exelon Plan immediately prior to the Effective Date shall automatically be Participants in this Plan as of the Effective Date, and all elections made by such Constellation Employees under the Exelon Plan shall automatically apply to this Plan unless and until such elections are modified after the Effective Date.

3.2 Termination of Participation. Each Participant shall remain a Participant until such individual receives a distribution of the entire balance of his or her accounts hereunder.

## ARTICLE IV.

### Elections

4.1 Excess 401(k) Contributions Election. An individual who is an Eligible Employee with respect to a Plan Year may elect, in the manner specified by the Plan Administrator, to defer receipt of his or her Compensation in an amount equal to the amount by which his or her pre-tax contributions to the 401(k) Plan for such Plan Year would exceed one or more of the Limitations if such contributions were made to the 401(k) Plan pursuant to the elections in effect thereunder with respect to such employee as of the first day of such Plan Year but without regard to such Limitations. An election under this Section 4.1 shall apply only with respect to Compensation earned after the effective date of the election and the date on which the employee's before-tax contributions to the 401(k) Plan relating to such Compensation would exceed one or more of the Limitations. Any changes to a Participant's election under the 401(k) Plan during a Plan Year shall not affect the calculation of the amounts deferred with respect to such Plan Year pursuant to this Section 4.1.

4.2 Election Due Dates. An election under this Article IV shall be made (i) with respect to the Plan Year in which an Eligible Employee first becomes eligible to participate in the Plan, no later than 30 days after such individual becomes so eligible, and (ii) with respect to any other Plan Year, at such time as the Plan Administrator shall designate, provided that (A) each election to defer performance-based compensation, within the meaning of section 409A of the Code, that is based on a performance period of at least 12 months, shall be made not later than six months before the last day of the applicable performance period and before such compensation has become both substantially certain to be paid and readily ascertainable and (B) each election to defer any compensation other than performance-based compensation described in clause (A) shall be made not later than December 31 of the calendar year preceding the year in which any amount subject to such election is earned, or such other time determined by the Plan Administrator in accordance with interpretive guidance issued by the U.S. Treasury Department under section 409A of the Code.

4.3 Irrevocability/Effect of Elections. An election under this Article IV with respect to any Plan Year shall be irrevocable, except as otherwise provided herein or as determined by the Plan Administrator in accordance with interpretive guidance issued by the U.S. Treasury Department under section 409A of the Code. Any election under this Article IV shall authorize the Participant's Employer to reduce the compensation otherwise payable to the Participant in a manner consistent with such election.

4.4 Spin-Off.

(a) As of the Effective Date, the Company and the Plan shall assume all liabilities under the Exelon Plan for any benefits under such plan of all Constellation Employees, as defined in the Employee Matters Agreement, who participated in the Exelon Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Plan. All deferral, investment and distribution elections made by such Participants under the Exelon Plan with respect to any Plan Year prior to the Effective Date and the Plan Year in which the Effective Date occurs will continue to apply and shall be administered under this Plan; provided that to the extent a Participant's account is invested in notional shares of Exelon common stock, then (i) such Participant's account shall be credited with a number of notional shares of Company common stock equal to the number of shares of Company common stock that would have been distributed to the Participant if the notional shares of Exelon common stock held in the Participant's account had been issued and outstanding and (ii) the notional shares of Exelon common stock credited to such Participant's account shall be deemed to have been sold as of the Effective Date, based on the value of such shares as of the Effective Date, and reinvested in the default investment fund maintained under the Plan.

(b) As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Exelon Plan in respect of all Constellation Employees who participated in the Exelon Plan immediately prior to the Spin-Off.

ARTICLE V.

Accounts

5.1 Retirement Accounts. A Retirement Account shall be established on the books of the Company and each Subsidiary in the name and on behalf of each Participant who is an Eligible Employee of such Subsidiary. A Participant's Retirement Account shall be credited with (a) the amounts deferred by such individual pursuant to his or her elections under Article IV, as of the respective dates such amounts would have been paid to the Participant but for such elections, and (b) an amount equal to the aggregate amounts credited to such Participant's deferred compensation accounts under the Plan immediately prior to the Spin-Off.

5.2 Matching Contribution Accounts. A Matching Contribution Account shall be established on the books of the Company and each Subsidiary in the name and on behalf of each Participant who is an Eligible Employee of such Subsidiary who has made an election under Section 4.1. The Matching Contribution Account of a Participant who has filed an election pursuant to Section 4.1 for a Plan Year shall be credited with an amount equal to the amount by which the Participant's matching contributions (as defined in section 401(m)(4)(A)(ii) of the



Code) to the 401(k) Plan for such Plan Year would have exceeded one or more of the Limitations if such contributions were made to the 401(k) Plan pursuant to the elections in effect thereunder for such Participant as of the first day of such Plan Year but without regard to such Limitations. Such amounts shall be credited to the Participant's Matching Contribution Account as of the respective dates the related amounts would have been credited to the Participant's matching contributions account under the 401(k) Plan. Any changes to a Participant's election under the 401(k) Plan during a Plan Year shall not affect the calculation of the amounts credited to the Participant's Matching Contribution Account with respect to such Plan Year pursuant to this Section 5.2, except as may be determined by the Plan Administrator in accordance with interpretive guidance issued by the U.S. Treasury Department under section 409A of the Code. The amounts credited to a Participant's Matching Contribution Account shall be credited as notional shares of Company common stock valued as of the date on which such amounts are credited.

5.3 Vesting. Amounts credited to a Participant's Retirement Account and Matching Contribution Account pursuant to the terms of the Plan shall be fully vested and not subject to forfeiture for any reason.

5.4 Earnings Elections. Each Participant's Retirement Account shall be divided into separate subaccounts with respect to each earnings election made by such Participant pursuant to this Section 5.4.

(a) Investment Benchmarks. The Plan Administrator shall from time to time designate two or more investment benchmarks, the rates of return or loss of which, based upon a Participant's earnings elections, shall be used to determine the rate of return or loss to be credited to the subaccounts established within the Participant's Retirement Account pursuant to this Section 5.4. A Participant's earnings election shall specify the percentages of the Participant's Retirement Account allocated to the subaccounts with respect to each investment benchmark selected by the Participant in whole percentages. The investment benchmark for any Matching Contribution Account shall be the Constellation Stock Fund under the Constellation Employee Savings Plan or such other qualified defined contribution plan containing a qualified cash or deferred arrangement as may be maintained by the Company. The Company may in its discretion, but need not, actually invest assets of the Employers in accordance with the Participant's earnings elections.

(b) Timing of Earnings Elections. Upon the commencement of participation in the Plan, each Participant shall designate, in the manner specified by the Plan Administrator, the whole percentage of the Participant's Retirement Account balance to be invested in each investment benchmark. Thereafter, a Participant may change his or her earnings election with respect to his or her Retirement Account at the times and in the manner specified by the Plan Administrator. A revised earnings election shall specify whether it applies to the then-balance of a Participant's Retirement Account, to the future amounts credited to the Participant's Retirement Account pursuant to Section 5.1, or both. No Participant shall be entitled to make an earnings election with respect to amounts credited to the Participant's Matching Contribution Account.

## ARTICLE VI.

### Distributions

#### 6.1 Form of Distributions.

(a) Each Participant who separates from service prior to attaining Retirement Age, shall receive payment of his or her account balances hereunder in a single lump sum.

(b) Each Participant who separates from service upon or after attaining Retirement Age may elect to receive payment of his or her account balances hereunder (together with his or her account balance under the Constellation Energy Corporation Stock Deferral Plan) in one of the following forms by filing an election in the manner specified by the Plan Administrator:

- (i) a lump sum; or
- (ii) a series of annual installments over a period of up to 15 years.

Notwithstanding the foregoing, if the aggregate balance of the Participant's accounts hereunder does not exceed \$25,000 as of the date of the Participant's separation from service or any subsequent Valuation Date (as defined below), such Participant's benefit hereunder shall be distributed in a lump sum.

6.2 Timing of Distributions. (a) Except as otherwise provided in Section 6.2(b), Section 6.3 or Section 6.4, the balance of a Participant's accounts hereunder (together with his or her account balance under the Constellation Energy Corporation Stock Deferral Plan) shall be paid or commence to be paid in accordance with Section 6.1 as of the calendar quarter immediately following the date that is six months following the date on which the Participant separates from service, within the meaning of section 409A of the Code. In the case of a Participant who has elected annual installment payments, the remaining annual installments shall be paid as soon as practicable after April 1 of the calendar year following the calendar year in which the first such payment is made, and as soon as practicable, following each succeeding April 1. The amount of each installment payment shall be determined by dividing the balance of the Participant's accounts hereunder as of the April 1, or if such April 1 is not a business day, as of the first business day preceding such April 1, (the "Valuation Date") preceding such payment by the total number of installment payments remaining in the installment period elected by the Participant.

(b) Notwithstanding Section 6.2(a), each Participant shall have a single opportunity to defer the date on which such Participant's accounts shall be paid or commence; provided, however, that in accordance with Section 409A of the Code (i) no such deferred payment election shall become effective until the first anniversary of the date such deferred payment election is made, (ii) no deferred payment election shall be effective if the Participant is scheduled, pursuant to Section 6.2(a), to receive or begin receiving payments within one year after the date such deferred payment election is made and (iii) such deferred payment election provides for payments to the Participant to be made or begin at least five years later than the date on which such distribution was previously scheduled to be made or begin pursuant to Section

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6.2(a). In the event such a deferred payment election does not become effective, the time and manner of payment of such Participant's accounts shall be governed by Section 6.2(a).

6.3 Hardship Withdrawals. Notwithstanding the provisions of Section 6.1, a Participant who is an active employee of the Company or a Subsidiary may request a withdrawal from his or her accounts hereunder of an amount that is reasonably necessary to satisfy an Unforeseeable Financial Emergency. For purposes of the Plan, an "Unforeseeable Financial Emergency" shall mean (i) a severe financial hardship to a Participant resulting from an illness or accident of the Participant, or the spouse or a dependent (as defined in section 152(a) of the Code) of the Participant, (ii) the loss of a Participant's property due to casualty or (iii) such other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, within the meaning of section 409A of the Code. A Participant's written request for such a payment shall describe the circumstances which the Participant believes justify the payment and an estimate of the amount necessary to eliminate the Unforeseeable Financial Emergency. The Plan Administrator will have the authority to grant or deny any such request. A payment shall not be made pursuant to this Section to the extent the Unforeseeable Financial Emergency may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not cause a severe financial hardship, or by the cessation of deferrals under the Plan. A payment pursuant to this Section 6.3 may not exceed the amount necessary to meet such financial need (including amounts necessary to pay any federal, state or local income taxes reasonably anticipated to result from the payment). Amounts withdrawn under this Section 6.3 shall be withdrawn pro-rata from the Participant's Retirement Account and Matching Contribution Account, and thereafter from each subaccount established pursuant to the Participant's investment benchmark elections. The elections under Article IV of any Participant who receives a hardship withdrawal under this Section 6.3 shall be suspended for the remaining portion of the Plan Year in which the withdrawal occurred and the Plan Year immediately thereafter.

6.4 Distributions in the Event of Death. If a Participant's employment is terminated on account of the Participant's death or the Participant dies after terminating employment but before distribution of his or her account balances hereunder has commenced, the balance of such accounts shall be distributed to the Participant's beneficiary determined pursuant to Section 6.5 in a single lump sum as soon as practicable following the Valuation Date of the calendar year next following the Participant's death. If a Participant dies after installment distributions have commenced, such installment distributions shall continue, for the balance of the installment period previously elected by the Participant, to the Participant's beneficiary determined pursuant to Section 6.5.

6.5 Beneficiaries. A Participant shall have the right to designate a beneficiary or beneficiaries and to amend or revoke such beneficiary designation at any time, in writing delivered to the Plan Administrator. Any such designation, amendment or revocation shall be effective upon receipt by the Plan Administrator. If a Participant does not designate a beneficiary under this Plan, or if no designated beneficiary survives the Participant, the Participant's estate shall be deemed to be the Participant's beneficiary hereunder.

6.6 Timing of Distribution Elections; Default Elections. A distribution election under Section 6.1 shall be made concurrently with such Participant's initial deferral election under the Plan, or at such other time or times determined by the Plan Administrator in accordance with interpretive guidance issued by the U.S. Treasury Department under section 409A of the Code. If a Participant does not have a timely distribution election on file with the Plan Administrator, his or her accounts hereunder will be distributed in a lump sum.

6.7 Withholding. The Company may withhold from any amounts payable under this Plan or otherwise payable to a Participant or beneficiary any taxes the Company determines to be appropriate under applicable law and may report all such amounts payable to such authority in accordance with any applicable law or regulation. In addition, the Company may adjust the timing of any payment under this Plan consistent with the tax treatment of such payment including, without limitation, to comply with Section 409A of the Code.

6.8 Facility of Payment. Whenever and as often as any Participant entitled to payments under the Plan shall be incompetent or, in the opinion of the Plan Administrator would fail to derive benefit from distribution of funds under the Plan, the Plan Administrator, in its sole and exclusive discretion, may direct that any or all payments hereunder be made (a) directly to or for the benefit of such Participant, (b) to the Participant's legal guardian or conservator; or (c) to relatives of the Participant. The decision of the Plan Administrator in such matters shall be final, binding and conclusive upon the Employers, the Participant and every other person or party interested or concerned. The Employers and the Plan Administrator shall not be under any duty to see to the proper application of such payments made to a Participant, conservator, guardian or relatives of a Participant.

## ARTICLE VII.

### Application of ERISA, Funding

7.1 Application of ERISA. Amounts deferred pursuant to any election made under the Plan are intended to constitute an unfunded plan maintained primarily for the purpose of providing deferred compensation to a select group of management or highly compensated employees within the meaning of sections 201(2), 301(a)(3) and 401(a)(1) of ERISA and Department of Labor Regulation § 2520.104-23.

7.2 Funding. The Plan shall not be a funded plan, and neither the Company nor any Subsidiary shall be under any obligation to set aside any funds for the purpose of making payments under this Plan. Any payments hereunder shall be made out of the general assets of the Employers and no Participant or beneficiary shall have any right to any specific assets.

7.3 Trust. The Company may, but is not required to establish a trust for the purpose of administering assets of the Company and the Subsidiaries to be used for the purpose of satisfying their obligations under the Plan. Any such trust shall be established in such manner so as to be a "grantor trust" of which the Company is the grantor, within the meaning of section 671 et. seq. of the Code. The existence of any such trust shall not relieve the Company or any Subsidiary of their liabilities under the Plan, but the obligation of the Employers under the Plan shall be deemed satisfied to the extent paid from the trust.

## ARTICLE VIII.

### Administration

8.1 Plan Administrator. The Plan shall be administered by the Director, Benefits of the Company (the "Plan Administrator"), or such other individual or individuals as may be designated by the Company. The Plan Administrator has the sole and absolute power and authority to interpret and apply the provisions of this Plan to a particular circumstance, make all factual and legal determinations, construe uncertain or disputed terms and make eligibility and benefit determinations in such manner and to such extent as the Plan Administrator in his or her sole discretion may determine. Benefits under the Plan will be paid only if the Plan Administrator decides, in his or her discretion, that an individual is entitled to such benefits. The Plan Administrator has the authority to delegate any of his or her duties or responsibilities.

8.2 Claims Procedure. In accordance with the regulations of the U.S. Department of Labor, the Company shall (i) provide adequate notice in writing to any Participant or beneficiary whose claim for benefits is denied, setting forth the specific reasons for such denial and written in a manner calculated to be understood by such Participant or beneficiary and (ii) afford a reasonable opportunity to any Participant or beneficiary whose claim for benefits has been denied for a full and fair review by the Company's Vice President, Benefits of the decision denying the claim.

8.3 Expenses. All costs and expenses incurred in administering the Plan, including the expenses of the Plan Administrator, the fees of counsel and any agents of the Plan Administrator and other administrative expenses shall be paid by the Employers. The Plan Administrator, in its sole discretion, having regard to the nature of a particular expense, shall determine the portion of such expense to be borne by a particular Employer.

8.4 Indemnification. Neither the Plan Administrator nor any officer or employee of the Company shall be liable to any person for any action taken or omitted in connection with the interpretation and administration of the Plan unless attributable to his or her own willful misconduct or bad faith, and the Company shall indemnify and hold harmless such Plan Administrator, officers and employees from and against all claims, losses, damages, causes of action and expenses, including reasonable attorney fees and court costs, incurred in connection with such interpretation and administration of the Plan.

## ARTICLE IX.

### Amendment and Termination

The Company intends to maintain the Plan indefinitely. However, the Plan, or any provision thereof, may be amended, modified or terminated at any time by action of its Chief Human Resources Officer or such other senior officer to whom the Company has delegated amendment authority (without regard to any limitations imposed on such powers by the Code or ERISA), except that no such amendment or termination shall (i) reduce or cancel the amount credited to the accounts of any Participant hereunder immediately prior to the date of such amendment or termination or (ii) cause an acceleration or other change in a payment under the

Plan that would result in penalties under section 409A of the Code. Upon the termination of the Plan, all account balances hereunder shall continue to be paid to Participants or their beneficiaries pursuant to the terms of the Plan and each Participant's distribution election in effect; provided, however, that if the Plan is terminated in connection with a Change in Control Event, within the meaning of regulations or other guidance promulgated under section 409A of the Code, the Chief Human Resources Officer of the Company or such other senior officer to whom the Company has delegated amendment authority may elect, in his or her sole discretion, to pay out all accounts to Participants and beneficiaries within 12 months after the occurrence of such Change in Control Event.

## ARTICLE X.

### Miscellaneous

10.1 FICA Taxes. For each calendar year in which a Participant's Compensation is reduced pursuant to this Plan, his or her Employer shall withhold from the Participant's compensation which is not deferred pursuant to an election made hereunder the taxes imposed under section 3121 of the Code in respect of amounts credited to the Participant's accounts hereunder for such year.

10.2 Nonassignment of Benefits. Notwithstanding anything contained in any 401(k) Plan to the contrary, it shall be a condition of the payment of benefits under this Plan that neither such benefits nor any portion thereof shall be assigned, alienated or transferred to any person voluntarily or by operation of any law, including any assignment, division or awarding of property under state domestic relations law (including community property law). Any such attempted or purported assignment, alienation or transfer shall be void.

10.3 No Guarantee of Employment. Nothing contained in this Plan shall be construed as a contract of employment between any Employer and any employee or as conferring a right on any employee to be continued in the employment of any Employer, or as a limitation of the right of an Employer to discharge any of its employees, with or without cause.

10.4 Adoption/Withdrawal by Subsidiaries. Any Subsidiary may, with the consent of the Company, adopt the Plan for the benefit of its employees who are Eligible Employees by delivery to the Company of a resolution of its board of directors or duly authorized committee to such effect, which resolution shall specify the date for which this Plan shall be effective with respect to the employees of such Subsidiary who are Eligible Employees. A Subsidiary may terminate its participation in the Plan at any time by giving written notice to the Company and the Plan Administrator. Upon such a withdrawal, the Plan Administrator shall transfer the benefits of such Participants under this Plan with respect to such Subsidiary directly to such Subsidiary at which time the remaining Employers shall have no further responsibility in respect of such amounts.

10.5 Gender and Number. Except when the context indicates to the contrary, when used herein, masculine terms shall be deemed to include the feminine and singular the plural.

10.6 Headings. The headings of Articles and Sections are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

10.7 Invalidity. If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and the Plan shall be enforced and construed as if such provisions, to the extent invalid or unenforceable, had not been included.

10.8 Successors and Assigns. The provisions of the Plan shall bind and inure to the benefit of the Company and each Subsidiary and their successors and assigns, as well as each Participant and his or her successors.

10.9 Law Governing. Except as provided by any federal law, the provisions of the Plan shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania.

10.10 Compliance With Section 409A of Code. This Plan is intended to comply with the provisions of section 409A of the Code, and shall be interpreted and construed accordingly.





CONSTELLATION SUPPLEMENTAL MANAGEMENT RETIREMENT PLAN  
(Effective February 1, 2022)

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CONSTELLATION SUPPLEMENTAL MANAGEMENT RETIREMENT PLAN  
(Effective February 1, 2022)

ARTICLE I

Purpose

1.1. Purpose. Constellation Energy Corporation (the “Company”) hereby establishes this Constellation Supplemental Management Retirement Plan (the “Supplemental Plan”). The Company maintains the tax-qualified retirement plans listed on Exhibit A hereto, as may be updated by the Plan Administrator from time to time (the “Qualified Plans”), to provide retirement benefits to its employees and those of certain affiliated entities which have adopted the Qualified Plans (collectively, the “Employers”). The Supplemental Plan is intended to provide benefits equal to the benefits that would be paid under the Qualified Plans but for the application of Sections 401(a)(17) and 415 of the Internal Revenue Code of 1986, as amended (the “Code”), and any other similar provisions set forth in the Code that limit or reduce such benefits (hereinafter collectively referred to as the “Limitations”). The portion of the Supplemental Plan that provides benefits described in the first sentence of Section 4.1 is intended to be an “excess benefit plan” as defined in Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). The Supplemental Plan is otherwise intended to be a “top hat plan” within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA. The Supplemental Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“Exelon,” and such date, the “Effective Date”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “Separation Agreement”). The distribution of shares of common stock of the Company to the stockholders of Exelon pursuant to the Separation Agreement shall be referred to hereinafter as the “Spin-Off.”

1.2. References to the Qualified Plans. References to the Qualified Plans, whenever used herein, shall mean the Qualified Plans as in effect on the date a determination of benefits is made under the Supplemental Plan.

ARTICLE II

Definitions

2.1. All capitalized terms used herein shall have the respective meanings assigned to such terms under the Qualified Plans, except as otherwise set forth herein.

ARTICLE III

Eligibility and Participation

3.1. Qualified Plans Participants.

- (A) All Constellation Employees, as defined in the Separation Agreement, who were participants in the Exelon Corporation Supplemental Management Retirement Plan (the “Exelon Supplemental Plan”) immediately prior to the Effective Date shall
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automatically be Participants hereunder as of the Effective Date, and all elections made by such Constellation Employees under the Exelon Supplemental Plan shall automatically apply to this Supplemental Plan unless and until such elections are modified after the Effective Date.

- (B) Each Eligible Employee who is on the management payroll of an Employer and who becomes entitled to a benefit under any of the Qualified Plans which is reduced or limited by the application of Section 415 of the Code (the “415 Limitation”) shall participate in the Supplemental Plan when such individual would be entitled to receive benefits hereunder if such individual’s employment then terminated under the Qualified Plans. In addition, each Eligible Employee who is classified by an Employer as an executive, key management employee or other employee selected by the Plan Administrator (a “Key Management Employee”) and who becomes entitled to a benefit under the Qualified Plan which is reduced or limited by the Limitations shall participate in the Supplemental Plan when such individual would be entitled to receive benefits hereunder if such individual’s employment then terminated under the Qualified Plans.

3.2. Agreement Participants. Each individual who, under the terms of a written employment, change in control or separation plan or agreement (each such plan or agreement, including any plan or agreement assumed by the Company in connection with the Spin-Off, an “Agreement”), is entitled to retirement benefits or a grant of compensation or service credit hereunder shall, subject to Section 4.4, participate in the Supplemental Plan when such individual would be entitled to receive benefits hereunder (or would, after giving effect to the terms of the applicable Agreement, be entitled to receive benefits) if such individual’s employment then terminated under the Qualified Plans.

3.3. Other Participants. Each individual entitled to a survivors’ benefit with respect to a Participant described in Sections 3.1 or 3.2 shall participate in this Supplemental Plan when such individual becomes entitled to receive benefits (or would, under the terms of the applicable Agreement, become entitled to receive benefits) under the Qualified Plans.

3.4. Termination of Participation. Each Participant shall remain a Participant until such individual is no longer entitled to benefits hereunder.

3.5. Spin-Off.

- (A) As of the Effective Date, the Company and the Supplemental Plan shall assume all liabilities under the Exelon Supplemental Plan for any benefits under such plan of all Constellation Employees, as defined in the Separation Agreement, who participated in the Exelon Supplemental Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Supplemental Plan. All elections made by such Participants under the Exelon Supplemental Plan prior to the Effective Date will continue to apply and shall be administered under this Supplemental Plan.

- (B) As of the Effective Date, the Supplemental Plan shall assume and honor the terms of all domestic relations orders in effect under the Exelon Supplemental Plan in respect of Participants who participated in the Exelon Supplemental Plan immediately prior to the Spin-Off.

#### ARTICLE IV

##### Benefits

4.1. Restored Benefits. If the retirement benefit payable under the Qualified Plans to a Participant described in Section 3.1, other than a Participant who is a Key Management Employee, is less than the retirement benefit that would be payable to such Participant under the Qualified Plans but for the application of the 415 Limitation, then such Participant shall be entitled to an annual benefit under the Supplemental Plan in an amount equal to the excess of (A) minus (B) where:

- (A) equals the amount of the annual unreduced benefit payable to such Participant under the Qualified Plans if payments thereunder were calculated without regard to the 415 Limitation, and
- (B) equals the amount of annual unreduced benefit payable to such Participant under the Qualified Plans.

The resulting excess is then adjusted in accordance with the procedures used under the applicable Qualified Plan with respect to age and service at the benefit commencement date.

If a Participant who is a Key Management Employee begins receiving benefits under the Qualified Plans on his or her Annuity Starting Date and, on that date, the retirement benefit payable under the Qualified Plans to such Participant is less than the retirement benefit that would be payable to such Participant under the Qualified Plan but for the application of the Limitations, then such Participant shall be entitled to an annual benefit under the Supplemental Plan in an amount equal to the excess of (A) minus (B) where:

- (A) equals the amount of annual unreduced benefit payable to such Participant under the Qualified Plans if payments thereunder were calculated without regard to the Limitations, and
- (B) equals the amount of the annual unreduced benefit payable to such Participant under the Qualified Plans.

The resulting excess is then adjusted in accordance with the procedures used under the applicable Qualified Plan with respect to age and service at the benefit commencement date.

4.2. Supplemental Benefits. The benefits, if any, payable under Section 4.1 to a Participant described in Section 3.2 shall be increased by an amount equal to the excess of (A) minus (B) where:

- (A) equals the amount of the annual unreduced benefit payable to such Participant under the Qualified Plans if payments thereunder were calculated taking into account the compensation deferred, benefits provided or the compensation and/or years of service credited under the Agreement under which the Participant is covered, and
- (B) equals the amount of the annual unreduced benefit payable to such Participant under the Qualified Plans.

The resulting excess is then adjusted in accordance with the procedures used under the applicable Qualified Plan with respect to age and service at the benefit commencement date. Any payments made under this Section 4.2 shall be in satisfaction of the obligations of the Participant's Employer under the Agreement and under this Supplemental Plan.

4.3. Pre-Retirement Survivor's Benefits. Except as otherwise provided in an Agreement, if a Participant dies prior to his or her Annuity Starting Date and the benefit payable under the Qualified Plans to a Participant described in Section 3.3 is less than the survivors' benefit that would be payable under the Qualified Plans (I) but for, in the case of a Participant described in Section 3.3 who is entitled to a survivor benefit with respect to a Participant who is not a Key Management Employee, application of the 415 Limitation, and in the case of a Participant described in Section 3.3 who is entitled to a survivor benefit with respect to a Participant who is a Key Management Employee, application of any Limitations, and (II) treating any benefits, service or compensation payable or credited under the terms of an Agreement as having accrued under the Qualified Plans, then such Participant shall be entitled to receive a supplemental survivor benefit under this Supplemental Plan in an amount equal to (A) minus (B) where:

- (A) equals the survivors' benefit that would be payable under the Qualified Plans if such benefit were determined (I) without giving effect to, in the case of a Participant described in Section 3.3 who is entitled to a survivor benefit with respect to a Participant who is not a Key Management Employee, the 415 Limitation, and in the case of a Participant described in Section 3.3 who is entitled to a survivor benefit with respect to a Participant who is a Key Management Employee, any Limitations, and (II) by treating any benefits, service or compensation payable or credited under the terms of an Agreement as having accrued under the Qualified Plans; and
- (B) equals the survivors' benefit actually payable to the Participant under the Qualified Plans.

Any payments made to a Participant under this Section 4.3 shall be in satisfaction of any obligations of the Employer under an Agreement under which the Participant described in Section 3.3 is covered and under this Supplemental Plan.

4.4. Limitation on Benefits Payable under Agreements. Notwithstanding any other provision of this Supplemental Plan to the contrary, no Agreement entered into on or after December 31, 2003 (including agreements entered into with Exelon prior to the Spin-Off) shall credit to any individual service for periods while such individual is not employed by any Employer

or compensation not earned by such individual from an Employer, unless one of the following applies:

- (A) such service and/or compensation is credited to an individual to provide such individual the excess of (i) the actuarial equivalent of the pension benefits the individual would have received from the individual's prior employer had the individual remained employed by such prior employer, as determined by the Plan Administrator, in consultation with independent actuaries engaged with respect to the Qualified Plan and/or the Supplemental Plan, over (ii) the actuarial equivalent of the pension benefits the individual will receive from such prior employer and the Company without the application of this Section 4.4;
- (B) such service is credited to an individual to permit such individual to commence pension benefits at the time the individual would have commenced pension benefits had the individual remained employed by the individual's prior employer;
- (C) the crediting of such service and/or compensation is based upon a specified performance measure set forth in the Agreement; or
- (D) such service is credited to the individual pursuant to a severance plan or arrangement or pursuant to a change in control agreement, but only for the period in respect of which the individual receives salary continuation, severance or change in control payments, and such compensation does not exceed (i) the payments made to the individual under such a plan, arrangement or agreement nor (ii) with respect to any such plan, arrangement or agreement first entered into on or after January 1, 2004 (including agreements entered into with Exelon prior to the Spin-Off), two years of service.

Nothing herein shall be interpreted to prohibit grants of service credits in excess of two years under existing plans, arrangements or agreements, nor require reduction of such grants under amendments or successors to such plans, arrangements or agreements.

4.5. Pre-Spin-Off Service Crediting. Notwithstanding anything herein to the contrary, a Participant's service with Exelon and its subsidiaries prior to the Spin-Off shall be taken into account for purposes of determining such Participant's service under the Supplemental Plan.

## ARTICLE V

### Time and Manner of Payments

5.1. Time and Manner of Payment of Benefits Commencing Prior to January 1, 2009. The distribution of any Supplemental Plan benefit that commenced under the Exelon Supplemental Plan prior to January 1, 2009 shall continue to be paid in accordance with the terms of the Exelon Supplemental Plan, as in effect as of the date such distribution commenced; provided, however, that, in the case of benefits commencing on or after January 1, 2005, any such distribution shall be subject to administrative procedures established by the Company or the Plan Administrator from time to time for the purpose of complying with Section 409A of the Code.

5.2. Time and Manner of Payment of Grandfathered Benefits. All Supplemental Plan benefits to which a Participant is entitled that had accrued and were vested under the Exelon Supplemental Plan as of December 31, 2004 (“Grandfathered Benefits”) shall be paid in accordance with this Section 5.2, and such benefits are intended to be exempt from Section 409A of the Code, and the Supplemental Plan shall be construed and administered in accordance with such intent. The portion of a Supplemental Plan benefit that is the Grandfathered Benefit shall be determined in accordance with Treasury Regulation §1.409A-6(a)(3).

(a) Manner of Payment. Except as otherwise provided in an Agreement or under Section 5.2(c), Supplemental Plan benefits shall be paid in the same manner, including optional forms of payment, and shall be subject to the same conditions (other than the application of the 415 Limitation or any Limitations, whichever is applicable) as are applicable to benefits payable (or which would, after giving effect to the terms of the applicable Agreement, be payable) to the Participant under the Qualified Plans.

(b) Time of Payment. Benefits described in Section 4.1 or 4.2 of the Supplemental Plan shall become payable at such time as the Participant becomes entitled to receive (or would become entitled to receive, after giving effect to the terms of the applicable Agreement) benefits under the Qualified Plans. Except as otherwise provided in an Agreement, benefits described in Section 4.3 of the Supplemental Plan shall become payable at the same time as benefits would become payable (after giving effect to the terms of an Agreement, if applicable) to such Participant under the Qualified Plans. Plan benefits shall be paid at the same time as benefits are paid under the Qualified Plans.

(c) Lump Sum Option. Except as otherwise provided in an Agreement and notwithstanding the provisions of Section 5.2(a) and (b), each Participant described in Section 3.1 or 3.2 shall be entitled to elect by written election to the Company, to receive his or her benefits hereunder in a single lump sum payment. Any such election shall be required to be made no later than the last day of the calendar year preceding the year in which occurs the Participant’s termination of employment. An election under this Section 5.2(c) shall be revocable until the last day prescribed for an election under the preceding sentence of this Section 5.2(c), and thereafter shall be irrevocable. Payment of benefits in a lump sum will be made within ninety days following such termination of employment.

The amount of the lump sum payment shall be equal to the actuarial present value of the Participant’s Grandfathered Benefit determined under Article III as of the date of the Participant’s benefit commencement date (but taking into account any applicable additional service or compensation granted pursuant to an Agreement), as determined by the independent actuaries then engaged with respect to the Qualified Plans using the life expectancies and interest assumptions then used under the Qualified Plans. Payment pursuant to this Section 5.2(c) shall be in lieu of any other Grandfathered Benefits payable hereunder and shall be in complete satisfaction of all of the Employer’s and the Company’s liabilities to or on behalf of the Participant, including Section 4.3, notwithstanding any subsequent amendment of the Qualified Plans or of this Supplemental Plan.

5.3. Time and Manner of Payment of Non-Grandfathered Benefits. All Supplemental Plan benefits other than those payable pursuant to Sections 5.1 and 5.2 shall be paid in accordance

with this Section 5.3, and such benefits (the “Non-Grandfathered Benefits”) are intended to comply with Section 409A of the Code, and the Supplemental Plan shall be construed and administered in accordance with such intent.

(a) Elections of Time and Form of Payment. Subject to the delay in the receipt of payments pursuant to Section 5.3(c) below, a Participant’s Non-Grandfathered Benefit shall commence within ninety days after (i) the date of the Participant’s separation from service, within the meaning of Section 409A of the Code, or (ii) the later to occur of (A) the date of the Participant’s separation from service and (B) the date on which the Participant attains an age, not earlier than age 50 and not later than age 65, as elected by the Participant in accordance with procedures prescribed by the Plan Administrator (such commencement date, the “Non-Grandfathered Commencement Date”). Each Participant shall elect his or her Non-Grandfathered Commencement Date not later than 30 days after the first day of the calendar year immediately following the first year in which the Participant accrues a Non-Grandfathered Benefit under the Supplemental Plan; provided that, to the extent a Non-Grandfathered Benefit provided under Section 4.2 hereof is not an “excess benefit plan,” within the meaning of Treasury Regulation §1.409A-2(a)(7)(iii), the Participant shall elect his or her Non-Grandfathered Commencement Date not later than 30 days after the date on which such Participant enters into the Agreement pursuant to which the Participant becomes entitled to the Non-Grandfathered Benefit, or such earlier date as of which the Participant is otherwise required to elect his or her Non-Grandfathered Commencement Date pursuant to Section 5.3(a). Non-Grandfathered Benefits shall be paid in the form of a lump sum payment or as an annuity, as elected by the Participant at the time the Participant elects his or her Non-Grandfathered Commencement Date. A Participant may change his or her Non-Grandfathered Commencement Date or the form of payment made pursuant to this Section 5.3(a) by making a new election in accordance with procedures prescribed by the Plan Administrator, but only if (A) such new election does not take effect until 12 months after the date on which such new election is made, (B) the Non-Grandfathered Commencement Date elected pursuant to such new election is at least five years after the Non-Grandfathered Commencement Date previously elected by the Participant and (C) such new election is made at least 12 months before the previously scheduled Non-Grandfathered Commencement Date. A Participant who elects to receive his or her Non-Grandfathered Benefit in the form of an annuity may elect the form of such annuity prior to the Non-Grandfathered Commencement Date in accordance with procedures prescribed by the Plan Administrator, provided that the form of annuity elected by the Participant (1) is an annuity option that is available under the Qualified Plan at the time such election is made and (2) is the actuarial equivalent (under section 409A of the Code) of the single life annuity option available under the Qualified Plan.

(b) Actuarial Adjustment of Non-Grandfathered Benefits. If a Participant elects to receive his or her Non-Grandfathered Benefit in the form of a lump sum or an annuity other than a single life annuity for the life of the Participant or if the Participant’s Supplemental Plan benefit commences earlier or later than the Participant’s Normal Retirement Age, the Participant’s Non-Grandfathered Benefit shall be actuarially adjusted to reflect such other form of pension benefit or pension starting date, or both, as the case may be, using the same actuarial factors (including any applicable defined early retirement factors that would apply to a distribution prior to normal retirement) that would be used to make comparable adjustments to the Participant’s pension benefit under the Qualified Plans.



(c) Six-Month Delay for Specified Employees. Pursuant to Section 409A of the Code, if payment of the Non-Grandfathered Benefit would commence as of the Participant's separation from service pursuant to Section 5.3(a) and such Participant is a "specified employee," within the meaning of Section 409A of the Code, then no payments with respect to such benefit shall be made prior to the month following the six-month anniversary of such separation from service, and (i) during such month the Participant electing annuity payments shall receive an initial payment equal to seven times the amount of the monthly payment determined in accordance with Sections 5.3(a) and (b) above, and thereafter the Participant shall receive the regular monthly payments determined pursuant to Sections 5.3(a) and (b) above, or (ii) the Participant electing a lump sum distribution shall receive such distribution plus interest for such six-month period using the discount rate for December of the year preceding the year that includes the distribution date. If a Participant dies following the Participant's separation from service but prior to the commencement of payments pursuant to this Section 5.3(c), the amount that would have been paid to the Participant prior to the date of death, without regard to the six-month delay in payment pursuant to this Section 5.3(c), shall be paid to the Participant's beneficiary within ninety (90) days after the date of the Participant's death.

(d) Survivors' Benefits. Any survivors' benefit described in Section 4.3 that is payable with respect to a Non-Grandfathered Benefit shall be payable to the Participant's surviving spouse in accordance with the form of payment election in effect with respect to the Participant and shall commence within 90 days after the calendar quarter in which the Participant's death occurs.

5.4. Withholding. Notwithstanding any provision of this Supplemental Plan to the contrary, amounts payable hereunder shall be reduced by the amounts required to be withheld by the Company under federal or state law.

5.5. Facility of Payment. Whenever and as often as any Participant entitled to payments under the Supplemental Plan shall be incompetent or, in the opinion of the Plan Administrator would fail to derive benefit from distribution of funds under the Supplemental Plan, the Plan Administrator, in its sole and exclusive discretion, may direct that any or all payments hereunder be made (a) directly to or for the benefit of such Participant, (b) to the Participant's legal guardian or conservator, or (c) to relatives of the Participant. The decision of the Plan Administrator in such matters shall be final, binding and conclusive upon each Employer and Participant and every other person or party interested or concerned. An Employer and the Plan Administrator shall not be under any duty to see to the proper application of such payments made to a participant, conservator, guardian or relatives of a Participant.

5.6. Gross-Up Payment for Certain State Income Taxes. In the event it shall be determined that any payment to a Participant or beneficiary pursuant to the terms of this Supplemental Plan that would have been paid under a Qualified Plan but for the Limitations (a "Payment") is subject to state income tax, but that such Payment would not be subject to state income tax if it were paid under such Qualified Plan, then such Participant or beneficiary shall be entitled to receive an additional payment (a "Gross-Up Payment") in an amount such that after payment of all related federal and state income taxes, the Participant or beneficiary retains an amount of the Gross-Up Payment equal to the state income tax imposed upon the Payment. All determinations under this Section 5.6, including whether and when a Gross-Up Payment is required, the amount of such Gross-Up Payment and the assumptions to be utilized in arriving at

such determination, shall be made by the Plan Administrator in its sole discretion. The Plan Administrator may, but need not, employ a certified public accountant (which may be the Company's public accounting firm) to assist the Plan Administrator in any such determination. Each Gross-Up Payment shall be paid within 30 days after the amount of the Gross-Up Payment is determined, but in no event later than the last day of the calendar year following the calendar year in which the related taxes are paid to the applicable governmental authority.

## ARTICLE VI

### Application of ERISA, Funding

6.1. Application of ERISA. Benefits provided under the first sentence of Section 4.1 (and, to the extent they restore benefits reduced by application of the 415 Limitations, benefits provided under Section 4.3) of the Supplemental Plan are intended to be an excess benefit plan within the meaning of Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Benefits provided under the second sentence of Section 4.1 and under Sections 4.2 (and, to the extent they provide benefits that supplement those payable to the Participant under the Qualified Plans other than as described in the first sentence of Section 4.1, benefits provided under Section 4.3) are intended to constitute an unfunded plan maintained primarily for the purpose of providing deferred compensation to a select group of management or highly compensated employees within the meaning of sections 201(2), 301(a)(3) and 401(a)(1) of ERISA and Department of Labor Regulation § 2520.104-23.

6.2. Funding. The Supplemental Plan shall not be a funded plan, and neither the Company nor any of the Employers shall be under any obligation to set aside any funds for the purpose of making payments under this Supplemental Plan. Any payments hereunder shall be made out of the general assets of the Company and the Employers.

6.3. Trust. The Company, in its sole discretion, may establish, but is not required to establish, a trust for the purpose of administering assets of the Company and the Employers to be used for the purpose of satisfying their obligations under the Supplemental Plan. Any such trust shall be established in such manner so as to be a "grantor trust" of which the Company is the grantor, within the meaning of section 671 *et. seq.* of the Code. The existence of any such trust shall not relieve the Company or any Employer of their liabilities under the Supplemental Plan, but the obligation of the Company and the Employers under the Supplemental Plan shall be deemed satisfied to the extent paid from the trust.

## ARTICLE VII

### Administration

7.1. Plan Administrator. The Supplemental Plan shall be administered by the Company's Vice President, Benefits or such other person designated by the Company's Chief Human Resources Officer from time to time (the "Plan Administrator"). The Plan Administrator shall have such duties and powers as may be necessary to discharge its duties, including, but not by way of limitation, sole discretion to construe and interpret the Supplemental Plan and determine the amount and time of payment of benefits hereunder. The Plan Administrator shall have no

power to add to, subtract from or modify any of the terms of the Supplemental Plan, or to change or add to any benefit provided under the Supplemental Plan, or to waive or fail to apply any requirements of eligibility for a benefit under the Supplemental Plan. The Plan Administrator's decisions in any matter involving the Supplemental Plan shall be final, binding and conclusive.

7.2. Claims Procedure. In accordance with the regulations of the U.S. Department of Labor, the Plan Administrator shall (i) provide adequate notice in writing to any Participant or beneficiary whose claim for benefits is denied, setting forth the specific reasons for such denial and written in a manner calculated to be understood by such Participant or beneficiary and (ii) afford a reasonable opportunity to any Participant or beneficiary whose claim for benefits has been denied for a full and fair review by a designated officer of the Company of the decision denying the claim.

7.3. Expenses. All costs and expenses incurred in administering the Supplemental Plan, including the expenses of the Plan Administrator, the fees of counsel and any agents of the Plan Administrator and other administrative expenses shall be paid by the Company and the Employers. The Plan Administrator, in its sole discretion, having regard to the nature of a particular expense, shall determine the portion of such expense which is to be borne by the Company or a particular Employer.

## ARTICLE VIII

### Amendment and Termination

8.1. Amendment and Termination. The Company intends to maintain the Supplemental Plan indefinitely. However, the Supplemental Plan shall be subject to the same reserved powers of amendment and termination as the Qualified Plans (without regard to any limitations imposed on such powers by the Code or ERISA), except that no such amendment or termination shall reduce or otherwise adversely affect the rights of Participants in respect of amounts accrued hereunder as of the date of such amendment or termination without their written consent or shall change the time or form of payment of benefits in a manner that would result in additional taxes, interest or penalties under Section 409A of the Code. The Plan Administrator shall have the discretion and authority to amend the Supplemental Plan at any time to satisfy any requirements under Section 409A of the Code or guidance provided by the U.S. Treasury Department to the extent applicable hereto.

## ARTICLE IX

### Miscellaneous

9.1. Nonassignment of Benefits. Notwithstanding anything contained in the Qualified Plans to the contrary, it shall be a condition of the payment of benefits under this Supplemental Plan that neither such benefits nor any portion thereof shall be assigned, alienated or transferred to any person voluntarily or by operation of any law, including any assignment, division or awarding of property under state domestic relations law (including community property law). If any person shall endeavor or purport to make any such assignment, alienation or transfer, amounts otherwise provided hereunder shall cease to be payable to any person.

9.2. No Guarantee of Employment. Nothing contained in this Supplemental Plan shall be construed as a contract of employment between any Employer and any employee or as conferring a right on any employee to be continued in the employment of any Employer, or as a limitation of the right of an Employer to discharge any of its Employees, with or without cause.

9.3. Adoption by Employers. Any business entity which is or becomes an “Employer” under the Qualified Plans may, with the consent of the Company, become an Employer under this Supplemental Plan by delivery to the Company of a resolution of its board of directors or duly authorized committee to such effect, which resolution shall specify the date for which this Supplemental Plan shall be effective with respect to the employees of such business entity, or in such other manner determined by the Plan Administrator.

9.4. Gender and Number. Except when the context indicates to the contrary, when used herein, masculine terms shall be deemed to include the feminine and singular the plural.

9.5. Headings. The headings of Articles and Sections are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Supplemental Plan, the text shall control.

9.6. Invalidity. If any provision of this Supplemental Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and the Supplemental Plan shall be enforced and construed as if such provisions, to the extent invalid or unenforceable, had not been included.

9.7. Successors and Assigns. The provisions of the Supplemental Plan shall bind and inure to the benefit of the Company and each Employer and their successors and assigns, as well as each Participant and his successors.

9.8. Law Governing. Except as preempted by ERISA or other applicable federal law, the provisions of the Supplemental Plan shall be construed in accordance with and governed by the laws of the state of Illinois.

**EXHIBIT A**  
**QUALIFIED PLANS**

[to come]



Constellation PECO Supplemental Pension Benefit Plan  
(Effective Date: February 1, 2022)

Constellation Energy Corporation (the "Company") hereby establishes the Constellation PECO Supplemental Pension Benefit Plan (the "Plan"). The Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation ("Exelon," and such date, the "Effective Date") pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the "Separation Agreement"). The distribution of shares of common stock of the Company to the stockholders of Exelon pursuant to the Separation Agreement shall be referred to hereinafter as the "Spin-Off."

1. **Administration.** This Plan shall be administered by the Vice President, Benefits of the Company, or such other person designated by the Company's Chief Human Resources Officer ("CHRO") from time to time. The Plan Administrator shall have discretionary authority to interpret the Plan; make factual determinations; establish such rules and regulations of plan administration that it deems appropriate. The Plan Administrator's decisions with respect to the construction, administration and interpretation of the Plan shall be conclusive and binding. The cost of the plan administration shall be paid by the Company, and shall not be charged against the benefits of Plan participants.

2. **Eligibility.** Eligibility under the Plan is restricted to executive, key management and other select employees of the Company and its Subsidiaries who participate in the Service Annuity Plan of Constellation PECO Energy Company (the "Service Annuity Plan") and who exceed the maximum benefit or maximum compensation limits of the Code. "Subsidiary" shall mean a corporation in which the Company owns, directly or indirectly, at least 50% of the combined voting power of all classes of stock entitled to vote, and which is approved by the Plan Administrator to participate in the Plan. Individuals who have accrued benefits under the Service Annuity Plan, and who elect to transfer from such plan to the Constellation Cash Balance Pension Plan, shall cease to participate in this Plan and shall have their supplemental pension benefits paid from the Constellation Supplemental Management Retirement Plan, and this Plan shall have no further obligation to provide supplemental benefits following such a transfer. Notwithstanding anything herein to the contrary, in connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off ("Employee Matters Agreement"), each Constellation Employee (as defined in the Employee Matters Agreement) who was participating in the PECO Energy Company Supplemental Pension Benefit Plan (the "Predecessor Plan") as of immediately prior to the Spin-Off shall automatically become a participant in this Plan as of the Effective Date.

3. **Supplemental Pension Benefit.** The Plan will supplement a participant's pension or preretirement death benefit payable under the Service Annuity Plan by the amount which is the difference, if any, between such unreduced pension or pre-retirement death benefit and the unreduced monthly pension or preretirement death benefit which would have been payable under the Service Annuity Plan as if: (i) the provisions of that Plan were administered without regard to the maximum benefit limitations or the maximum compensation limitations imposed under the Code; (ii) for purposes of calculating the participant's benefit under Section 3.1(a) of the Service Annuity Plan (the "2% accrued" formula), the participant's salary with respect to earnings accrued prior to January 1, 2001, includes in the year payable (whether or not deferred) the amount of any award under the Management Incentive Compensation Plan of PECO Energy Company ("PECO") or the prior Incentive Compensation Plan; (iii) for purposes of calculating the participant's benefit under Section 3.1(b) of the Service Annuity Plan (the "minimum" formula), the participant's annual base salary with respect to earnings accrued prior to January 1, 2001, includes the amount of any award under PECO's Management Incentive Compensation Plan, whether paid currently or deferred, and in either case imputed ratably over the months

worked by the participant in the year earned; and (iv) for purposes of both benefit formulas under the Service Annuity Plan, the participant's salary had not been reduced (whether before or after the Effective Date) in connection with a deferral of cash compensation. In addition, with respect to earnings accrued prior to January 1, 2001, for any participant whose compensation was established by the Board, such supplemental benefit will also reflect the following adjustment: for purposes of calculating the participant's benefit under Section 3.1(b) of the Service Annuity Plan (the "minimum" formula), the participant's annual base salary shall include the amount of any award under PECO's prior Incentive Compensation Plan, whether paid currently or deferred, and in either case imputed ratably over the months worked by the participant in the year earned. This supplemental benefit shall be adjusted in accordance with the provisions of the Service Annuity Plan with respect to age and service to reflect the benefit commencement date and, to the extent the Plan Administrator determines is appropriate, any post-retirement benefit increases with respect to benefits under the Service Annuity Plan.

As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Constellation Employees (as defined in the Employee Matters Agreement) who participated in the Predecessor Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Plan. All elections made by such participants under the Predecessor Plan prior to the Effective Date will continue to apply and shall be administered under this Plan. As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of participants who participated in the Predecessor Plan immediately prior to the Spin-Off. Notwithstanding anything herein to the contrary, a participant's service with Exelon and its subsidiaries prior to the Spin-Off shall be taken into account for purposes of determining such participant's service under this Plan.

4. Time and Manner of Payment.

(a) Time and Manner of Payment of Benefits Commencing Prior to January 1, 2009. The distribution of any Plan benefit that commenced prior to January 1, 2009 shall continue to be paid in accordance with the terms of the Plan as in effect as of the date such distribution commenced; provided, however, that in the case of benefits commencing on or after January 1, 2005, any such distribution shall be subject to administrative procedures established by the Company or the Plan Administrator for the purpose of to complying with Section 409A of the Code.

(b) Time and Manner of Payment of Grandfathered Benefits. All Plan benefits to which a Participant is entitled that had accrued and were vested as of December 31, 2004 ("Grandfathered Benefits") shall be paid in accordance with this Paragraph 4(b), and such benefits are intended to be exempt from Section 409A of the Code, and the Plan shall be construed and administered in accordance with such intent. The portion of a Plan benefit that is the Grandfathered Benefit shall be determined in accordance with Treasury Regulation §1.409A-6(a)(3).

(i) Except as otherwise determined by the Plan Administrator, or as otherwise elected by the participant under this Paragraph, supplemental pension and death benefits will be in the same form and paid to the employee (or on his or her behalf, to his or her beneficiaries) in the same manner as payment of retirement and death benefits under the Service Annuity Plan.

(ii) (1) In any calendar year before the participant's termination of employment, and in accordance with procedures established by the Plan Administrator, a participant may elect to receive the present value of the



supplemental retirement benefit payable to the participant under Paragraph 3 in a lump sum upon the participant's termination of employment.

(2) The present value of amounts payable in a lump sum pursuant to this Paragraph 4(b)(ii) will be actuarially determined by discounting the expected stream of annuity payments (based upon the life expectancy of the participant and, if applicable, the life expectancy of the participant's beneficiary as provided under the Contingent Annuity Option of the Service Annuity Plan, determined as of the date of payment under the mortality table used in the most recent actuarial analysis of the Service Annuity Plan) at a rate equivalent to the Pension Benefit Guaranty Corporation (PBGC) Immediate Annuity Rate in effect on January 1 of the year of retirement. Such calculation shall reflect the Contingent Annuity Option benefit under the Service Annuity Plan if the participant otherwise satisfies the conditions for that benefit, but shall not reflect any possible post-retirement benefit increases; provided, however, that, if the participant's Contingent Annuity Option election under the Service Annuity Plan is not irrevocable at the time the lump sum payment is made hereunder, the participant will receive an initial lump sum payment reflecting the Contingent Annuity Option resulting in the smallest lump sum payment from the Plan and, at age 65 (or at the participant's death, if earlier), a payment will be made to the participant (or his or her beneficiary) equal to the balance due the participant (which shall be the present value of the difference between the value of the total pension payable to the participant or beneficiary at such time over the sum of the value of benefits payable to the participant or beneficiary under the Service Annuity Plan and the lump sum previously paid, taking into account the Contingent Annuity Option then in effect, the Contingent Annuity Option in effect between retirement and age 65, and increases in benefit payable under the Service Annuity Plan due to adjustment of Code limitations (which, for purposes of determining the amount of the Grandfathered Benefits, shall not take into account increases in such limitations after October 3, 2004), and reflecting the interest rate used to calculate the prior lump sum). The specific calculation methodology and manner of payment, which will be made in a manner acceptable to the Plan Administrator, will be applied in a uniform, non-discriminatory fashion. An election made pursuant to Paragraph 4(b)(ii)(1), once made, shall be irrevocable; provided, however, that a participant who made an election prior to June 1, 1993 to receive the entire supplemental retirement benefit payable to the participant hereunder in a lump sum may, while employed by the Company, make one subsequent election on or after June 1, 1993 to receive less than the full benefit in a lump sum, subject to the timing limitations described in Paragraph 4(b)(ii)(1).

(iii) (1) A participant may elect to have supplemental death benefits under Paragraph 3 paid to such beneficiary or beneficiaries as the participant may designate in writing, in the manner specified by the Plan Administrator. A change in beneficiary designation may be made at any time until the participant's death, notwithstanding that the form and amount of the benefit may be fixed upon the participant's termination of employment or other inter vivos determining event. In the absence of a written beneficiary designation, death benefits will be paid to the beneficiary or beneficiaries entitled to the participant's survivor and death benefits under the Service Annuity Plan.

(2) Should a participant who has made a lump sum election as described in Paragraph 4(b)(ii)(1) prior to June 1, 1993 die between the time such election is made and the date payments are scheduled to begin, the present value of supplemental death benefits payable to the participant's beneficiary under Paragraph 3 shall be paid in a lump sum to the participant's beneficiary as soon as administratively practicable following the participant's death; provided, however, that the participant has not made a contrary election pursuant to the following sentence. In accordance with procedures prescribed by the Plan Administrator, during his or her employment a participant (including a participant described in the preceding sentence), may elect, or revoke or change a prior election, to have the present value of all or a portion of the supplemental death benefits payable to the participant's beneficiary under Paragraph 3 paid to the beneficiary in a lump sum as soon as administratively practicable following the participant's death; provided, however, that such election, or revocation or change, will not be effective unless made in any calendar year prior to the year in which the participant dies and at least ninety (90) days prior to the date of such participant's death.

(3) The present value of amounts payable in a lump sum pursuant to Paragraph 4(b)(iii) will be actuarially determined by discounting the expected stream of annuity payments (based upon the beneficiary's life expectancy determined as of the date of payment under the mortality table used in the most recent actuarial analysis of the Service Annuity Plan) at a rate equivalent to the Pension Benefit Guaranty Corporation (PBGC) Immediate Annuity Rate in effect on January 1 of the year of the participant's death; provided, however, that a lump sum payable to the beneficiary of a participant who made a lump sum election under this Paragraph 4 prior to June 1, 1993 (even if such election was later modified, or revoked and reinstated, with respect to the participant's beneficiary) shall be valued using the PBGC Immediate Annuity Rate in effect during the month such election was made, if the use of such rate would result in a larger lump sum payment.

(c) Time and Manner of Payment of Non-Grandfathered Benefits. All Plan benefits other than those payable pursuant to Paragraphs 4(a) and 4(b) shall be paid in accordance with this Paragraph 4(c), and such benefits (the "Non-Grandfathered Benefits") are intended to comply with Section 409A of the Code, and the Plan shall be construed and administered in accordance with such intent.

(i) Elections of Time and Form of Payment. Subject to the delay in the receipt of payments pursuant to clause (iii) below, a participant's Non-Grandfathered Benefit shall commence within ninety days after (A) the date of the participant's separation from service, within the meaning of Section 409A of the Code, or (B) the later to occur of (I) the date of the participant's separation from service and (II) the date on which the participant attains an age, not earlier than age 50 and not later than age 65, as elected by the participant in accordance with procedures prescribed by the Plan Administrator (such commencement date, the "Non-Grandfathered Commencement Date"). Each participant shall elect his or her Non-Grandfathered Commencement Date not later than 30 days after the first day of the calendar year immediately following the first year in which the participant accrues a Non-Grandfathered Benefit under the Plan; provided that (x) each person who is a participant in the Plan prior to December 31, 2008 shall be permitted to elect his or her Non-Grandfathered Commencement Date prior to

December 31, 2008 in accordance with procedures prescribed by the Company and the transition rule set forth in IRS Notice 2005-1, Q&A-19(c), and extended in the preamble to regulations proposed under Section 409A of the Code, IRS Notice 2006-79 and IRS Notice 2007-86, which permits participants in deferred compensation plans to change the date on which deferred compensation is payable, and (y) to the extent a Non-Grandfathered Benefit provided under Paragraph 3 hereof is not an “excess benefit plan,” within the meaning of Treasury Regulation §1.409A-2(a)(7)(iii), the participant shall elect his or her Non-Grandfathered Commencement Date not later than 30 days after the date on which such participant first becomes eligible to participate in the Plan or any other plan that is aggregated with the Plan under Section 409A of the Code. Non-Grandfathered Benefits shall be paid in the form of a lump sum payment or as an annuity, as elected by the participant at the time the participant elects his or her Non-Grandfathered Commencement Date. A participant who elects to receive his or her Non-Grandfathered Benefit in the form of an annuity may elect the form of such annuity prior to the Non-Grandfathered Commencement Date in accordance with procedures prescribed by the Plan Administrator, provided that the form of annuity elected by the participant (1) is an annuity option that is available under the Qualified Plan at the time such election is made and (2) is the actuarial equivalent, within the meaning of Section 409A of the Code, of the single life annuity option available under the Qualified Plan.

(ii) Actuarial Adjustment of Non-Grandfathered Benefits. If a participant elects to receive his or her Non-Grandfathered Benefit in the form of a lump sum or an annuity other than a single life annuity for the life of the participant or if the participant’s Plan benefit is paid or commences earlier or later than the participant’s normal retirement date under the Service Annuity Plan, the participant’s Non-Grandfathered Benefit shall be actuarially adjusted to reflect such other form of pension benefit or pension starting date, or both, as the case may be, using the same actuarial factors that would be used to make comparable adjustments to the participant’s pension benefit under the Service Annuity Plan.

(iii) Six-Month Delay for Specified Employees. Pursuant to Section 409A of the Code, if payment of a participant’s Non-Grandfathered Benefit would commence as of the participant’s separation from service pursuant to clause (i) above and such participant is a “specified employee,” within the meaning of Section 409A of the Code, then no payments with respect to such benefit shall be made prior to the month following the six-month anniversary of such separation from service, and during such month (A) if the participant has elected annuity payments, the participant shall receive an initial payment equal to seven times the amount of the monthly payment determined in accordance with clause (i) or (ii) above, and thereafter the participant shall receive the regular monthly payments determined pursuant to clauses (i) and (ii) above and (B) if the participant elected a lump sum distribution shall receive such distribution plus interest for such six-month period using the discount rate for December of the year preceding the year that includes the distribution date. If a participant dies following the participant’s separation from service but prior to the commencement of payments pursuant to this clause (iii), the amount that would have been paid to the participant prior to the date of death, without regard to the six-month delay in payment pursuant to this clause (iii), shall be paid to the participant’s beneficiary within ninety (90) days after the last day of the calendar quarter that includes the date of the participant’s death.

(iv) Survivors' Benefits. Any survivors' benefit described in Paragraph 3 that is payable with respect to a Non-Grandfathered Benefit shall be payable in accordance with the form of payment election in effect for the participant and shall commence within 90 days after the date of the participant's death.

5. Claims Procedure. In accordance with the regulations of the U.S. Department of Labor, the Plan Administrator shall (i) provide adequate notice in writing to any Participant or beneficiary whose claim for benefits is denied, setting forth the specific reasons for such denial and written in a manner calculated to be understood by such Participant or beneficiary and (ii) afford a reasonable opportunity to any Participant or beneficiary whose claim for benefits has been denied for a full and fair review by the CHRO of the decision denying the claim.

6. Amendment / Discontinuance. The Compensation Committee of the Company or its designee shall have the exclusive authority to alter, amend, suspend, or terminate the Plan at any time; provided that, except as permitted by Section 409A of the Code, no such alteration, amendment, suspension, or termination shall result in the payment of benefits in any manner than is otherwise provided in this Plan.

7. No Right to Continued Employment. The Plan shall not confer upon any person any right to be continued in the employment of the Company.

8. Non-Assignment of Benefits. Notwithstanding anything contained in the Plan to the contrary, it shall be a condition of the payment of benefits under this Plan that neither such benefits nor any portion thereof shall be assigned, alienated or transferred to any person voluntarily or by operation of any law, including any assignment, division or awarding of property under state domestic relations law (including community property law). If any person shall endeavor or purport to make any such assignment, alienation or transfer, amounts otherwise provided hereunder shall cease to be payable to any person.

9. Governing Law. To the extent benefits provided under the Plan restore benefits reduced by application of the limitations contained in section 415 of the Code, the Plan is intended to be an excess benefit plan within the meaning of Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The Plan is otherwise intended to constitute an unfunded plan maintained primarily for the purpose of providing deferred compensation to a select group of management or highly compensated employees within the meaning of sections 201(2), 301(a)(3) and 401(a)(1) of ERISA and Department of Labor Regulation § 2520.104-23. The Plan shall be governed by the law of the Commonwealth of Pennsylvania, to the extent such law is not preempted by ERISA or other applicable federal law.

**Constellation  
Nonqualified Deferred  
Compensation Plan**

Effective  
February 1, 2022

## **PURPOSE AND NATURE OF THE PLAN**

Constellation Energy Corporation (the “Company”) hereby establishes the Constellation Nonqualified Deferred Compensation Plan (“Plan”) and maintains the Plan as an unfunded retirement plan for a select group of management or highly compensated employees. The purpose of this Plan is to provide for payments by the Company of certain amounts accrued prior to January 31, 2022 under the Constellation Energy Group, Inc. Nonqualified Deferred Compensation Plan (the “Predecessor Plan”). The Plan is divided into two parts: the first applicable to benefits earned and vested on or after January 1, 2005, which are subject to Internal Revenue Code section 409A, and the second applicable to benefits earned and vested before January 1, 2005, which are “grandfathered” under Internal Revenue Code section 409A.

This Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“Exelon,” and such date, the “Effective Date”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “Separation Agreement,” and such transactions contemplated by the Separation Agreement, the “Spin-Off”).

### **Part I: FOR BENEFITS EARNED AND VESTED ON OR AFTER JANUARY 1, 2005**

1. **Definitions.** All words beginning with an initial capital letter and not otherwise defined herein shall have the meaning set forth in the Constellation Employee Savings Plan (the “Employee Savings Plan”). All singular terms defined in this Plan will include the plural and vice versa. As used herein, the following terms will have the meaning specified below:

“Code” means Internal Revenue of 1986, as amended.

“Committee” means the Compensation Committee of the Board of Directors of the Company.

“Constellation Employee” has the meaning ascribed to such term in the Employee Matters Agreement.

“Employee Matters Agreement” means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

“Employee Savings Plan” means the Constellation Employee Savings Plan as may be amended from time to time, or any successor plan.

“Key Employee” means an employee listed each year by the Company on the Key Employee List as required by Treasury Regulation 1.409A-1(i), which shall generally be comprised of officers, and shall include but not be limited to: the 50 most highly paid officers having annual compensation greater than \$200,000 (as adjusted from time to time); 5% owners; and 1% owners that have annual compensation from the Company greater than \$150,000 (as adjusted from time to time). Key Employees shall be identified as of December 31 of each year, and the Key Employee list shall take effect on April 1 of the year following.

“Plan Accounts” means amounts of a participant’s and employer’s contributions, and earnings under the Plan.

“**Plan Administrator**” means, as set forth in Section 2, the Director, Benefits of the Company.

“**Rabbi Trust**” means any trust established by the Company for the purpose (in whole or in part) of supporting benefit obligations under this Plan.

“**Severance from Service Date**” means the date that the employee dies, retires, or otherwise has a termination of employment such that it is reasonably anticipated that the employee will perform no additional services, or the level of bona fide services performed would permanently decrease to no more than 20 percent of the average level of bona fide services performed in the immediately preceding 36-month period.

2. **Plan Administration.** The Director, Benefits of the Company is the Plan Administrator and has the sole authority (except as specified otherwise herein) to interpret the Plan, and, in general, to make all other determinations advisable for the administration of the Plan to achieve its stated objective.

Appeals of written decisions by the Plan Administrator may be made to the Vice President, Benefits of the Company (the “Appeal Officer”). Decisions by the Appeal Officer shall be final and not subject to further appeal. The Plan Administrator shall have the power to delegate all or any part of his/her duties to one or more designees, and to withdraw such authority, by written designation.

3. **Eligibility and Participation.** In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Employee who was participating in the Predecessor Plan as of immediately prior to the Spin-Off (an “**Eligible Participant**”) shall automatically become a participant in this Plan as of the Effective Date. No individual other than an Eligible Participant may participate in this Plan. As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Eligible Participants, and such benefits shall be administered and paid under the terms of this Plan. All elections made by such participants under the Predecessor Plan with respect to any plan year prior to the Effective Date and the plan year in which the Effective Date occurs will continue to apply and shall be administered under this Plan. As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of all Eligible Participants.

4. [Reserved.]

5. [Reserved.]

6. [Reserved.]

7. [Reserved.]

8. **Plan Accounts.** As of the Effective Date, a Plan Account shall be established for the benefit of each Eligible Participant and be credited with an amount equal to the amount credited to such participant’s Plan Account under the Predecessor Plan. Each participant’s Plan Account shall be (i) to the extent designated by the Plan Administrator, held for the benefit of the participant in the Rabbi Trust; and (ii) credited with earnings at the T. Rowe Price Summitt Cash Reserves Fund rate, or such other fund as shall replace this fund in the Employee Savings Plan. However, a participant may elect (by notification in the form and manner established by the Plan Administrator from time to time) to have all or a portion of his/her Plan Accounts credited with earnings at a rate equal to the T. Rowe Price Summitt Cash Reserves Fund rate, the T. Rowe Price New Income Fund rate, or one or more of the rates earned by investment options available

under the Employee Savings Plan, except the Common Stock Fund and the Interest Income Fund (or such other fund as may be designated by the Plan Administrator). Plan Accounts will be valued daily in the same manner as for Investment Funds under the Employee Savings Plan.

A participant may elect to reallocate to other investment options current Plan Accounts, which election shall be effective at the same time as, and valued in accordance with, the interfund transfer provisions under the Employee Savings Plan. Such elections shall be made by notification in the form and manner established by the Plan Administrator from time to time.

Earnings are credited to Plan Accounts through the date of distribution, and amounts held for installment payments shall continue to be credited with earnings, as specified in this Section 8.

9. **Distributions of Plan Accounts**. Distributions of Plan Accounts shall be made in cash only, and to the extent designated by the Plan Administrator, from the Rabbi Trust. Subject to Section 9(c), distribution elections shall be effective as of the date received by the Plan Administrator.

(a) **Elections as to timing**.

(i) **Timing of distribution**. At the time of the participant's initial deferral election under the Predecessor Plan, the participant shall have elected (in the form and manner established by the Plan Administrator at such time) to begin distributions (A) in the calendar year following the calendar year of the participant's Severance from Service Date; (B) in the year following the year in which a participant attains age 70-1/2, if later, or (C) any calendar year between (A) and (B). The single payment or the first installment payment, whichever is applicable, shall be made within the first sixty (60) days of the calendar year elected for distribution. Subsequent installments, if any, shall be made within the first sixty (60) days of each succeeding calendar year until the participant's Plan Accounts are distributed. In the event no timely election is made, a participant shall receive the distribution within the first sixty (60) days of the year following the participant's Severance from Service Date.

(ii) **Six-month delay for Key Employees**. Notwithstanding the foregoing, a participant who is also a Key Employee shall receive no benefit payments before the date that is six months after the participant's Severance From Service Date.

(b) **Elections as to form**. At the time of the participant's initial deferral election under the Predecessor Plan, the participant shall have elected (in the form and manner established by the Plan Administrator at such time) to receive distributions in a single payment or in annual installments during a period not to exceed ten (10) years. Such annual installments shall be made on a ratable basis, except the participant may elect a different initial installment payment (expressed as a percentage of the participant's Plan Account balance). In the event no timely election is made, a participant shall receive a distribution in a single payment.

(c) **Change of election**. A participant can make a subsequent distribution election as to timing or form. However, such election shall take effect no earlier than 12 months from the date the subsequent election is received by the Plan Administrator, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid. If the participant elects a distribution pursuant to Section 9(a)(i) or (b), a participant may revoke the election no later than 12 months before the scheduled payment date.

(d) **Benefits payable upon death**: If the participant dies without designating a beneficiary in accordance with Section 10, or if the designated beneficiaries predeceases the



participant, the entire unpaid balance of his/her Plan Accounts shall be paid to the participant's estate within 60 days after notification to the Plan Administrator of the participant's death.

If the participant dies, the entire unpaid balance of the participant's Plan Accounts shall be paid to the beneficiary(ies) designated by the participant. Payment shall be in the form of a lump sum, and shall be made within sixty (60) days after notice of death is received by the Plan Administrator.

In the event that a participant's beneficiary dies prior to the distribution of the participant's Plan Account, the entire unpaid balance of the participant's Plan Accounts shall be paid in a lump sum to the beneficiary(ies) designated by the participant's beneficiary by notification in the form and manner established by the Plan Administrator from time to time or, if no designation was made, to the estate of the participant's beneficiary. Payment shall be made within sixty (60) days after notice of death is received by the Plan Administrator.

10. **Beneficiaries.** A participant shall have the right to designate a beneficiary(ies) who is to receive a distribution pursuant to Section 9 in the event of the death of the participant.

Any designation, change or rescission of the designation of beneficiary shall be made by notification in the form and manner established by the Plan Administrator from time to time. The last designation of beneficiary received by the Plan Administrator shall be controlling over any testamentary or purported disposition by the participant (or, if applicable, the participant's beneficiary(ies)), provided that no designation, rescission or change thereof shall be effective unless received by the Plan Administrator prior to the death of the participant (or, if applicable, the participant's beneficiary(ies)).

If the designated beneficiary is the estate, or the executor or administrator of the estate, of the participant (or, if applicable, the participant's beneficiary(ies)), a distribution pursuant to Section 9 may be made to the person(s) or entity (including a trust) entitled thereto under the will of the participant (or, if applicable, the participant's beneficiary(ies)), or, in the case of intestacy, under the laws relating to intestacy.

11. **Valuation of Interest.** The Plan Administrator shall cause the value of a participant's Plan Accounts, at least once per year as of December 31, to be determined separately and be reported to the Company and the participant. Valuation of a participant's Plan Accounts shall be determined in accordance with the procedures contained in the Employee Savings Plan.

12. **Withdrawals.**

No withdrawals of Plan Accounts may be made, except a participant may at any time request a hardship withdrawal from his/her Plan Accounts if he/she has incurred an unforeseeable financial emergency. An unforeseeable financial emergency is defined as severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant (or of his/her spouse or dependents), loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The need to send a child to college or the desire to purchase a home are not considered to be unforeseeable emergencies. The circumstance that will constitute an unforeseeable emergency will depend upon the facts of each case.

The amount of a hardship withdrawal will be limited to the amount reasonably necessary to satisfy the financial need, which may include any amounts necessary to pay Federal, state, local, or foreign taxes that are reasonably anticipated to arise from the distribution. Payment may not be made to the extent that such hardship is or may be relieved (i) through reimbursement or

compensation by insurance or otherwise, (ii) by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan.

The request for hardship withdrawal shall be made by notification in the form and manner established by the Plan Administrator from time to time. Such hardship withdrawal will be permitted only with approval of the Plan Administrator. The participant will receive a lump sum payment after the Plan Administrator has had reasonable time to consider and then approve the request.

13. **Compliance with Code section 409A.** This Plan is intended to comply and shall be administered in a manner that is intended to comply with section 409A of the Code and shall be construed and interpreted in accordance with such intent. To the extent that an Award and/or payment is subject to section 409A of the Code, it shall be awarded and/or paid in a manner that will comply with section 409A of the Code, including proposed, temporary or final regulations or any other guidance issued by the Secretary of the Treasury and the Internal Revenue Service with respect thereto. Any provision of this Plan that would cause an Award and/or payment to fail to satisfy section 409A of the Code shall have no force and effect until amended to comply with Code section 409A (which amendment may be retroactive to the extent permitted by applicable law).

14. **Miscellaneous.** A participant's Plan Accounts shall not be subject to alienation or assignment by any participant or beneficiary nor shall any of them be subject to attachment or garnishment or other legal process except (a) to the extent specially mandated and directed by applicable state or federal statute; and (b) as requested by the participant or beneficiary to satisfy income tax withholding or liability.

This Plan may be amended from time to time or suspended or terminated at any time at the written direction of the Committee.

No amendment to or termination of this Plan shall impair the rights of any participant or beneficiary with respect to amounts in his/her Plan Accounts before the date of such amendment or termination.

Participation in this Plan shall not constitute a contract of employment between the Company and any person and shall not be deemed to be consideration for, or a condition of, continued employment of any person.

The Plan, notwithstanding the creation of the Rabbi Trust, is intended to be unfunded for purposes of Title I of the Employee Retirement Income Security Act of 1974. The Company shall make contributions to the Rabbi Trust in accordance with the terms of the Rabbi Trust. Any funds which may be invested and any assets which may be held to provide benefits under this Plan shall continue for all purposes to be a part of the general funds and assets of the Company and no person other than the Company shall by virtue of the provisions of this Plan have any interest in such funds and assets. To the extent that any person acquires a right to receive payments from the Company under this Plan, such rights shall be no greater than the right of any unsecured general creditor of the Company.

In the event the Company becomes a party to a merger, consolidation, sale of substantially all of its assets or any other corporate reorganization in which the Company will not be the surviving corporation or in which the holders of the common stock of the Company will receive securities of another corporation (in any such case, the "New Company"), then the New Company shall assume the rights and obligations of the Company under this Plan.

This Plan shall be governed in all respects by Pennsylvania law, without respect to any conflicts of law principles.

**Part II: FOR BENEFITS EARNED AND VESTED BEFORE JANUARY 1, 2005**

1. **Definitions.** All words beginning with an initial capital letter and not otherwise defined herein shall have the meaning set forth in the Employee Savings Plan. All singular terms defined in this Plan will include the plural and vice versa. As used herein, the following terms will have the meaning specified below:

“**Committee**” means the Compensation Committee of the Board of Directors of the Company.

“**Constellation Employee**” has the meaning ascribed to such term in the Employee Matters Agreement.

“**Employee Matters Agreement**” means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

“**Employee Savings Plan**” means the Constellation Employee Savings Plan as may be amended from time to time, or any successor plan.

“**Plan Accounts**” means amounts of a participant’s and employer’s contributions, and earnings under the Plan.

“**Plan Administrator**” means, as set forth in Section 2, the Director, Benefits of the Company.

“**Rabbi Trust**” means any trust established by the Company for the purpose (in whole or in part) of supporting benefit obligations under this Plan.

“**Termination From Employment**” means a participant’s separation from service with the Company or a subsidiary thereof; however, a participant’s transfer of employment to or from a subsidiary of the Company shall not constitute a Termination From Employment.

2. **Plan Administration.** The Director, Benefits of the Company is the Plan Administrator and has the sole authority (except as specified otherwise herein) to interpret the Plan, and, in general, to make all other determinations advisable for the administration of the Plan to achieve its stated objective.

Appeals of written decisions by the Plan Administrator may be made to the Vice President, Benefits of the Company (the “Appeal Officer”). Decisions by the Appeal Officer shall be final and not subject to further appeal. The Plan Administrator shall have the power to delegate all or any part of his/her duties to one or more designees, and to withdraw such authority, by written designation.

3. **Eligibility and Participation.** In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Employee who was participating in the Predecessor Plan as of immediately prior to the Spin-Off (an “**Eligible Participant**”) shall automatically become a participant in this Plan as of the Effective Date. No individual other than an Eligible Participant may participate in this Plan. As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Eligible Participants, and such benefits shall be administered and paid under the terms of this Plan. All elections made by such participants under the Predecessor Plan with respect to any plan year prior to the Effective Date and the plan year in which the Effective Date occurs will continue to apply and shall be administered under this Plan. As of the

Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of all Eligible Participants.

4. [Reserved.]
5. [Reserved.]
6. [Reserved.]
7. [Reserved.]
8. [Reserved.]
9. [Reserved.]

10. **Plan Accounts.** As of the Effective Date, a Plan Account shall be established for the benefit of each Eligible Participant and be credited with an amount equal to the amount credited to such participant's Plan Account under the Predecessor Plan. Each participant's Plan Account shall be (i) to the extent designated by the Plan Administrator, held for the benefit of the participant in the Rabbi Trust; and (ii) credited with earnings at the T. Rowe Price Summitt Cash Reserves Fund rate, or such other fund as shall replace this fund in the Employee Savings Plan. However, a participant may elect (by notification in the form and manner established by the Plan Administrator from time to time) to have all or a portion of his/her Plan Accounts credited with earnings at a rate equal to the T. Rowe Price Summitt Cash Reserves Fund rate, the T. Rowe Price New Income Fund rate, or one or more of the rates earned by investment options available under the Employee Savings Plan, except the Common Stock Fund and the Stable Value Fund (or such other fund as may be designated by the Plan Administrator). Plan Accounts will be valued daily in the same manner as for Investment Funds under the Employee Savings Plan.

A participant may elect to reallocate to other investment options current Plan Accounts, which election shall be effective at the same time as, and valued in accordance with, the interfund transfer provisions under the Employee Savings Plan. Such elections shall be made by notification in the form and manner established by the Plan Administrator from time to time.

11. **Distributions of Plan Accounts.** Distributions of Plan Accounts shall be made in cash only, and to the extent designated by the Plan Administrator, from the Rabbi Trust.

(a) **Elections as to timing.** Prior to the end of the thirtieth (30<sup>th</sup>) calendar day after the date of a participant's Termination From Employment such participant must elect the timing of distributions of his/her Plan Accounts. The participant may elect (by notification in the form and manner established by the Plan Administrator from time to time) to begin distributions (i) in the calendar year following the calendar year of the participant's Termination From Employment, (ii) in the year following the year in which a participant attains age 70-1/2, if later, or (iii) any calendar year between (i) and (ii).

(b) **Elections as to form.** A participant may elect (by notification in the form and manner established by the Plan Administrator from time to time) to receive distributions in a single payment or in annual installments during a period not to exceed twenty-five (25) years. Such annual installments shall be made on a ratable basis, except the participant may elect a different initial installment payment (expressed as a percentage of the participant's Plan Account balance). The single payment or the first installment payment, whichever is applicable, shall be made within the first sixty (60) days of the calendar year elected for distribution. Subsequent installments, if any, shall be made within the first sixty (60) days of each succeeding calendar year until the participant's Plan Accounts are distributed. In the event no election is made prior to

the end of the thirtieth (30<sup>th</sup>) calendar day after the date of a participant's Termination From Employment, a participant shall receive a distribution in a single payment within the first sixty (60) days of the following year.

Earnings are credited to Plan Accounts through the date of distribution, and amounts held for installment payments shall continue to be credited with earnings, as specified in Section 11.

(c) **Revocation of elections.** A participant's distribution election is irrevocable on the thirtieth (30<sup>th</sup>) calendar day after the date of a participant's Termination From Employment; provided, however a participant may subsequently make a onetime post-employment termination distribution election to receive a lump-sum payout of the participant's remaining balance, provided such election is made no later than December 31 of the year that is at least one full calendar year prior to the distribution date, and is in the form and manner established by the Plan Administrator.

(d) **Benefits payable upon death.** If the participant dies without designating a beneficiary in accordance with Section 12, or if none of the designated beneficiaries are alive, the entire unpaid balance of his/her Plan Accounts shall be paid to the participant's estate within 60 days after notification to the Plan Administrator of the participant's death.

If the participant who has designated a beneficiary(ies) in accordance with Section 12 dies, the entire unpaid balance of the participant's Plan Accounts shall be paid to the beneficiary(ies) designated by the participant. Payment shall be in the form of a lump sum, and shall be made within sixty (60) days after notice of death is received by the Plan Administrator.

In the event that a participant's beneficiary dies prior to the distribution of the participant's Plan Accounts, the entire unpaid balance of the participant's Plan Accounts shall be paid to the beneficiary(ies) designated by the participant's beneficiary by notification in the form and manner established by the Plan Administrator from time to time or, if no designation was made, to the estate of the participant's beneficiary(ies). Payment shall be made within sixty (60) days after notice of death is received by the Plan Administrator.

12. **Beneficiaries.** A participant shall have the right to designate a beneficiary(ies) who is to receive a distribution(s) pursuant to Section 11 in the event of the death of the participant.

Any designation, change or rescission of the designation of beneficiary shall be made by notification in the form and manner established by the Plan Administrator from time to time. The last designation of beneficiary received by the Plan Administrator shall be controlling over any testamentary or purported disposition by the participant (or, if applicable, the participant's beneficiary(ies)), provided that no designation, rescission or change thereof shall be effective unless received by the Plan Administrator prior to the death of the participant (or, if applicable, the participant's beneficiary(ies)).

If the designated beneficiary is the estate, or the executor or administrator of the estate, of the participant (or, if applicable, the participant's beneficiary(ies)), a distribution pursuant to Section 11 may be made to the person(s) or entity (including a trust) entitled thereto under the will of the participant (or, if applicable, the participant's beneficiary(ies)), or, in the case of intestacy, under the laws relating to intestacy.

13. **Valuation of Interest.** The Plan Administrator shall cause the value of a participant's Plan Accounts, at least once per year as of December 31, to be determined separately and be reported to the Company and the participant (or, if applicable, the participant's

beneficiary(ies)). Valuation of a participant's Plan Accounts shall be determined in accordance with the procedures contained in the Employee Savings Plan.

14. **Withdrawals.** No withdrawals of Plan Accounts may be made, except a participant may at any time request a hardship withdrawal from his/her Plan Accounts if he/she has incurred an unforeseeable financial emergency. An unforeseeable financial emergency is defined as severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant (or of his/her dependents), loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The need to send a child to college or the desire to purchase a home are not considered to be unforeseeable emergencies. The circumstance that will constitute an unforeseeable emergency will depend upon the facts of each case.

A hardship withdrawal will be permitted by the Plan Administrator only as necessary to satisfy an immediate and heavy financial need. A hardship withdrawal may be permitted only to the extent reasonably necessary to satisfy the financial need and any anticipated taxes that arise from the distribution. Payment may not be made to the extent that such hardship is or may be relieved (i) through reimbursement or compensation by insurance or otherwise, (ii) by liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan.

The request for hardship withdrawal shall be made by notification in the form and manner established by the Plan Administrator from time to time. Such hardship withdrawal will be permitted only with approval of the Plan Administrator. The participant will receive a lump sum payment after the Plan Administrator has had reasonable time to consider and then approve the request.

15. **Miscellaneous.** A participant's Plan Accounts shall not be subject to alienation or assignment by any participant or beneficiary nor shall any of them be subject to attachment or garnishment or other legal process except (i) to the extent specially mandated and directed by applicable State or Federal statute; and (ii) as requested by the participant or beneficiary to satisfy income tax withholding or liability.

This Plan may be amended from time to time or suspended or terminated at any time at the written direction of the Committee. No amendment to or termination of this Plan shall impair the rights of any participant or beneficiary with respect to amounts in his/her Plan Accounts before the date of such amendment or termination.

Participation in this Plan shall not constitute a contract of employment between the Company and any person and shall not be deemed to be consideration for, or a condition of, continued employment of any person.

The Plan, notwithstanding the creation of the Rabbi Trust, is intended to be unfunded for purposes of Title I of the Employee Retirement Income Security Act of 1974. The Company shall make contributions to the Rabbi Trust in accordance with the terms of the Rabbi Trust. Any funds which may be invested and any assets which may be held to provide benefits under this Plan shall continue for all purposes to be a part of the general funds and assets of the Company and no person other than the Company shall by virtue of the provisions of this Plan have any interest in such funds and assets. To the extent that any person acquires a right to receive payments from the Company under this Plan, such rights shall be no greater than the right of any unsecured general creditor of the Company.

In the event the Company becomes a party to a merger, consolidation, sale of substantially all of its assets or any other corporate reorganization in which the Company will not

be the surviving corporation or in which the holders of the common stock of the Company will receive securities of another corporation (in any such case, the “New Company”), then the New Company shall assume the rights and obligations of the Company under this Plan.

This Plan shall be governed in all respects by Pennsylvania law, without respect to any conflict of laws principles.

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**Constellation Benefits Restoration Plan**

Effective February 1, 2022

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APPENDIX A	

1. **Purpose and Nature of the Plan.** Constellation Energy Corporation (the “Company”) hereby establishes the Constellation Benefits Restoration Plan (the “Plan”) and maintains the Plan as an unfunded retirement plan for employees of the Company and its subsidiaries whose benefits under the Pension Plan of Constellation Energy Group, Inc. (or its successor following the Spin-Off, as defined below) are affected by Internal Revenue Code Limitations. The Plan is divided into sections that separately address benefits earned and vested on or after January 1, 2005, which are subject to Internal Revenue Code section 409A, and benefits earned and vested before January 1, 2005, which are “grandfathered” under Internal Revenue Code section 409A.

The Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“Exelon,” and such date, the “Effective Date”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “Separation Agreement”). The distribution of shares of common stock of the Company to the stockholders of Exelon pursuant to the Separation Agreement shall be referred to hereinafter as the “Spin-Off.”

2. **Definitions.** All words beginning with an initial capital letter and not otherwise defined herein shall have the meaning set forth in the Pension Plan. All singular terms defined in this Plan will include the plural and vice versa. As used herein, the following terms will have the meaning specified below:

“Chairman” means the Chairman of the Board of Directors of the Company.

“Committee” means the Compensation Committee of the Board of Directors of the Company.

“Constellation Employee” has the meaning ascribed to such term in the Employee Matters Agreement.

“Employee Matters Agreement” means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

“Internal Revenue Code Limitations” means the limitations under Sections 415 and/or 401(a)(17) of the Internal Revenue Code.

“Key Employee” means an employee listed each year by the Company on the Key Employee list as required by Treasury Regulation 1.409A-1(i), which shall generally be comprised of officers, and shall include but not be limited to: the 50 most highly paid officers having annual compensation greater than \$200,000 (as adjusted from time to time); 5% owners; and 1% owners having annual compensation from the Company greater than \$150,000 (as adjusted from time to time). Key Employees shall be identified as of December 31 of each year, and the Key Employee list shall take effect on April 1 of the year following.

“Pension Plan” means the Pension Plan of Constellation Energy Group, Inc. as may be amended from time to time, or any successor plan (including its post-Spin-Off successor).

“Plan” means the Constellation Benefits Restoration Plan.

“Plan Administrator” means, as set forth in Section 3, the Vice President, Benefits of the Company.

“Predecessor Plan” means the Constellation Energy Group, Inc. Benefits Restoration Plan.

“Severance from Service Date” means: (i) for benefits earned and vested prior to January 1, 2005, the same as set forth in the Pension Plan; (ii) for benefits earned and vested on or after January 1, 2005, the date that the employee dies, retires, or otherwise has a termination of employment such that it is reasonably anticipated that the employee will perform no additional services, or the level of bona fide services performed would permanently decrease to no more than 20 percent of the average level of bona fide services performed in the immediately preceding 36-month period.

3. **Plan Administration.** The Vice President, Benefits of the Company is the Plan Administrator and has sole authority (except as specified otherwise herein) to interpret the Plan and, in general, to make all other determinations advisable for the administration of the Plan to achieve its stated objective. Appeals of written decisions by the Plan Administrator may be made to the Company’s Chief Human Resources Officer (“CHRO”). Decisions by the CHRO shall be final and not subject to further appeal. The Plan Administrator shall have the power to delegate all or any part of his/her duties to one or more designees, and to withdraw such authority, by written designation.
4. **Eligibility.** In connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Employee who was participating in the Predecessor Plan as of immediately prior to the Spin-Off (an “Eligible Participant”) shall automatically become a participant in this Plan as of the Effective Date. No individual other than an Eligible Participant may participate in this Plan. As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Eligible Participants, and such benefits shall be administered and paid under the terms of this Plan. All elections made by such participants under the Predecessor Plan with respect to any plan year prior to the Effective Date and the plan year in which the Effective Date occurs will continue to apply and shall be administered under this Plan. As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of all Eligible Participants.
5. **Computation of Restoration Benefits.** A participant’s (or if applicable, Surviving Spouse’s or Alternate Beneficiary’s) benefits under this Plan will be calculated as set forth below:
  - (a) Compute without regard to Internal Revenue Code Limitations, but subject to any compensation limitations established by the Chairman (or if required by the Company’s corporate charter or by-laws, the Committee), shown in Appendix A, the participant’s Gross Pension under the Pension Plan based on the participant’s Severance from Service Date and assuming that benefit payments commence on the first of the month following the Severance From Service Date; provided, however, that if the participant is not eligible to have payments start under the Pension Plan as of such date, benefit payments will be assumed to commence on the participant’s Normal Retirement Date in the form of a single life annuity; and  
Subtract from the above amount the participant’s Gross Pension amount under the Pension Plan using the same Benefit Commencement Date.
  - (b) Or, if a participant dies before his/her Benefits Commencement Date, compute without regard to Internal Revenue Code Limitations but subject to any compensation limitations established by the Chairman (or if required by the

Company's corporate charter or by-laws, the Committee), shown in Appendix A, the participant's Surviving Spouse's or Alternate Beneficiary's benefit under the Pension Plan based on payments commencing on the first of the month following the participant's date of death; and

Subtract from the above amount the amount payable to the Surviving Spouse or Alternate Beneficiary under the Pension Plan based on payments commencing on the first of the month following the participant's date of death.

6. **For Benefits Earned and Vested Prior to January 1, 2005**

- (a) **Form of payout of benefits - generally.** For a participant, the payout under this Plan will be a bi-weekly payment, unless the participant makes a valid election to receive his/her payout in the form of a lump sum; however, if the present value of the participant's Plan payout is under \$50,000, it will be paid automatically in the form of a lump sum. For this purpose, the present value of the Plan payout will be the amount that would be payable to a participant under paragraph (c) if he or she elected to receive a lump sum.

A participant may elect to receive his/her payout in the form of a lump sum by submitting to the Plan Administrator a signed election form. The form must be received by the Plan Administrator before the beginning of the calendar year during which the participant's Severance From Service Date occurs. The election to receive a payout in the form of a lump sum may be revoked at any time before the beginning of the calendar year during which the participant's Severance From Service Date occurs, by submitting to the Plan Administrator a new signed election form.

- (b) **Amount and timing of participant bi-weekly benefits payout.** A participant entitled to bi-weekly benefits payouts will receive bi-weekly payments based on the amount determined under Section 5; provided, however, that such amounts shall be reduced as applicable in accordance with the terms of the Pension Plan for (i) early receipt and (ii) if the participant elects to receive such payments in the form of a joint and survivor annuity, the cost of such annuity. Payments under this paragraph (b) shall commence effective with the first day of the month following the participant's Severance From Service Date. If such participant receives (or would have received but for the Internal Revenue Code limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s).

Bi-weekly payments to the participant hereunder shall permanently cease upon the death of the participant, effective with the bi-weekly payment for the period following the month of the participant's death.

- (c) **Amount and timing of participant lump sum benefits payout.** A participant entitled to a lump sum benefit payout will receive a lump sum payment based on the same assumptions and procedures that are used for determining lump sums in the Pension Plan. Such lump sum payment shall be paid to the participant within 60 days after the participant's Severance From Service Date.

(d) **Amount and timing of Surviving Spouse or Alternate Beneficiary payout.**

- i. **Before Benefit Commencement Date:** A Surviving Spouse or Alternate Beneficiary who is entitled to a Preretirement Survivor Annuity or a Preretirement Survivor Benefit under the Pension Plan shall receive a benefit payment under this Plan in the form of a lump sum equal to an amount determined under Section 5 and payable within 60 days after the participant's death.
- ii. **After Benefit Commencement Date:** A participant who is entitled to begin receipt of bi-weekly benefits payments under paragraph (b) of this Section may elect to provide a survivor benefit to his/her Surviving Spouse or Alternate Beneficiary (whichever is applicable) in the form of a joint and survivor annuity, the calculation of which is set forth in the Pension Plan. Payments to either a Surviving Spouse or an Alternate Beneficiary under this Plan shall begin the first day of the month following the participant's death. If the named Surviving Spouse or Alternate Beneficiary predeceases the participant, no survivor benefits are payable upon the participant's death.

If a participant elects survivor coverage for the bi-weekly benefit payments under this Plan, the participant must provide all appropriate survivor benefit information in the timing and manner established by the Plan Administrator, before commencing benefit payments under paragraph (b) of this Section.

- (e) **Death of participant entitled to lump sum payout.** In the event of the death of a participant after his/her Severance From Service Date and before the participant receives the lump sum payment under paragraph (c), such lump sum payment shall be made to the participant's Alternate Beneficiary; and if there is no Alternate Beneficiary, payment shall be made to the Surviving Spouse; and if there is no Surviving Spouse, payment shall be made to the participant's beneficiary under the employer's employee life insurance plan; and if there is no beneficiary under the employer's employee life insurance plan, payment shall be made to the participant's estate. In the event of the death of a Surviving Spouse or Alternate Beneficiary after the participant's death and before the Surviving Spouse or Alternate Beneficiary receives the lump sum payment under paragraph (d), such lump sum payment shall be made to the estate of the Surviving Spouse or Alternate Beneficiary (whichever is applicable.) The lump sum payment shall be the same amount and made at the same time as set forth in paragraphs (c) and (d).
- (f) **Source of Payments.** All payments under this Plan shall be made from the general corporate assets of the Company.

7. **For Benefits Earned and Vested On or After January 1, 2005**

(a) **Form of payout of benefits - generally.**

- i. **For a participant who first became eligible to participate in the Predecessor Plan prior to 2010:** The payout under this Plan will be a bi-weekly payment, unless the participant makes a valid election to receive his/her payout in the form of a lump sum. Notwithstanding the foregoing, if upon the occurrence of a Separation from Service the present value of the

participant's Plan payout is less than \$50,000, it will be paid automatically in the form of a lump sum. For this purpose, the present value of the Plan payout will be the amount that would be payable to a participant under paragraph (d)(ii) of this Section if he or she elected to receive a lump sum.

Participants who do not elect a lump sum may elect a joint and survivor form of annuity at any time prior to the Benefit Commencement Date. Such joint and survivor annuity shall be actuarially equivalent to the participant's single life annuity. The cost of a joint and survivor benefit shall be borne by the participant.

- ii. For participants who first became eligible to participate in the Predecessor Plan in 2010 or thereafter: The payout under this plan will be a lump sum, unless the participant makes a valid election to receive his/her payout in the form of a bi-weekly payment. Notwithstanding the foregoing, if upon the occurrence of a Separation from Service the present value of the participant's Plan payout is less than \$100,000, it will be paid automatically in the form of a lump sum. For this purpose, the present value of the Plan payout will be the amount that would be payable to a participant under paragraph (d)(ii) of this Section if he or she elected to receive a lump sum.

Participants who do elect a biweekly payment may elect a joint and survivor form of annuity at any time prior to the Benefit Commencement Date. Such joint and survivor annuity shall be actuarially equivalent to the participant's single life annuity. The cost of a joint and survivor benefit shall be borne by the participant.

(b) **Initial election of form of payment.**

- i. For participants who first became eligible to participate in the Predecessor Plan prior to 2010: A participant may make an initial election to receive his or her payout in the form of a lump sum in the form and manner established by the Plan Administrator from time to time, but such initial election shall be made no later than 30 days after the first day of the participant's taxable year immediately following the first year the participant accrues a benefit under the Plan.
- ii. For participants who first became eligible to participate in the Predecessor Plan in 2010 or thereafter: A participant may make an initial election to receive his or her payout in the form of a bi-weekly payment in the form and manner established by the Plan Administrator from time to time, but such initial election shall be made no later than 30 days after the first day of the participant's taxable year immediately following the first year the participant accrues a benefit under the Plan.

- (c) **Subsequent elections of form of payment.** A participant may revoke his or her form of payment election at any time in the form and manner established by the Plan Administrator from time to time, but such revocation shall take effect no earlier than 12 months from the date the revocation is received by the Plan Administrator, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid.

(d) **Amount and timing of participant benefits payout.**

- i. Bi-weekly Payments. A participant entitled to biweekly benefits payouts will receive bi-weekly payments based on the amount determined under Section 5; provided, however, that such amounts shall be reduced as applicable in accordance with the terms of the Pension Plan for (A) early receipt, and (B) if the participant elects as set forth in paragraph (a) to receive such payments in the form of a joint and survivor annuity, the cost of such annuity. Payments under this paragraph (i) shall commence effective with the first day of the month following the participant's Severance From Service Date. If such participant receives (or would have received but for the Internal Revenue Code limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s).

Bi-weekly payments to the participant hereunder shall permanently cease upon the death of the participant, effective with the bi-weekly payment for the period following the month of the participant's death.

- ii. Lump sum payments. A participant entitled to a lump sum benefit payout will receive a lump sum payment based on the same assumptions and procedures that are used for determining lump sums in the Pension Plan. Such lump sum payment shall be made within 60 days after the participant's Severance From Service Date, and shall be paid to the participant.
- iii. Six-month delay for Key Employees. Notwithstanding the foregoing, a participant who is also a Key Employee shall receive no benefit payments under this Section 7 before the date that is six months after the participant's Severance From Service Date.

(e) **Amount and timing of Surviving Spouse or Alternate Beneficiary payout.**

- i. Before Benefit Commencement Date: A Surviving Spouse or Alternate Beneficiary who is entitled to a Preretirement Survivor Annuity or a Preretirement Survivor Benefit under the Pension Plan shall receive a benefit payment under this Plan in the form of a lump sum equal to an amount determined under Section 5 and payable within 60 days after the participant's death.
- ii. After Benefit Commencement Date:
  - A. For participants who first became eligible to participate in the Predecessor Plan prior to 2010: A participant who is entitled to begin receipt of bi-weekly benefits payments under paragraph (d) of this Section 7, may elect to provide a survivor benefit to his/her Surviving Spouse or Alternate Beneficiary (whichever is applicable) in the form of a joint and survivor annuity, the calculation of which is set forth in the Pension Plan, at any time prior to Benefit Commencement Date. Payments to either a Surviving Spouse or an Alternate Beneficiary under this Plan shall begin the first day of the month following the participant's death. If the named Surviving Spouse or Alternate Beneficiary predeceases the participant, no survivor benefits are payable upon the participant's death. If a participant elects survivor coverage for



the bi-weekly benefit payments under this Plan, the participant must provide all appropriate survivor benefit information in the timing and manner established by the Plan Administrator, before commencing benefit payments under paragraph (d)(ii) of this Section.

- B. For participants who first became eligible to participate in the Predecessor Plan in 2010 or thereafter: If a participant who elected to receive bi-weekly benefit payments also elects a survivor benefit pursuant to election procedure set forth in paragraph (a) of this Section 7, the calculation of which is set forth in the Pension Plan, then the Surviving Spouse or Alternate Beneficiary shall receive a benefit payment under this Plan in the form of a lump sum equal to the present value of that survivor benefit, calculated using the interest rate in effect at the time of death and payable within 60 days after the participant's death.

(f) **Death of participant entitled to lump sum payout.** In the event of the death of a participant after his/her Severance From Service Date and before the participant receives the lump sum payment under paragraph (d)(ii), such lump sum payment shall be made to the participant's Alternate Beneficiary; and if there is no Alternate Beneficiary, payment shall be made to the Surviving Spouse; and if there is no Surviving Spouse, payment shall be made to the participant's beneficiary under the employer's employee life insurance plan; and if there is no beneficiary under the employer's employee life insurance plan, payment shall be made to the participant's estate. In the event of the death of a Surviving Spouse or Alternate Beneficiary after the participant's death and before the Surviving Spouse or Alternate Beneficiary receives the lump sum payment under paragraph (e), such lump sum payment shall be made to the estate of the Surviving Spouse or Alternate Beneficiary (whichever is applicable.) The lump sum payment shall be the same amount and made at the same time as set forth in paragraphs (d) and (e), except that there shall be no six-month delay for payments relating to the benefits of Key Employees.

(g) **Source of Payments.** All payments under this Plan shall be made from the general corporate assets of the Company.

8. **Compliance with Section 409A of the Code.** This Plan is intended to comply and shall be administered in a manner that is intended to comply with section 409A of the Code and shall be construed and interpreted in accordance with such intent. To the extent that a payment is subject to section 409A of the Code, it shall be paid in a manner that will comply with section 409A of the Code, including proposed, temporary or final regulations or any other guidance issued by the Secretary of the Treasury and the Internal Revenue Service with respect thereto. Any provision of this Plan that would cause an Award, issuance and/or payment to fail to satisfy section 409A of the Code shall have no force and effect until amended to comply with Code section 409A (which amendment may be retroactive to the extent permitted by applicable law).
9. **Miscellaneous.** None of the benefits provided under this Plan shall be subject to alienation or assignment by any participant or beneficiary nor shall any of them be subject to attachment or garnishment or other legal process except (i) to the extent specially mandated and directed by applicable State or Federal law; or (ii) as requested by the participant or beneficiary to satisfy income tax withholding or liability.

This Plan may be amended from time to time, or suspended or terminated at any time, provided, however, that no amendment or termination shall impair the rights of any participant or beneficiary entitled to receive current or future payment hereunder at the time of such action. All amendments to this Plan which would increase or decrease the compensation of any Officer of the Company, either directly or indirectly, must be approved by the Committee. All other permissible amendments may be made at the written direction of the Plan Administrator.

Participation in this Plan shall not constitute a contract of employment between the Company or a subsidiary of the Company and any person and shall not be deemed to be consideration for, or a condition of, continued employment of any person.

The Plan is intended to be unfunded for purposes of Title I of the Employee Retirement Income Security Act of 1974. To the extent that any person acquires a right to receive payments from the Company under this Plan, such rights shall be no greater than the right of any unsecured general creditor of the Company.

In the event the Company becomes a party to a merger, consolidation, sale of substantially all of its assets or any other corporate reorganization in which the Company will not be the surviving corporation or in which the holders of the common stock of the Company will receive securities of another corporation (in any such case, the "New Company"), then the New Company shall assume the rights and obligations of the Company under this Plan.

This Plan shall be governed in all respects by Pennsylvania law, without respect to any conflicts of laws principles.

## **APPENDIX A**

Pursuant to Section 5(a) of the Plan, compensation used to calculate benefits under this Plan is limited as follows:

For participants employed by Constellation Energy Commodities Group to perform functions such as marketing, trading or strategizing, as designated annually by CEG Human Resources, the bonus and incentive portion of a participant's Final Average Pay or Average Annual Pay will be limited to a maximum of \$200,000 per calendar year.

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**Constellation Supplemental Pension Plan**

Effective February 1, 2022

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1. **Purpose and Nature of the Plan.** Constellation Energy Corporation (the “Company”) hereby establishes this Constellation Supplemental Pension Plan (the “Plan”) and maintains the Plan as an unfunded retirement plan for purposes of Title I of the Employee Retirement Income Security Act of 1974, as amended, notwithstanding the creation of the Rabbi Trust. The purpose of the plan is to provide enhanced retirement benefits for certain officers and key employees of the Company and its subsidiaries in order to attract and retain talented executive personnel. Any funds which may be invested and any assets which may be held to provide benefits under this Plan shall continue for all purposes to be a part of the general funds and assets of the Company and no person other than the Company shall by virtue of the provisions of this Plan have any interest in such funds and assets. To the extent that any person acquires a right to receive payments from the Company under this Plan, such rights shall be no greater than the right of any unsecured general creditor of the Company.

The Plan is divided into sections that separately address benefits earned and vested on or after January 1, 2005, which are subject to Internal Revenue Code section 409A, and benefits earned and vested before January 1, 2005, which are “grandfathered” under Internal Revenue Code section 409A.

The Plan shall be effective as of the date on which shares of common stock of the Company are distributed to the stockholders of Exelon Corporation (“Exelon,” and such date, the “Effective Date”) pursuant to the Separation Agreement between the Company and Exelon, entered into in connection with such distribution (the “Separation Agreement”). The distribution of shares of common stock of the Company to the stockholders of Exelon pursuant to the Separation Agreement shall be referred to hereinafter as the “Spin-Off.”

2. **Definitions.** All words beginning with an initial capital letter and not otherwise defined herein shall have the meaning set forth in the Pension Plan. All singular terms defined in this Plan will include the plural and vice versa. As used herein, the following terms will have the meaning specified below:

“Annual Base Salary” means an amount determined by adding the bi-weekly base rate of pay amounts (i.e., the types of such pay that are includable in the computation of Pension Plan benefits) earned over the twelve calendar months immediately preceding the month that includes the date of the computation.

“Average Incentive Award” (or “Average Award”) means generally the product of the percentage equal to an average of the two highest of the participant’s five immediately prior year award percentages earned under the Constellation Executive Annual Incentive Plan, the Constellation Senior Management Annual Incentive Plan and/or any Other Incentive Awards Program (including, with respect to any Constellation Employee, any predecessor arrangement to such plan or program maintained by Exelon or its subsidiaries in which such Constellation Employee participated prior to the Spin-Off) multiplied by the participant’s annualized base rate of pay amount (i.e., the types of such pay that are includable in the computation of Pension Plan benefits) in effect at the end of the prior year.

“Board” means the Board of Directors of the Company.

“Benefit Start Date” means the date as of which the participant’s benefits, if any, under this Plan commence.

“Cause” means the participant’s (a) failure to comply with Company policy, (b) deliberate and continual refusal to satisfactorily perform employment duties on substantially a full-time basis, (c) deliberate and continual refusal to act in accordance with any specific instructions of a majority of the Board, (d) disclosure, without the consent of a majority of the Board, of confidential information or trade secrets concerning the Company or any of its subsidiaries which could be materially damaging to the Company or any of its subsidiaries, or (e) deliberate misconduct which could be materially damaging to the Company or any of its subsidiaries without reasonable good faith belief by the participant that such conduct was in the best interest of the Company and its subsidiaries.

“Change in Control” means the occurrence of any one of the following events:

- (i) individuals who constitute the Board (the “Incumbent Directors”) cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director;
- (ii) any “person” (as such term is defined in Section 3(a)(9) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) and as used in Sections 13(d) (3) and 14(d)(2) of the Exchange Act) is or becomes a “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 20% or more of the combined voting power of the Company’s then outstanding securities eligible to vote for the election of the Board (the “Company Voting Securities”); provided, however, that the event described in this paragraph (ii) shall not be deemed to be a Change in Control by virtue of any of the following acquisitions: (A) by the Company or any corporation with respect to which the Company owns a majority of the outstanding shares of common stock or has the power to vote or direct the voting of sufficient securities to elect a majority of the directors (a “Subsidiary Company”), (B) by any employee benefit plan (or related trust) sponsored or maintained by the Company or any Subsidiary Company, (C) by any underwriter temporarily holding securities pursuant to an offering of such securities, (D) pursuant to a Non-Qualifying Transaction (as defined in paragraph (iii)), or (E) pursuant to any acquisition by Plan participant or any group of persons including Plan participant (or any entity controlled by Plan participant or any group of persons including Plan participant);
- (iii) consummation of a merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company or any of its Subsidiary Companies (a “Business Combination”), unless immediately following such Business Combination: (A) more than 60% of the total voting power of (x) the corporation resulting from such Business Combination (the “Surviving Corporation”), or (y) if applicable, the ultimate parent corporation that directly or indirectly has beneficial

ownership of at least 95% of the voting securities eligible to elect directors of the Surviving Corporation (the "Parent Corporation"), is represented by Company Voting Securities that were outstanding immediately prior to such Business Combination (or, if applicable, is represented by shares into which such Company Voting Securities were converted pursuant to such Business Combination), and such voting power among the holders thereof is in substantially the same proportion as the voting power of such Company Voting Securities among the holders thereof immediately prior to the Business Combination, (B) no person (other than any employee benefit plan (or related trust) sponsored or maintained by the Surviving Corporation or the Parent Corporation), is or becomes the beneficial owner, directly or indirectly, of 20% or more of the total voting power of the outstanding voting securities eligible to elect directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) and (C) at least a majority of the members of the board of directors of the Parent Corporation (or, if there is no Parent Corporation, the Surviving Corporation) following the consummation of the Business Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination (any Business Combination which satisfies all of the criteria specified in (A), (B), and (C) above shall be deemed to be a "Non-Qualifying Transaction"); or

- (iv) the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company, or the consummation of a sale of all or substantially all of the Company's assets.

Notwithstanding the foregoing, a Change in Control of the Company shall not be deemed to occur solely because any person acquires beneficial ownership of more than 20% of the Company Voting Securities as a result of the acquisition of Company Voting Securities by the Company which reduces the number of Company Voting Securities outstanding; provided, that if after such acquisition by the Company such person becomes the beneficial owner of additional Company Voting Securities that increases the percentage of outstanding Company Voting Securities beneficially owned by such person, a Change in Control of the Company shall then occur.

"Committee" means the Compensation Committee of the Board.

"Constellation Employee" has the meaning ascribed to such term in the Employee Matters Agreement.

"Constellation Executive Annual Incentive Plan" means such plan or other incentive plan or arrangement designated in writing by the Plan Administrator.

"Constellation Senior Management Annual Incentive Plan" means such plan or other incentive plan or arrangement designated in writing by the Plan Administrator.

"Demotion" means a transfer to a position with the Company or a subsidiary of the Company that either (a) is substantially below the position in which the participant was employed on the date of transfer, or (b) results in a substantial reduction in pay when compared to the participant's pay on the date of the transfer. Whether a position is a substantially below another position shall be determined in the reasonable discretion of the Committee, with reference to factors including whether the participant retains principal responsibility for a department or division, and whether



the participant remains eligible for the perquisites enjoyed by the participant before the position change.

“Early Receipt Reduction Factor” means 100% less .25% for each month that the participant is less than age 62 on the participant’s Benefit Start Date.

“Employee Matters Agreement” means the Employee Matters Agreement between the Company and Exelon, entered into in connection with the Spin-Off.

“Interest Rate” means the rate equal to the average monthly 30-year Treasury bond rate for the second calendar quarter preceding the computation date, less 50 basis points.

“Internal Revenue Code Limitations” means the limitations under Sections 415 and/or 401(a)(17) of the Internal Revenue Code.

“Key Employee” means an employee listed each year by the Company on the Key Employee list as required by Treasury Regulation 1.409A-1(i), which shall generally be comprised of officers, and shall include but not be limited to: the 50 most highly paid officers having annual compensation greater than \$200,000 (as adjusted from time to time); 5% owners; and 1% owners that have annual compensation from the Company greater than \$150,000 (as adjusted from time to time). Key Employees shall be identified as of December 31 of each year, and the Key Employee list shall take effect on April 1 of the year following.

“LTD Plan” means the Constellation Disability Insurance Plan as may be amended from time to time, or any successor plan.

“Mortality Table” means the mortality table used to convert annuities to lump sums in the Pension Plan.

“Nonqualified Deferred Compensation Plan” means the Constellation Nonqualified Deferred Compensation Plan.

“Other Incentive Awards Program” means the program(s) designated in writing by the Plan Administrator applicable to certain employees that provides awards; but includes only the types of awards that are includable in the computation of Pension Plan benefits.

“Pension Plan” means the Pension Plan of Constellation Energy Group, Inc. under the Constellation Employee Pension Plan, as may be amended from time to time, or any successor plan.

“Plan” means this Constellation Supplemental Pension Plan.

“Plan Administrator” means, as set forth in Section 3, the Committee and its designees.

“Rabbi Trust” means any trust adopted by the Company for the purpose (in whole or in part) of supporting the benefit obligations under this Plan.

“Severance from Service Date” means: (i) for benefit amounts earned and vested prior to January 1, 2005, the same as set forth in the Pension Plan; (ii) for benefit amounts earned and vested on or after January 1, 2005, the date that the employee dies, retires,

or otherwise has a termination of employment such that it is reasonably anticipated that the employee will perform no additional services, or the level of bona fide services performed would permanently decrease to no more than 20 percent of the average level of bona fide services performed in the immediately preceding 36-month period.

“Survivor Annuity Percentage” means 50%, unless the participant elects in the timing and manner established by the Plan Administrator, a higher percentage (in multiples of 5% to a total percentage not to exceed 100%).

“Termination From Employment With the Company” means a participant’s separation from service with the Company or a subsidiary of the Company; however, a participant’s retirement, disability, or transfer of employment to or from a subsidiary of the Company shall not constitute a Termination From Employment With the Company.

3. **Plan Administration.** The Vice President, Benefits of the Company is the Plan Administrator and has sole authority (except as specified otherwise herein) to interpret the Plan and, in general, to make all other determinations advisable for the administration of the Plan to achieve its stated objective. Appeals of written decisions by the Plan Administrator may be made to the Company’s Chief Human Resources Officer (“CHRO”). Decisions by the CHRO shall be final and not subject to further appeal. The Plan Administrator shall have the power to delegate all or any part of its duties to one or more designees, and to withdraw such authority, by written designation.
4. **Eligibility.** The officers or key employees of the Company or its subsidiaries designated in Appendix A are participants under the Plan. Participation shall continue until such designation is withdrawn at the discretion and by written order of the Plan Administrator, provided, however, that such withdrawal may not be made for benefits provided pursuant to Sections 5, 6, and 7 with respect to a participant who has satisfied the eligibility requirements to retire (as set forth in Section 5(a)). Notwithstanding the foregoing, any participant while classified as disabled under the LTD Plan shall continue to participate in this Plan while classified as disabled and, for purposes of the supplemental pension benefit provided by this Plan, while classified as disabled, shall be deemed to continue to accrue Credited Service until no later than his/her Normal Retirement Date.

A participant shall be eligible for supplemental pension benefits and supplemental survivor annuity benefits under this Plan only if the participant’s supplemental pension benefits under this Plan are greater than the supplemental pension benefits computed under the Constellation Supplemental Management Retirement Plan based on the participant’s age, service, and eligible compensation on the date as of which benefits become payable.

Notwithstanding anything herein to the contrary, in connection with the Spin-Off and pursuant to the terms of the Employee Matters Agreement, each Constellation Employee who was participating in the Constellation Energy Group, Inc. Supplemental Pension Plan (the “Predecessor Plan”) as of immediately prior to the Spin-Off shall automatically become a participant in this Plan as of the Effective Date.

5. **Supplemental Pension Benefits.**

- (a) **Commencement of benefits.** A participant shall be eligible to retire under this Plan on or after the participant's Normal Retirement Date, or on the first day of any month preceding his/her Normal Retirement Date, if on his/her Severance From Service Date and while a participant he/she has attained (1) age 55 and has accumulated at least 10 years of Credited Service; or (2) age 60 and has accumulated at least one year of Credited Service.
- (b) **Computation of retirement benefits.** A participant who is eligible to retire under this Plan will be entitled to supplemental pension retirement benefits under this Plan, which will be calculated as set forth below on the participant's Benefit Start Date:
- (i) add the Annual Base Salary and the Average Incentive Award,
  - (ii) divide the sum by 26,
  - (iii) multiply this dollar amount by the appropriate percentage, determined as follows: Chairman of the Board - 60%; all other participants (by completed years of Credited Service) 1 through 9 - 3% per year; 10 through 19 - 40%; 20 through 24 - 45%; 25 through 29 - 50%; and 30 or more - 55%,
  - (iv) multiply this dollar amount by the Early Receipt Reduction Factor; provided, however, if the participant is age 62 or older, such factor shall be one (1),
  - (v) subtract from this dollar amount the charges relating to coverage for a preretirement survivor annuity in excess of 50%, and for a post-retirement survivor annuity in excess of 50%, and
  - (vi) subtract from the remainder the net amount payable to the participant under the Pension Plan on the participant's Benefit Start Date, assuming a 50% spousal joint and survivor annuity for a married participant (if the participant is not eligible to commence bi-weekly Pension Plan payments on the participant's Benefit Start Date, the participant's benefit will be unreduced for Pension Plan payments until the date the participant is first eligible to commence bi-weekly Pension Plan payments), or, if the participant elects a lump sum under the PEP provisions of the Pension Plan, the bi-weekly amount that would have been payable under the Pension Plan as a life annuity for a single participant or as a 50% spousal joint and survivor annuity for a married participant, as of the Benefit Start Date under this Plan.
- (c) **Spin-Off.**
- (i) As of the Effective Date, the Company and the Plan shall assume all liabilities under the Predecessor Plan for any benefits under such plan of all Constellation Employees who participated in the Predecessor Plan immediately prior to the Spin-Off, and such benefits shall be administered and paid under the terms of this Plan. All elections made by such participants under the Predecessor Plan prior to the Effective Date will continue to apply and shall be administered under this Plan.

- (ii) As of the Effective Date, the Plan shall assume and honor the terms of all domestic relations orders in effect under the Predecessor Plan in respect of participants who participated in the Predecessor Plan immediately prior to the Spin-Off.
- (iii) Notwithstanding anything herein to the contrary, a participant's service with Exelon and its subsidiaries prior to the Spin-Off shall be taken into account for purposes of determining such participant's service under this Plan.

6. **For Benefits Earned and Vested Prior to January 1, 2005.**

- (a) **Form of payout of retirement benefits.** Each participant entitled to supplemental pension retirement benefits will receive his/her supplemental pension retirement benefits payout in the form of a bi-weekly payment, unless the participant makes a valid election to receive his/her supplemental pension retirement benefits payout in the form of a lump sum.

A participant may elect to receive his/her supplemental pension retirement benefits payout in the form of a lump sum by submitting to the Plan Administrator a signed Lump Sum Election Form. The Form must be received by the Plan Administrator before the beginning of the calendar year during which the participant's Severance From Service Date occurs. The election to receive a payout in the form of a lump sum may be revoked at any time before the beginning of the calendar year during which the participant's Severance From Service Date occurs, by submitting to the Plan Administrator a signed Lump Sum Revocation Form.

- (b) **Amount, timing, and source of bi-weekly retirement benefit payout.** A participant entitled to bi-weekly supplemental pension retirement benefits will receive bi-weekly payments equal to the amount determined under Section 5(b). Such payments shall commence effective with the first of the month following the participant's Severance From Service Date. If such participant receives (or would have received but for the Internal Revenue Code Limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s). Bi-weekly payments hereunder shall permanently cease upon the death of the participant, effective with the bi-weekly payment for the month following the month of the participant's death. Bi-weekly payments hereunder shall be made in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets.
- (c) **Amount, timing, and source of lump sum retirement benefit payout.** A participant entitled to a lump sum supplemental pension retirement benefit will receive a lump sum payment. This lump sum payment will be calculated by a certified actuary and will be equal to the present value of an immediate annuity including the estimated present value of post-retirement supplemental survivor annuity benefits described in Section 8, and reflecting the present value of any deferred Pension Plan payments using (1) the supplemental pension retirement benefit amount calculated under Section 5(b), which is expressed as a bi-weekly amount, (2) the Interest Rate computed on the participant's Benefit Start Date, and (3) the Mortality Table. Such lump sum payment shall be made within 60 days after the participant's Severance From Service Date, and shall either be paid to the participant. The lump sum payment shall be made in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets. A participant who receives a lump sum payment shall not be entitled to any cost of living or other pension payment adjustments or to post-retirement survivor annuity coverage under the Plan.
- (d) **Entitlement to benefit upon happening of certain events.**
- (i) **Computation of gross accrued benefit.** The computation of the gross accrued supplemental pension benefit for a participant as of the date of the computation will be made as follows:
- (1) add the Annual Base Salary and the Average Incentive Award,
  - (2) divide the sum by 26, and
  - (3) multiply this dollar amount by the appropriate percentage, determined as follows: Chairman of the Board - 60%; all other participants (by completed years of Credited Service as of the date of the computation) 1 through 9 - 3% per year; 10 through 19 - 40%; 20 through 24 - 45%; 25 through 29 - 50%; and 30 or more - 55%.
- (ii) **Computation of net accrued benefit.** The computation of the net accrued supplemental pension benefit for a participant as of the date of the computation will be made by subtracting from the gross accrued benefit determined under Section 6(d)(i) the amount of the participant's Gross Pension under the Pension Plan determined as of the date of the computation and assuming that bi-weekly payments of such Gross Pension

begin on the first of the month after the later of reaching age 62 or the date of the computation. If the participant is not eligible for payment of a Gross Pension under the Pension Plan, the participant's Accrued Gross Pension determined as of the date of the computation shall be substituted for the Gross Pension described above, with the appropriate reduction for early receipt applied as if the participant were eligible to begin payment of his Accrued Gross Pension on the first of the month after the later of reaching age 62 or the date of the computation.

- (iii) **Satisfaction of requirements.** A participant who has satisfied the age and Credited Service requirements set forth in Section 5(a) while eligible as set forth in Section 4, but who the Committee determines does not retire under the Plan due to Demotion, Termination From Employment With the Company, or the withdrawal of a participant's eligibility to participate under Section 5, shall be entitled to his/her net accrued supplemental pension benefit. The effective date of the Demotion, Termination From Employment With the Company, or eligibility withdrawal event shall be the date of such Demotion, Termination From Employment With the Company, or eligibility withdrawal.
- (iv) **Other events.** A participant, regardless of his/her age and years of Credited Service, shall be entitled to his/her net accrued supplemental pension benefit upon the happening of any of the following entitlement events, but only if such entitlement event occurs while a participant and before a participant retires under this Plan:
  - (1) **Change in Control.** A Change in Control, followed within two years by the participant's Demotion, a participant's Termination From Employment With the Company, or the withdrawal of the participant's eligibility to participate under the Plan, is an entitlement event. A participant's Termination From Employment is also an entitlement event if it is reasonably demonstrated that such Termination From Employment (a) was at the request of a third party who has taken steps reasonably calculated to effect a Change in Control or (b) otherwise arose in connection with or anticipation of a Change in Control. The effective date of the entitlement event shall be the date of the Demotion, Termination From Employment With the Company, or eligibility withdrawal.
  - (2) **Plan amendment.** A Plan amendment that has the effect of reducing a participant's gross accrued supplemental pension benefit is an entitlement event. In determining whether such a reduction has occurred, the participant's gross accrued supplemental pension benefit calculated on the day immediately preceding the effective date of the amendment shall be compared to the participant's gross accrued supplemental pension benefit calculated on the effective date of the amendment. An amendment that has the effect of reducing future benefit accruals is not an entitlement event. It is intended that an entitlement event under this Section 6(d)(iv)(2) will occur only with respect to those amendments that are substantially similar to amendments that are prohibited by Internal Revenue Code section 411(d)(6) with respect to qualified pension plans. The effective date of the

entitlement event shall be the effective date of the Plan amendment.

- (3) Involuntary Demotion, Termination From Employment With the Company, or eligibility withdrawal without Cause. A participant's involuntary Demotion or involuntary Termination From Employment With the Company without Cause, or the withdrawal of a participant's eligibility to participate in the Plan without Cause, is an entitlement event. The effective date of the entitlement event shall be the effective date of the participant's involuntary Demotion or involuntary Termination From Employment With the Company without Cause, or the eligibility withdrawal without Cause.
- (v) Form of benefit payout. Each participant entitled to a payout under this Section 6(d) will receive such payout in the form of a lump sum payment.
- (vi) Amount, timing, and source of benefit payout. A participant entitled to a payout of his/her net accrued benefit, as a result of the occurrence of an event described in Sections 6(d)(iii) or (iv) will be entitled to a lump sum benefit. This lump sum benefit will be calculated by a certified actuary as the present value, determined as of the date of payment, of an annuity beginning at age 62 (or the participant's actual age, if the participant is older than age 62 on the date the lump sum benefit is payable), including the estimated present value of post-retirement survivor annuity benefits described in Section 8, using (1) the net accrued benefit amount calculated under Section 6(d)(ii) on the effective date of the entitlement event, which is expressed as a bi-weekly amount, (2) the Interest Rate computed on the date the lump sum benefit is payable, and (3) the Mortality Table. The lump sum benefit shall be payable as of the participant's Severance From service Date, and shall be made within 60 days after such date in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets. A participant who receives a lump sum benefit under this Section 6(d)(vi) shall not be entitled to any cost of living or other pension payment adjustments or to preretirement or post-retirement survivor annuity coverage.

7. **For Benefits Earned and Vested On or After January 1, 2005**

- (a) **Form of payout of retirement benefits.**
  - (i) Generally. Each participant entitled to supplemental pension retirement benefits will receive his/her supplemental pension retirement benefits payout in the form of a bi-weekly payment, unless the participant makes a valid election to receive his/her supplemental pension retirement benefits payout in the form of a lump sum.
  - (ii) Initial election of form of payment. A participant may make an initial election to receive his or her payout in the form of a lump sum in the form and manner established by the Plan Administrator from time to time, but such initial election shall be made no later than 30 days after the first day of the participant's taxable year immediately following the first year the participant accrues a benefit under the Plan.

- (iii) Subsequent elections of form of payment. The election to receive a payout in the form of a lump sum may be revoked at any time in the form and manner established by the Plan Administrator from time to time, but such revocation shall not take effect until 12 months after the date the revocation is received by the Plan Administrator, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid.
- (b) **Amount, timing, and source of participant benefit payout.**
  - (i) Bi-weekly retirement benefit payout. A participant entitled to bi-weekly supplemental pension retirement benefits will receive bi-weekly payments equal to the amount determined under Section 5(b). Such payments shall commence effective with the first of the month following the Participant's Severance From Service Date. If such participant receives (or would have received but for the Internal Revenue Code Limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s). Bi-weekly payments hereunder shall permanently cease upon the death of the participant, effective with the bi-weekly payment for the period following the month of the participant's death. Bi-weekly payments hereunder shall be made in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets.
  - (ii) Lump sum retirement benefit payout. A participant entitled to a lump sum supplemental pension retirement benefit will receive a lump sum payment. This lump sum payment will be calculated by a certified actuary and will be equal to the present value of an immediate annuity including the estimated present value of post-retirement supplemental survivor annuity benefits described in Section 8, and reflecting the present value of any deferred Pension Plan payments using (1) the supplemental pension retirement benefit amount calculated under Section 5(b), which is expressed as a bi-weekly amount, (2) the Interest Rate computed on the participant's Benefit Start Date, and (3) the Mortality Table. Such lump sum payment shall be made within 60 days after the participant's Severance From Service Date, and shall be paid to the participant. The lump sum payment shall be made in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets. A participant who receives a lump sum payment shall not be entitled to any cost of living or other pension payment adjustments or to post-retirement survivor annuity coverage under the Plan.
  - (iii) Six-month delay for Key Employees. Notwithstanding the foregoing, a participant who is also a Key Employee shall receive no benefit payments of amounts earned and vested on or after January 1, 2005, before the date that is six months after the participant's Severance From Service Date, where the benefit payment is as a result of Termination from Employment with the Company.



(c) **Entitlement to benefit upon happening of certain events.**

- (i) **Computation of gross accrued benefit.** The computation of the gross accrued supplemental pension benefit for a participant as of the date of the computation will be made as follows:
- (1) add the Annual Base Salary and the Average Incentive Award,
  - (2) divide the sum by 26, and
  - (3) multiply this dollar amount by the appropriate percentage, determined as follows: Chairman of the Board - 60%; all other participants (by completed years of Credited Service as of the date of the computation) 1 through 9 - 3% per year; 10 through 19 - 40%; 20 through 24 - 45%; 25 through 29 - 50%; and 30 or more - 55%.
- (ii) **Computation of net accrued benefit.** The computation of the net accrued supplemental pension benefit for a participant as of the date of the computation will be made by subtracting from the gross accrued benefit determined under Section 7(c)(i) the amount of the participant's Gross Pension under the Pension Plan determined as of the date of the computation and assuming that bi-weekly payments of such Gross Pension begin on the first of the month after the later of reaching age 62 or the date of the computation. If the participant is not eligible for payment of a Gross Pension under the Pension Plan, the participant's Accrued Gross Pension determined as of the date of the computation shall be substituted for the Gross Pension described above, with the appropriate reduction for early receipt applied as if the participant were eligible to begin payment of his Accrued Gross Pension on the first of the month after the later of reaching age 62 or the date of the computation.
- (iii) **Satisfaction of requirements.** A participant who has satisfied the age and Credited Service requirements set forth in Section 5(a) while eligible as set forth in Section 4, but who the Committee determines does not retire under the Plan due to Demotion, Termination From Employment With the Company, or the withdrawal of a participant's eligibility to participate under Section 5, shall be entitled to his/her net accrued supplemental pension benefit. The effective date of the Demotion, Termination From Employment With the Company, or eligibility withdrawal event shall be the date of such Demotion, Termination From Employment With the Company, or eligibility withdrawal.
- (iv) **Other events.** A participant, regardless of his/her age and years of Credited Service, shall be entitled to his/her net accrued supplemental pension benefit upon the happening of any of the following entitlement events, but only if such entitlement event occurs while a participant and before a participant retires under this Plan:
- (1) **Change in Control.** A Change in Control, followed within two years by the participant's Demotion, a participant's Termination From Employment With the Company, or the withdrawal of the participant's eligibility to participate under the Plan, is an entitlement event. A participant's Termination From Employment

is also an entitlement event if it is reasonably demonstrated that such Termination From Employment (a) was at the request of a third party who has taken steps reasonably calculated to effect a Change in Control or (b) otherwise arose in connection with or anticipation of a Change in Control. The effective date of the entitlement event shall be the date of the Demotion, Termination From Employment With the Company, or eligibility withdrawal.

- (2) Plan amendment. A Plan amendment that has the effect of reducing a participant's gross accrued supplemental pension benefit is an entitlement event. In determining whether such a reduction has occurred, the participant's gross accrued supplemental pension benefit calculated on the day immediately preceding the effective date of the amendment shall be compared to the participant's gross accrued supplemental pension benefit calculated on the effective date of the amendment. An amendment that has the effect of reducing future benefit accruals is not an entitlement event. It is intended that an entitlement event under this Section 7(c)(iv)(2) will occur only with respect to those amendments that are substantially similar to amendments that are prohibited by Internal Revenue Code section 411(d)(6) with respect to qualified pension plans. The effective date of the entitlement event shall be the effective date of the Plan amendment.
- (3) Involuntary Demotion, Termination From Employment With the Company, or eligibility withdrawal without Cause. A participant's involuntary Demotion or involuntary Termination From Employment With the Company without Cause, or the withdrawal of a participant's eligibility to participate in the Plan without Cause, is an entitlement event. The effective date of the entitlement event shall be the effective date of the participant's involuntary Demotion or involuntary Termination From Employment With the Company without Cause, or the eligibility withdrawal without Cause.
- (v) Form of benefit payout. Each participant entitled to a payout under this Section 7(c) will receive such payout in the form elected pursuant to Section 7(a).
- (vi) Amount, timing, and source of benefit payout. The benefit payout under this Section 7(c) shall be payable as of the participant's Severance From Service Date, and shall be paid in accordance with Sections 7(b)(i),(ii) and (iii), as applicable.

8. **Survivor Benefits.**

- (a) **Eligibility for survivor benefits.** Following the death of a participant who is fully vested under the Pension Plan, a survivor benefit may be paid to the participant's surviving spouse. For purposes of this Section 8(a), a participant's surviving spouse is the individual married to the participant on the date of the participant's death. If there is no surviving spouse, no survivor benefits will be payable.
- (b) **Form of payout of survivor benefits.**
- (i) **For participants entitled to a lump sum benefit payment:** All survivor benefits for participants entitled to a lump sum benefit payment shall be paid in the form of a lump sum payment.
- (ii) **For participants entitled to a bi-weekly annuity benefit payment:** A supplemental survivor annuity may be paid to the participant's surviving spouse until the death of that spouse, using the Survivor Annuity Percentage. The survivor annuity benefit will be 50%, unless the participant elects, in the form and manner established by the Plan Administrator from time to time, another percentage in 5% increments up to 100%. The participant will not bear the cost of up to a 50% survivor annuity benefit, but will bear the cost of a survivor annuity benefit in excess of 50%.
- (1) **For benefits earned and vested prior to January 1, 2005:** Unless the participant made a valid election to have the survivor benefits paid in a lump sum, by December 31 of the year prior to his/her death or during the 2001 initial election period established by the Plan Administrator, each surviving spouse entitled to a supplemental survivor annuity benefit will receive his/her survivor annuity benefit payout in the form of a bi-weekly payment.
- (2) **For benefits earned and vested on or after January 1, 2005:**
- (a) **Initial election:** A participant may make an initial election of lump sum survivor benefits in the form and manner established by the Plan Administrator from time to time, but such initial election shall be made no later than 30 days after the first day of the participant's taxable year immediately following the first year the participant accrues a benefit under the Plan.
- (b) **Subsequent elections:** The election of lump sum survivor benefits may be revoked at any time in the form and manner established by the Plan Administrator from time to time, but such revocation shall not take effect until 12 months after the date the revocation is received by the Plan Administrator, and will delay the benefit commencement date five years from the date such payment would otherwise have been paid.

(c) **Pre-retirement survivor benefits: Amount, timing, and source of benefit payout.** If the participant dies prior to his Severance from Service Date, the participant's surviving spouse shall be entitled to either a lump sum or bi-weekly annuity benefit, as set forth below.

(i) **Death of a participant entitled to a lump sum benefit payout.** In the event of the death of a participant who elected a lump sum supplemental pension benefit, the participant's surviving spouse will receive a lump sum payment. The lump sum payment shall be the same amount and made at the same time and from the same sources as set forth in Section 6(c) or (7)(b)(ii), as applicable. Such lump sum payment shall be made within 60 days after the participant's death.

Notwithstanding the foregoing, in the event of the death of a participant after the occurrence of an event described in Sections 6(d)(iii) or (iv) or 7(c)(iii) or (iv) and before the participant receives the lump sum payment under Sections 6(d)(vi) or 7(c)(vi), a lump sum payment shall be made to the participant's surviving spouse (as defined in Section 8(a)). If the participant's date of death is before his/her Severance From Service Date, the lump sum payment shall be calculated by a certified actuary and will be equal to 50% of the lump sum that would have been paid to the participant under Sections 6(d)(vi) or 7(c)(vi). The lump sum benefit shall be payable as of the earlier of the participant's Severance From Service Date or date of death, and shall be made within 60 days after such date.

Any lump sum paid under this Section shall be paid in accordance with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets.

If there is no surviving spouse at the date of the participant's death, no payments shall be made. In the event of the death of a surviving spouse before the spouse receives the lump sum payment under this paragraph, no payment shall be made. A surviving spouse who receives a lump sum benefit shall not be entitled to any cost of living or other pension payment adjustments or to pre-retirement or post-retirement survivor annuity coverage under the Plan.

(ii) **Death of a participant entitled to a bi-weekly retirement benefit payout.**

(1) If the participant elected a lump sum survivor benefit, the benefit shall be paid as set forth in 8(c)(i) above.

(2) If the participant elected a bi-weekly annuity survivor benefit payment, the benefit shall be paid as set forth below.

(a) Computation of the benefit: Unless the participant elected the alternative in-service death benefit in paragraph (b) below:

(i) begin with the bi-weekly Early Retirement pension benefit (under both the Pension Plan and Section 5(b) of this Plan) to which the participant would have been entitled if the participant had been retired at the later of age 60 or his/her actual age on the

date of death for purposes of computing the Early Receipt Reduction Factor,

- (ii) multiply this dollar amount by the Survivor Annuity Percentage,
  - (iii) subtract from the product the net amount, if any, of the survivor annuity provided on behalf of the participant under the Pension Plan if the participant is participating in the Traditional Pension Plan, or the bi-weekly annuity that would have been provided to the participant's spouse assuming that he or she had been designated as the participant's beneficiary and had chosen to receive a survivor benefit in the form of a bi-weekly annuity, if the participant is participating in the PEP, and
  - (iv) subtract from this dollar amount the charges relating to coverage (under both the Pension Plan and this Plan) for a pre-retirement survivor annuity in excess of 50%.
- (b) If the participant was a participant in the Pension Equity Plan option of the Pension Plan and elected this alternative in-service death benefit by December 31 of the year prior to his/her death or during the 2001 initial election period established by the Plan Administrator
- (i) calculate the benefit under the Constellation Benefits Restoration Plan that would have been payable to the surviving spouse if the participant were a participant in that plan and
  - (ii) that dollar amount will be paid to the surviving spouse only in the form of a lump sum from this Plan.
- (c) A surviving spouse entitled to bi-weekly supplemental survivor annuity benefits will receive a bi-weekly payment equal to the amount determined under (a) or (b) above. Such payments shall commence effective with the first day of the month following the month of the participant's death. If such surviving spouse receives (or would have received but for the Internal Revenue Code Limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s). Bi-weekly payments hereunder shall permanently cease upon the death of the surviving spouse, effective with the first bi-weekly payment for the month following the month of the surviving spouse's death. Bi-weekly payments hereunder shall be made in accordance with the provisions of the Rabbi Trust and, to the extent not

paid under the terms of the Rabbi Trust, from general corporate assets

- (d) **Post-retirement survivor benefits: Amount, timing, and source of benefits payout.** If the participant dies after the participant's Severance from Service Date, the participant's surviving spouse shall be entitled to either a lump sum or bi-weekly annuity benefit, as set forth below.
- (i) **Death of a participant entitled to a lump sum benefit payout.** In the event of the death of a participant after the participant's Severance From Service Date and before the participant receives the lump sum payment under Section 6(c) or 7(b)(ii), such lump sum payment shall be made to the participant's surviving spouse (as defined in Section 8(a)). The lump sum payment shall be the same amount and made at the same time and from the same sources as set forth in Section 6(c) or 7(b)(ii). If there is no surviving spouse at the date of the participant's death, no payments shall be made. A surviving spouse who receives a lump sum benefit under this Section 8(d)(i) shall not be entitled to any cost of living or other pension payment adjustments or to post-retirement survivor annuity coverage under the Plan.
- (ii) **Death of a participant entitled to a bi-weekly retirement benefit payout.**
- (1) If the participant elected a lump sum survivor benefit, the benefit shall be paid as set forth in 8(d)(i) above.
- (2) If the participant elected a bi-weekly annuity survivor benefit payment, the benefit shall be paid as set forth below.
- (a) **Computation of the benefit.** The amount of the survivor annuity will be determined as follows:
- (i) begin with the bi-weekly pension benefit (under Section 5(b) of this Plan) that the participant was receiving prior to the date of death, and
- (ii) multiply this dollar amount by the Survivor Annuity Percentage.
- (b) A surviving spouse entitled to bi-weekly supplemental survivor annuity benefits will receive a bi-weekly payment equal to the amount determined under (a) above. Such payments shall commence effective with the first day of the month following the month of the participant's death. If such surviving spouse receives (or would have received but for the Internal Revenue Code Limitations) cost of living adjustment(s) under the Pension Plan, the bi-weekly payments hereunder will be automatically increased based on the percentage of, and at the same time as, such adjustment(s). Bi-weekly payments hereunder shall permanently cease upon the death of the surviving spouse, effective with the first bi-weekly payment for the month following the month of the surviving spouse's death. Bi-weekly payments hereunder shall be made in accordance

with the provisions of the Rabbi Trust and, to the extent not paid under the terms of the Rabbi Trust, from general corporate assets.

9. **Compliance with Section 409A of the Code.** This Plan is intended to comply and shall be administered in a manner that is intended to comply with section 409A of the Code and shall be construed and interpreted in accordance with such intent. To the extent that an Award, issuance and/or payment is subject to section 409A of the Code, it shall be awarded and/or issued or paid in a manner that will comply with section 409A of the Code, including proposed, temporary or final regulations or any other guidance issued by the Secretary of the Treasury and the Internal Revenue Service with respect thereto. Any provision of this Plan that would cause an Award, issuance and/or payment to fail to satisfy section 409A of the Code shall have no force and effect until amended to comply with Code section 409A (which amendment may be retroactive to the extent permitted by applicable law).
10. **Miscellaneous.** None of the benefits provided under this Plan shall be subject to alienation or assignment by any participant or beneficiary nor shall any of them be subject to attachment or garnishment or other legal process except (i) to the extent specially mandated and directed by applicable State or Federal statute; or (ii) as requested by the participant or beneficiary to satisfy income tax withholding or liability.

This Plan may be amended from time to time, or suspended or terminated at any time, provided, however, except as set forth in Sections 6(d)(iv)(2) or 7(c)(iv)(2), no amendment or termination shall reduce any previously accrued supplemental pension benefit under this Plan or impair the rights of any participant or beneficiary entitled to receive current or future payment hereunder at the time of such action. All amendments to this Plan may be made at the written direction of the Committee. Notwithstanding anything else in this Plan to the contrary, and subject to the limitations of applicable law, the Board may authorize a participant to be eligible for benefits or may increase benefit payments.

Participation in this Plan shall not constitute a contract of employment between the Company or any of its subsidiaries and any person and shall not be deemed to be consideration for, or a condition of, continued employment of any person.

In the event the Company becomes a party to a merger, consolidation, sale of substantially all of its assets or any other corporate reorganization in which the Company will not be the surviving corporation or in which the holders of the common stock of the Company will receive securities of another corporation (in any such case, the "New Company"), then the New Company shall assume the rights and obligations of the Company under this Plan.

This Plan shall be governed in all respects by Pennsylvania law, without respect to any conflicts of law principles.

**Constellation Energy Corporation**  
**2022 Long-Term Incentive Plan**

(Effective February 1, 2022)

**I. INTRODUCTION**

**1.1 Purposes.** The purposes of the Constellation Energy Corporation 2022 Long-Term Incentive Plan (this “**Plan**”) are (i) to align the interests of the Company’s stockholders and recipients of awards under this Plan by increasing the proprietary interest of such recipients in the growth and success of the Company and its Subsidiaries with which such recipients are employed, (ii) to advance the interests of the Company and its Subsidiaries by attracting and retaining Employees and Non-Employee Directors and (iii) to motivate such persons to act in the long-term best interests of the Company and its Subsidiaries, and the stockholders of the Company.

**1.2 Certain Definitions.**

“**Affiliate**” means any Person (including a Subsidiary) that directly or indirectly controls, is controlled by, or is under common control with, the Company. For purposes of this definition the term “control” with respect to any Person means the power to direct or cause the direction of management or policies of such Person, directly or indirectly, whether through the ownership of Voting Securities, by contract or otherwise.

“**Assumed Spin-Off Award**” means an award held by a current or former employee or director of the Company, Exelon Corporation or their respective subsidiaries that was initially granted under an equity compensation plan maintained by Exelon Corporation and has been assumed by the Company in connection with the Spin-Off, pursuant to the terms of the Employee Matters Agreement between the Company and Exelon Corporation, entered into in connection with the Spin-Off.

“**Award**” means an Option, a Restricted Stock award, a Stock Appreciation Right award, a Performance Share award, a Performance Stock Unit award, a Dividend Equivalents award, a Stock Payment award, a Deferred Stock Unit award, a Restricted Stock Unit award, a Performance Bonus Award, or a Performance-Based Award granted to a Participant pursuant to the Plan, including an Assumed Spin-Off Award.

“**Award Terms**” means a written award instrument between the Company and the recipient of an award and/or an award program document that has been communicated to recipients of awards, in each case which sets forth the terms of the award granted under the Plan.

“**Beneficial Owner**” means such term as defined in Rule 13d-3 under the Exchange Act.

“**Board**” means the Board of Directors of the Company.

“**Cause**” means (a) with respect to an Employee whose position is at least salary band E09 (or its equivalent), the meaning of such term as defined in the Constellation Energy Corporation Senior Management Severance Plan as in effect from time to time, or any successor plan or arrangement thereto, or (b) with



respect to any other Employee, the meaning of such term as defined in the Constellation Energy Corporation Severance Benefit Plan as in effect from time to time, or any successor plan thereto, regardless of whether such Employee is eligible to participate in such plan.

“**Change in Control**” has the meaning set forth in Section 6.8(b).

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Committee**” means (i) in the case of awards granted to Employees, the Compensation Committee of the Board (or any successor committee thereto) and (ii) in the case of awards granted to Non-Employee Directors, the Corporate Governance Committee of the Board (or any successor committee thereto); **provided** that in either case the Board may appoint another committee consisting of two or more members of the Board, each of whom may be (i) a “Non-Employee Director” within the meaning of Rule 16b-3 under the Exchange Act, and (ii) “independent” within the meaning of the rules of the principal national stock exchange on which the Common Stock is traded. References in the Plan to the “Committee” shall include any officer of the Company to whom the Committee has delegated its authority pursuant to Section 1.3(d).

“**Common Stock**” means the common stock, without par value, of the Company.

“**Company**” means Constellation Energy Corporation, a Pennsylvania corporation.

“**Company Plan**” has the meaning set forth in Section 6.8(b)(i).

“**Corporate Transaction**” has the meaning set forth in Section 6.8(a).

“**Deferred Stock Unit**” means a right to receive as of a designated future date one share of Common Stock or, in lieu thereof, the Fair Market Value of such share of Common Stock in cash, which is not subject to a Restriction Period or other vesting conditions.

“**Deferred Stock Unit Award**” means an award of Deferred Stock Units under this Plan.

“**Disability**” has the meaning specified in any long term disability plan maintained by the Company in which an Employee is eligible to participate; **provided** that a Disability shall not be deemed to have occurred until the Company and the Subsidiaries have terminated such Participant’s employment in connection with such disability, and the Participant has commenced the receipt of long-term disability benefits under such plan. If an Employee is not eligible to participate in a long-term disability plan maintained by the Company, then Disability means a termination of such Participant’s employment by the Company and the Subsidiaries due to the inability of such Participant to perform the essential functions such Participant’s position, with or without reasonable accommodation, for a continuous period of at least twelve months, as determined solely by the Committee.

“**Dividend Equivalent**” means an amount equal to the amount of dividends that would be paid on the number of shares of Common Stock subject to a Stock Award or Deferred Stock Unit Award (but not an Option or SAR) if such shares

were issued and outstanding. Dividend Equivalents earned with respect to an award granted pursuant to this Plan shall become earned, vested and payable only if and to the extent the underlying award becomes earned, vested and payable.

**“Employee”** means any common law employee of the Company or a Subsidiary; provided that the term “Employee” shall not include any person rendering services under an arrangement designating him or her as an independent contractor, leased employee, temporary employee, consultant or a person otherwise designated by the Committee, the Company or a Subsidiary at the time of hire or such later time as not eligible to participate in or receive benefits under the Plan or not on such entity’s payroll, even if such ineligible person is subsequently determined to be a common law employee of the Company or a Subsidiary or otherwise an employee by any governmental or judicial authority. Unless otherwise determined by the Committee in its sole and absolute discretion, for purposes of the Plan, an Employee shall be considered to have terminated employment and to have ceased to be an Employee if his or her employer ceases to be a Subsidiary, even if he or she continues to be employed by such employer.

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended.

**“Fair Market Value”** means the closing market price of a share of Common Stock as reported on the principal national stock exchange on which the Common Stock is traded on the date as of which such value is being determined or, if there shall be no reported transactions for such date, on the next preceding date for which transactions were reported; provided, however, that the Company may in its discretion use the closing market price of a share of Common Stock on the day preceding the date as of which such value is being determined to the extent the Committee determines such method is more practical for administrative purposes, such as for purposes of tax withholding. If the Common Stock is not listed on a national stock exchange or if Fair Market Value for any date cannot be so determined, Fair Market Value shall be determined by the Committee by whatever means or method as the Committee, in the good faith exercise of its discretion, shall at such time deem appropriate and in accordance with Section 409A of the Code.

**“Free-Standing SAR”** means an SAR which is not granted in tandem with, or by reference to, an Option, which entitles the holder thereof to receive, upon exercise, shares of Common Stock (which may be Restricted Stock), cash or a combination thereof with an aggregate value equal to the excess of the Fair Market Value of one share of Common Stock on the date of exercise over the base price of such SAR, multiplied by the number of such SARs which are exercised.

**“Incentive Stock Option”** means an Option that is intended to meet the requirements of Section 422 of the Code, or any successor provision.

**“Incumbent Board”** has the meaning set forth in Section 6.8(b)(ii).

**“Non-Employee Director”** means any director of the Company who is not an Employee of the Company or any Subsidiary.

**“Nonqualified Stock Option”** means an Option which is not intended to be an Incentive Stock Option or an Incentive Stock Option that has been disqualified.

“**Option**” means a right granted to a Participant under the Plan allowing such Participant to purchase shares of Common Stock at such price(s) and during such period(s) as the Committee shall determine, which may be an Incentive Stock Option or a Nonqualified Stock Option.

“**Participant**” means an Employee or a Non-Employee Director who is selected by the Committee or its delegate from time to time in its sole discretion to receive an award under the Plan.

“**Performance Measures**” means the criteria and objectives, established by the Committee, which shall be satisfied or met (i) as a condition to the grant or exercisability of all or a portion of an Option or SAR or (ii) during the applicable Restriction Period or Performance Period as a condition to the vesting of the Participant’s interest, in the case of a Restricted Stock Award, of the shares of Common Stock subject to such award, or, in the case of a Restricted Stock Unit Award or Performance Unit Award, to the Participant’s receipt of the shares of Common Stock subject to such award or of payment with respect to such award. Such criteria and objectives may include, without limitation, one or more of the following measures, each of which may be based on absolute standards or peer industry group comparatives and may be applied at various organizational levels (e.g., corporate, business unit, division): (1) cumulative shareholder value added (SVA), (2) customer satisfaction, (3) revenue, (4) primary or fully-diluted earnings per share of Common Stock, (5) net income, (6) total shareholder return, (7) earnings before interest and taxes (EBIT), (8) cash flow, including operating cash flows, free cash flow, discounted cash flow return on investment and cash flow in excess of cost of capital, or any combination thereof, (9) economic value added, (10) return on equity, (11) return on capital, (12) return on assets, (13) net operating profits after taxes, (14) stock price increase, (15) return on sales, (16) debt to equity ratio, (17) payout ratio, (18) asset turnover, (19) ratio of share price to book value of shares, (20) price/earnings ratio, (21) employee satisfaction, (22) diversity, (23) market share, (24) operating income, (25) pre-tax income, (26) safety, (27) diversification of business opportunities, (28) expense ratios, (29) total expenditures, (30) completion of key projects, (31) dividend payout as percentage of net income, (32) earnings before interest, taxes, depreciation and amortization (EBITDA), or (33) any individual performance objective related to the Company, any Subsidiary or the Company’s or Subsidiary’s business. Such individual performance measures related to the Company, a Subsidiary or the Company’s or Subsidiary’s business may include, without limitation: (A) production-related factors such as generating capacity factor, performance against the INPO index, generating equivalent availability, heat rates and production cost, (B) customer satisfaction, reliability and cost, (C) customer service-related factors such as customer satisfaction, service levels and responsiveness and bad debt collections or losses, and (D) relative performance against other similar companies in targeted areas. The measures may be weighted differently for Participants based on their management level and the extent to which their responsibilities are primarily corporate or business unit-related, and may be based in whole or in part on the performance of the Company, a Subsidiary, division and/or other operational unit under one or more of such measures. The Committee, in its sole discretion, may amend or adjust the Performance Measures or other terms and conditions of an outstanding award in recognition of unusual or nonrecurring events affecting the Company or its financial statements or changes in law or accounting principles.

**“Performance Period”** means any period designated by the Committee during which (i) the Performance Measures applicable to an award shall be measured and (ii) the conditions to vesting applicable to an award shall remain in effect.

**“Performance Share Award”** means an award of Performance Shares under this Plan.

**“Performance Share”** means a means a right to receive, contingent upon the attainment of specified Performance Measures within a specified Performance Period and the expiration of any applicable Restriction Period, one share of Common Stock or, in lieu thereof, the Fair Market Value of such share of Common Stock in cash.

**“Performance Unit”** means a right to receive, contingent upon the attainment of specified Performance Measures within a specified Performance Period and the expiration of any applicable Restriction Period, a specified cash amount or, in lieu thereof, shares of Common Stock having a Fair Market Value equal to such cash amount.

**“Performance Unit Award”** means an award of Performance Units under this Plan.

**“Person”** means any individual, sole proprietorship, partnership, joint venture, limited liability company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, entity or government instrumentality, division, agency, body or department.

**“Plan”** has the meaning set forth in Section 1.1.

**“Restricted Stock”** means shares of Common Stock which are subject to a Restriction Period and which may, in addition thereto, be subject to the attainment of specified Performance Measures within a specified Performance Period.

**“Restricted Stock Award”** means an award of Restricted Stock under this Plan.

**“Restricted Stock Unit”** means a right to receive one share of Common Stock or, in lieu thereof, the Fair Market Value of such share of Common Stock in cash, which shall be contingent upon the expiration of a specified Restriction Period and which may, in addition thereto, be contingent upon the attainment of specified Performance Measures within a specified Performance Period.

**“Restricted Stock Unit Award”** means an award of Restricted Stock Units under this Plan.

**“Restriction Period”** means any period designated by the Committee during which (i) the Common Stock subject to a Restricted Stock Award may not be sold, transferred, assigned, pledged, hypothecated or otherwise encumbered or disposed of, except as provided in this Plan or the Award Terms relating to such award, or (ii) the conditions to vesting applicable to a Restricted Stock Unit Award shall remain in effect.

**“Restrictive Covenant”** has the meaning set forth in Section 2.4(f).

**“Retirement”** means the retirement of an Employee from employment with the Company and the Subsidiaries on or after attaining at least age 55 and completing at least ten years of service with the Company and its Subsidiaries including, with respect to Participants who were employed immediately prior to the Spin-Off by Exelon Corporation or one of its Subsidiaries and employed immediately after the Spin-Off by the Company or one of its Subsidiaries, years of service with Exelon Corporation and its Subsidiaries.

**“SAR”** means a stock appreciation right, which may be a Free-Standing SAR or a Tandem SAR.

**“SEC Person”** means any person (as such term is used in Rule 13d-5 under the Exchange Act) or group (as such term is defined in Sections 3(a)(9) and 13(d)(3) of the Exchange Act), other than (i) the Company or an Affiliate, or (ii) any employee benefit plan (or any related trust) of the Company or any of its Affiliates.

**“Spin-Off”** means the distribution of shares of Stock to the stockholders of Exelon Corporation Inc. in 2022 pursuant to the Separation Agreement between the Company and Exelon Corporation, entered into in connection with such distribution.

**“Stock Award”** means a Restricted Stock Award, a Restricted Stock Unit Award, or a Performance Share Award.

**“Subsidiary”** means any corporation, limited liability company, partnership, joint venture or similar entity in which the Company or Exelon Corporation, as the case may be, owns, directly or indirectly, an equity interest possessing more than 50% of the combined voting power of the total outstanding equity interests of such entity.

**“Tandem SAR”** means an SAR which is granted in tandem with, or by reference to, an Option (including a Nonqualified Stock Option granted prior to the date of grant of the SAR), which entitles the holder thereof to receive, upon exercise of such SAR and surrender for cancellation of all or a portion of such Option, shares of Common Stock (which may be Restricted Stock), cash or a combination thereof with an aggregate value equal to the excess of the Fair Market Value of one share of Common Stock on the date of exercise over the base price of such SAR, multiplied by the number of shares of Common Stock subject to such Option, or portion thereof, which is surrendered.

**“Tax Date”** has the meaning set forth in Section 6.5.

**“Voting Securities”** means with respect to a corporation, securities of such corporation that are entitled to vote generally in the election of directors of such corporation.

**“10% Holder”** has the meaning set forth in Section 2.2(a).

**“20% Owner”** has the meaning set forth in Section 6.8(b)(i).

### 1.3 Administration.

- (a) Awards to Employees. Awards granted to Employees under this Plan shall be administered by the Committee. Any one or a combination of the following awards may be granted under this Plan to eligible Employee Participants: (i) Options, (ii) SARs, (iii) Stock Awards, (iv) Performance Units and (v) Deferred Stock Units. Such Committee shall, subject to the terms of this Plan, determine eligible persons for participation in this Plan and determine the form, amount and timing of each award to such persons and, if applicable, the number of shares of Common Stock, the number of SARs, the number of Restricted Stock Units, the number of Deferred Stock Units and the number of Performance Units subject to such an award, the exercise price or base price associated with the award, the time and conditions of exercise or settlement of the award and all other terms and conditions of the award, including, without limitation, the form of the Award Terms evidencing the award.
- (b) Awards to Non-Employee Directors. Awards granted to Non-Employee Directors under this Plan shall be administered by the Committee. Any one or a combination of the following awards may be granted under this Plan to Non-Employee Directors: (i) Options in the form of Nonqualified Stock Options, (ii) SARs, (iii) Stock Awards, (iv) Performance Units and (v) Deferred Stock Units. Such Committee shall, subject to the terms of this Plan, determine the form, amount and timing of each award to such persons and, if applicable, the number of shares of Common Stock, the number of SARs, the number of Restricted Stock Units, the number of Deferred Stock Units and the number of Performance Units subject to such an award, the exercise price or base price associated with the award, the time and conditions of exercise or settlement of the award and all other terms and conditions of the award, including, without limitation, the form of the Award Terms evidencing the award.
- (c) Acceleration or Modification of Awards. The Committee may, in its sole discretion and for any reason at any time, take action such that (i) any or all outstanding Options and SARs shall become exercisable in part or in full, (ii) all or a portion of the Restriction Period applicable to any outstanding Restricted Stock or Restricted Stock Units shall lapse, (iii) all or a portion of the Performance Period applicable to any outstanding Performance Share Award or Performance Units shall lapse and (iv) the Performance Measures (if any) applicable to any outstanding award shall be deemed to be satisfied at the target or any other level not exceeding the maximum allowable under its terms. The Committee shall, subject to the terms of this Plan, interpret this Plan and the application thereof, establish rules and regulations it deems necessary or desirable for the administration of this Plan and may impose, incidental to the grant of an award, conditions with respect to the award, such as limiting competitive employment or other activities. All such interpretations, rules, regulations and conditions shall be conclusive and binding on all parties.
- (d) Delegation Authority. The Committee may delegate some or all of its power and authority hereunder to the Board or, with respect to awards granted to Employees and subject to applicable law, to the Chief Executive Officer or other officer of the Company as the Committee deems appropriate; provided, however, that (i) the Committee may not delegate its power and authority to the Chief Executive Officer or other officer of the Company with regard to the selection for participation in this

Plan of an officer or other person subject to Section 16 of the Exchange Act, or decisions concerning the timing, pricing or amount of an award to such an officer, director or other person and (ii) the awards granted by the Chief Executive Officer or other officer pursuant to such delegation shall not exceed the limits set forth in Section 1.6(a) and 1.6(b).

- (e) **No Liability.** No member of the Board or Committee, and neither the Chief Executive Officer nor any other officer to whom the Committee delegates any of its power and authority hereunder, shall be liable for any act, omission, interpretation, construction or determination made in connection with this Plan in good faith, and the members of the Board and the Committee and the Chief Executive Officer or other officer shall be entitled to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including attorneys' fees) arising therefrom to the full extent permitted by law (except as otherwise may be provided in the Company's Articles of Incorporation and/or Bylaws) and under any directors' and officers' liability insurance that may be in effect from time to time.
- (f) **Quorum.** A majority of the Committee shall constitute a quorum. The acts of the Committee shall be either (i) acts of a majority of the members of the Committee present at any meeting at which a quorum is present or (ii) acts approved in writing by all of the members of the Committee without a meeting.

**1.4 Eligibility.** Participants in this Plan shall consist of such Employees, Non-Employee Directors and persons expected to become Employees or Non-Employee Directors as the Committee in its sole discretion may select from time to time and subject to any such additional conditions as the Company may require from time to time (including, but not limited to, with respect to Employees, execution of Restrictive Covenants). The Committee's selection of a person to participate in this Plan at any time shall not require the Committee to select such person to participate in this Plan at any other time. For purposes of this Plan, references to employment by the Company shall also mean employment by a Subsidiary.

**1.5 Shares Available.**

- (a) Subject to adjustment as provided in Section 6.7, the aggregate number of shares of Common Stock available for all awards granted under the Plan, including the aggregate number of shares of Stock subject to all Assumed Spin-Off Awards, shall be 20,000,000 shares, reduced by (iii) the sum of the aggregate number of shares of Common Stock which become subject to outstanding Options, outstanding Free-Standing SARs and outstanding Stock Awards and Deferred Stock Units granted under the Plan and shares of Common Stock delivered upon the settlement of Performance Units granted under the Plan.
- (b) To the extent that shares of Common Stock subject to an outstanding award granted under the Plan or any Assumed Spin-Off Award are not issued or delivered by reason of (i) the expiration, termination, cancellation or forfeiture of such award (excluding shares subject to an option cancelled upon settlement in shares of a related tandem SAR or shares subject to a tandem SAR cancelled upon exercise of a related option) or (ii) the settlement of such award in cash, then such shares of

Common Stock shall again be available under this Plan. In addition, shares of Common Stock that are tendered or withheld to satisfy any tax withholding obligations with respect to an award granted under this Plan or any Assumed Spin-Off Award, other than an option or a stock appreciation right, shall increase the number of shares available for future grants under this Plan. For the avoidance of doubt, the following shares of Common Stock shall not become available again for future grants under this Plan: (i) any shares that are withheld by the Company or tendered by a Participant (by actual delivery or attestation) on or after the effective date of this Plan to pay the exercise price of an Option or to satisfy tax withholding obligations with respect to an Option or SAR; and (ii) any shares that were subject to a stock-settled SAR that were not issued upon its exercise; and (iii) any shares that were purchased by the Company on the open market with the proceeds from the exercise of an Option on or after the effective date of this Plan. Shares of Common Stock to be delivered under this Plan shall be made available from authorized and unissued shares of Common Stock, or authorized and issued shares of Common Stock reacquired and held as treasury shares or otherwise or a combination thereof.

- 1.6 **Award Limits.** The aggregate value of cash compensation and the grant date fair value of equity-based compensation awards that may be granted in any single year to any Non-Employee Director, as determined under applicable accounting standards used by the Company, shall not exceed \$600,000, or \$900,000 for any Non-Employee Director serving as independent chair of the Board.
- 1.7 **Minimum Vesting Requirements.** All awards granted under the Plan (not including Assumed Spin-Off Awards) shall be granted subject to a minimum Restriction Period of at least twelve (12) months, such that no such awards shall vest or otherwise become exercisable in whole or in part prior to the first anniversary of the applicable grant date; provided, however, the Committee may grant any such awards without regard to the foregoing minimum vesting requirement with respect to a maximum of five percent (5%) of the shares of Common Stock initially reserved for issuance under the Plan. This Section 1.7 shall not restrict the right of the Committee to accelerate or continue the vesting or exercisability of an award upon or after a Change in Control or termination of employment or service or otherwise pursuant to Section 1.3(c) of the Plan.
- 1.8 **Clawback.** All awards granted under the Plan shall be subject to the Company's policies on the clawback or recoupment of gains realized from any awards as may be in effect from time to time.

## II. STOCK OPTIONS AND STOCK APPRECIATION RIGHTS

- 2.1 **Stock Options.** The Committee may grant Options to purchase shares of Common Stock to any Participant; provided, however, that Incentive Stock Options may only be granted to Employees. Each Option, or portion thereof, that is not an Incentive Stock Option, shall be a Nonqualified Stock Option. Each Option shall be granted within 10 years after the date on which this Plan is approved by the Board. To the extent that the aggregate grant date Fair Market Value of shares of Common Stock with respect to which Options designated as Incentive Stock Options are exercisable for the first time by a Participant during any calendar year (under this Plan or any other plan of the Company, or any parent or Subsidiary) exceeds the amount (currently \$100,000) established by the Code, such Options shall constitute Nonqualified Stock Options.



2.2 **Terms.** Options shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable:

- (a) **Number of Shares and Purchase Price.** The number of shares of Common Stock subject to an Option and the purchase price per share of Common Stock purchasable upon exercise of the Option shall be determined by the Committee; provided, however, that the purchase price shall not be less than 100% of the Fair Market Value of a share of Common Stock on the date of grant of such Option; provided further, that if an Incentive Stock Option shall be granted to any person who, at the time such Option is granted, owns capital stock possessing more than 10% of the total combined voting power of all classes of capital stock of the Company (or of any parent or Subsidiary) (a "**10% Holder**"), the purchase price per share of Common Stock shall not be less than the price (currently 110% of Fair Market Value) required by the Code in order to constitute an Incentive Stock Option.
- (b) **Option Period and Exercisability.** Subject to Section 1.7, the period during which an Option may be exercised shall be determined by the Committee; provided, however, that no Option shall be exercised later than 10 years after its date of grant; provided further, that if an Incentive Stock Option shall be granted to a 10% Holder, such Option shall not be exercised later than five years after its date of grant. The Committee may, in its discretion, determine that an Option is to be granted with applicable Performance Period and Performance Measures which shall be satisfied or met as a condition to the grant of such Option or to the exercisability of all or a portion of such Option. The Committee shall determine whether an Option shall become exercisable in cumulative or non-cumulative installments and in part or in full at any time. An exercisable Option, or portion thereof, may be exercised only with respect to whole shares of Common Stock.
- (c) **Method of Exercise.** An Option may be exercised (i) by giving notice to the Company or its representative, or by using other methods of notice as the Committee shall adopt, specifying the number of whole shares of Common Stock to be purchased and accompanying such notice with payment therefor in full, and without any extension of credit, either (A) in cash, (B) by delivery (either actual delivery or by attestation procedures established by the Company) to the Company of previously owned whole shares of Common Stock having a Fair Market Value, determined as of the date of exercise, equal to the aggregate purchase price payable by reason of such exercise, (C) authorizing the Company to withhold whole shares of Common Stock which would otherwise be delivered having an aggregate Fair Market Value, determined as of the date of exercise, equal to the amount necessary to satisfy such obligation, (D) except as may be prohibited by applicable law, in cash by a broker-dealer acceptable to the Company to whom the optionee has submitted an irrevocable notice of exercise or (E) a combination of (A), (B) and (C), in each case to the extent set forth in the Award Terms relating to the Option, (ii) if applicable, by surrendering to the Company or its representative any Tandem SARs which are cancelled by reason of the exercise of the Option and (iii) by executing such documents as the Company or its representative may reasonably request. Any fraction of a share of

Common Stock which would be required to pay such purchase price shall be disregarded and the remaining amount due shall be paid in cash by the optionee. No shares of Common Stock shall be issued until the full purchase price therefor and any withholding taxes thereon, as described in Section 6.5, have been paid.

2.3 **Stock Appreciation Rights.** The Committee may grant SARs to any Participant. The Award Terms relating to an SAR shall specify whether the SAR is a Tandem SAR or a Free-Standing SAR. SARs shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable:

- (a) **Number of SARs and Base Price.** The number of SARs subject to an award shall be determined by the Committee. Any Tandem SAR related to an Incentive Stock Option shall be granted at the same time that such Incentive Stock Option is granted. The base price of a Tandem SAR shall be the purchase price per share of Common Stock of the related Option. The base price of a Free-Standing SAR shall be determined by the Committee; provided, however, that such base price shall not be less than 100% of the Fair Market Value of a share of Common Stock on the date of grant of such SAR.
- (b) **Exercise Period and Exercisability.** The Award Terms relating to an award of SARs shall specify whether such award may be settled in shares of Common Stock (including shares of Restricted Stock) or cash or a combination thereof. The period for the exercise of an SAR shall be determined by the Committee; provided, however, that no SAR shall be exercised later than 10 years after its date of grant; and provided, further, that no Tandem SAR shall be exercised later than the expiration, cancellation, forfeiture or other termination of the related Option. The Committee may, in its discretion, establish Performance Measures which shall be met as a condition to the grant of an SAR or to the exercisability of all or a portion of an SAR. The Committee shall determine whether an SAR may be exercised in cumulative or non-cumulative installments and in part or in full at any time. An exercisable SAR, or portion thereof, may be exercised, in the case of a Tandem SAR, only with respect to whole shares of Common Stock and, in the case of a Free-Standing SAR, only with respect to a whole number of SARs. If an SAR is exercised for shares of Restricted Stock, the shares shall be transferred to the holder in book entry form with restrictions on the Shares duly noted, and the holder of such Restricted Stock shall have such rights of a stockholder of the Company as determined pursuant to Section 3.2(e). Prior to the exercise of an SAR for shares of Common Stock, including Restricted Stock, the holder of such SAR shall have no rights as a stockholder of the Company with respect to the shares of Common Stock subject to such SAR.
- (c) **Method of Exercise.** A Tandem SAR may be exercised (i) by giving written notice to the Company or its representative, or by using other methods of notice as the Committee shall adopt, specifying the number of whole SARs which are being exercised, (ii) by surrendering to the Company any Options which are cancelled by reason of the exercise of the Tandem SAR and (iii) by executing such documents as the Company may reasonably request. A Free-Standing SAR may be exercised (A) by giving written notice to the Company or its representative specifying the whole

number of SARs which are being exercised and (B) by executing such documents as the Company may reasonably request.

**2.4 Termination of Employment Following Grant to Employee.**

- (a) Retirement or Disability. Unless otherwise specified in the Award Terms relating to an award granted to an Employee, if the holder of an Option or SAR ceases to be an Employee by reason of such holder's Retirement or Disability, each Option and SAR held by such holder shall be fully exercisable, and may thereafter be exercised by such holder (or such holder's legal representative or similar person) until and including the earlier to occur of (i) the date which is five years after the effective date of such holder's termination of employment by reason of Retirement or Disability and (ii) the expiration date of the term of such Option or SAR.
- (b) Death. Unless otherwise specified in the Award Terms relating to an Option or SAR, as the case may be, if the holder of an Option or SAR ceases to be an Employee by reason of such holder's death, each Option and SAR held by such holder shall be fully exercisable, and may thereafter be exercised by such holder's executor, administrator, legal representative, beneficiary or similar person until and including the earlier to occur of (i) the date which is three years after the date of death and (ii) the expiration date of the term of such Option or SAR.
- (c) Termination for Cause. Unless otherwise specified in the Award Terms relating to an Option or SAR, as the case may be, if the holder of an Option or SAR ceases to be an Employee due to a termination of employment by the Company for Cause, each Option and SAR held by such holder shall be cancelled and cease to be exercisable as of the effective date of such termination of employment.
- (d) Other Termination. Subject to Section 2.4(e) below and unless otherwise specified in the Award Terms relating to an Option or SAR, as the case may be, if the holder of an Option or SAR ceases to be an Employee for any reason other than as described in Section 2.4(a), Section 2.4(b) or Section 2.4(c), then each Option and SAR held by such holder shall be exercisable only to the extent that such Option or SAR is exercisable on the effective date of such holder's termination of employment, and may thereafter be exercised by such holder (or such holder's legal representative or similar person) until and including the earlier to occur of (i) the date which is 90 days after the effective date of such holder's termination of employment and (ii) the expiration date of the term of such Option or SAR.
- (e) Death Following Termination of Employment. Unless otherwise specified in the Award Terms relating to an Option or SAR, as the case may be, if the holder of an Option or SAR dies during the applicable post-termination exercise period described in Section 2.4(d), each Option and SAR held by such holder shall be exercisable only to the extent that such Option or SAR, as the case may be, is exercisable on the date of such holder's death and may thereafter be exercised by the holder's executor, administrator, legal representative, beneficiary or similar person until and including the earlier to occur of (i) the date which is one year after the date of death and (ii) the expiration date of the term of such Option or SAR.

- (f) **Breach of Restrictive Covenant.** Notwithstanding Sections 2.4(a) through (e), if the holder of an Option or SAR breaches his or her obligations to the Company or any Subsidiary under a noncompetition, non-solicitation, confidentiality, intellectual property or other restrictive covenant (a "**Restrictive Covenant**"), each Option and SAR held by such holder shall be cancelled and cease to be exercisable as of the date on which the holder first breached such Restrictive Covenant, and the Company thereafter may require the repayment of any amounts received by such holder in connection with an exercise of such Option or SAR in accordance with Section 1.8.

2.5 **Auto-Exercise of Expiring Options.** Notwithstanding the foregoing, and unless otherwise provided in the applicable Award Terms, in the event that an Option or an SAR is not exercised by the last day on which it is exercisable, and the purchase price or base price per share is below the Fair Market Value of a share of Common Stock on such date by at least a minimum amount as may be determined by the Committee or its delegate, the Option or SAR shall be deemed exercised on such date, and a number of shares of Common Stock having a Fair Market Value equal to the excess of (i) the Fair Market Value of the aggregate number of shares of Common Stock subject to such Option or SAR, to the extent vested on such date, minus (ii) the exercise price or base price and any required tax withholding and any applicable costs, shall be issued to the holder of such award.

2.6 **No Repricing.** Unless approved by the Company's stockholders, the Committee shall not (i) reduce the purchase price or base price of any previously granted Option or SAR, (ii) cancel any previously granted Option or SAR in exchange for another Option or SAR with a lower purchase price or base price or (iii) cancel any previously granted Option or SAR in exchange for cash or another award if the purchase price of such Option or the base price of such SAR exceeds the Fair Market Value of a share of Common Stock on the date of such cancellation, in each case, other than in connection with a Change in Control or the adjustment provisions set forth in Section 6.7.

2.7 **No Dividend Equivalents.** Notwithstanding anything in an Award Terms to the contrary, the holder of an Option or SAR shall not be entitled to receive Dividend Equivalents with respect to the number of shares of Common Stock subject to such Option or SAR.

### III. STOCK AWARDS

3.1 **Stock Awards.** The Committee may grant Stock Awards to any Participant. The Award Terms relating to a Stock Award shall specify whether the Stock Award is a Restricted Stock Award, Restricted Stock Unit Award, or Performance Share Award. The Committee may determine that a Restricted Stock Award or Restricted Stock Unit Award is to be granted subject to performance conditions and may establish an applicable Performance Period and Performance Measures which shall be satisfied or met as a condition to the grant or vesting of all or a portion of such award.

3.2 **Terms of Restricted Stock Awards.** Restricted Stock Awards shall be subject to the following terms and conditions and shall be subject to such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable.

- (a) **Number of Shares and Other Terms.** The Committee shall determine the number of shares of Common Stock subject to a Restricted Stock Award

and the Restriction Period and Performance Measures (if any) applicable to such award.

- (b) Vesting. Subject to Section 1.7, the Award Terms relating to a Restricted Stock Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the vesting of the shares of Common Stock subject to such award (i) if the holder of such award remains an Employee or Non-Employee Director (as applicable) throughout the specified Restriction Period and (ii) if applicable, if specified Performance Measures are satisfied or met during a specified Performance Period.
- (c) Forfeiture. The Award Terms relating to a Restricted Stock Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the forfeiture of the shares of Common Stock subject to such award (i) if the holder of such award does not remain an Employee or Non-Employee Director (as applicable) throughout the specified Restriction Period or (ii) if applicable, if specified Performance Measures are not satisfied or met during a specified Performance Period.
- (d) Stock Issuance. During the Restriction Period, the shares underlying the Restricted Stock Award shall be held by a custodian in book entry form with the restrictions (including the terms and conditions of this Plan, and the Award Terms relating to the Restricted Stock Award) on such shares duly noted. Upon termination of any applicable Restriction Period (and the satisfaction or attainment of applicable Performance Measures), subject to the Company's right to require payment of any taxes in accordance with Section 6.5, the restrictions shall be removed from the requisite number of any shares of Common Stock that are held in book entry form.
- (e) Rights with Respect to Restricted Stock Awards. Unless otherwise set forth in the Award Terms relating to a Restricted Stock Award, and subject to the terms and conditions set forth in this Section 3.2, the holder of such award shall have all rights as a stockholder of the Company, including, but not limited to, voting rights, the right to receive dividends and the right to participate in any capital adjustment applicable to all holders of Common Stock; provided, however, that any such distribution or dividend shall be deposited with the Company and shall be subject to the same restrictions as the shares of Common Stock with respect to which such distribution or dividend was made.

**3.3 Terms of Restricted Stock Unit Awards**. Restricted Stock Unit Awards shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable.

- (a) Number of Shares and Other Terms. The Committee shall determine the number of shares of Common Stock subject to a Restricted Stock Unit Award and the Restriction Period and Performance Measures (if any) applicable to such award.
- (b) Vesting. Subject to Section 1.7, the Award Terms relating to a Restricted Stock Unit Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the vesting of

such Restricted Stock Unit Award (i) if the holder of such award remains an Employee or Non-Employee Director throughout the specified Restriction Period and (ii) if applicable, if specified Performance Measures are satisfied or met during a specified Performance Period.

- (c) **Forfeiture.** The Award Terms relating to a Restricted Stock Unit Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the forfeiture of the shares of Common Stock subject to such award (x) if the holder of such award does not remain an Employee or Non-Employee Director (as applicable) throughout the specified Restriction Period or (y) if applicable, if specified Performance Measures are not satisfied or met during a specified Performance Period.
- (d) **Settlement of Vested Restricted Stock Unit Awards.** The Award Terms relating to a Restricted Stock Unit Award shall specify (i) whether such award may be settled in shares of Common Stock, including Restricted Stock, or cash or a combination thereof and (ii) whether the holder thereof shall be entitled to receive Dividend Equivalents and, if determined by the Committee, interest on, or the deemed reinvestment of, any deferred Dividend Equivalents, with respect to the number of shares of Common Stock subject to such award. Any Dividend Equivalents credited with respect to Restricted Stock Units shall be subject to the same restrictions that apply to such Restricted Stock Units. Prior to the settlement of a Restricted Stock Unit Award, the holder of such award shall have no rights as a stockholder of the Company with respect to the shares of Common Stock subject to such award.
- (e) **Breach of Restrictive Covenant.** Notwithstanding the foregoing provisions of this Section 3.3, if the holder of a Restricted Stock Unit Award breaches his or her obligations to the Company or any Subsidiary under a Restrictive Covenant, each Restricted Stock Unit held by such holder shall be cancelled as of the date on which the holder first breached such Restrictive Covenant, and the Company thereafter may require the repayment of any amounts received by such holder in connection with such award in accordance with Section 1.8.

**3.4 Terms of Performance Share Awards.** Performance Share Awards shall be subject to the following terms and conditions and shall contain such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable.

- (a) **Number of Shares and Other Terms.** The Committee shall determine the number of shares of Common Stock subject to a Performance Share Award and the Restriction Period, the Performance Period and the Performance Measures applicable to such award.
- (b) **Vesting.** Subject to Section 1.7, the Award Terms relating to a Performance Share Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the vesting of such Performance Share Award (i) if the holder of such award remains an Employee or Non-Employee Director throughout the specified Restriction Period and (ii) if specified Performance Measures are satisfied or met during the specified Performance Period.

- (c) **Forfeiture.** The Award Terms relating to a Performance Share Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the forfeiture of the shares of Common Stock subject to such award(x) if the holder of such award does not remain an Employee or Non-Employee Director (as applicable) throughout the specified Restriction Period or (y) if specified Performance Measures are not satisfied or met during the specified Performance Period.
- (d) **Settlement of Vested Performance Share Awards.** The Award Terms relating to a Performance Share Award shall specify (i) whether such award may be settled in shares of Common Stock, including Restricted Stock, or cash or a combination thereof and (ii) whether the holder thereof shall be entitled to receive Dividend Equivalents and, if determined by the Committee, interest on, or the deemed reinvestment of, any deferred Dividend Equivalents, with respect to the number of shares of Common Stock subject to such award. Any Dividend Equivalents credited with respect to Performance Share Award shall be subject to the same restrictions that apply to the shares of Common Stock subject to such Performance Share Award. Prior to the settlement of a Performance Share Award, the holder of such award shall have no rights as a stockholder of the Company with respect to the shares of Common Stock subject to such award.

3.5 **Termination of Employment or Service as a Non-Employee Director.** All of the terms relating to the satisfaction of Performance Measures and the termination of the Restriction Period or Performance Period relating to a Stock Award, or any forfeiture and cancellation of such award upon a Participant's termination of employment as an Employee or service as a Non-Employee Director, whether by reason of Disability, Retirement, death or any other reason, shall be determined by the Committee and set forth in the applicable Award Terms.

#### IV. PERFORMANCE UNIT AWARDS

4.1 **Performance Unit Awards.** The Committee may grant Performance Unit Awards to any Participant.

4.2 **Terms of Performance Unit Awards.** Performance Unit Awards shall be subject to the following terms and conditions and shall be subject to such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable.

- (a) **Number of Performance Units and Performance Measures.** The number of Performance Units subject to a Performance Unit Award and the Performance Measures and Performance Period applicable to a Performance Unit Award shall be determined by the Committee.
- (b) **Vesting and Forfeiture.** Subject to Section 1.7, the Award Terms relating to a Performance Unit Award shall provide, in the manner determined by the Committee and subject to the provisions of this Plan, for the vesting of such Performance Unit Award if the specified Performance Measures are satisfied or met during the specified Performance Period and for the forfeiture of such award if the specified Performance Measures are not satisfied or met during the specified Performance Period.

- (c) **Settlement of Vested Performance Unit Awards.** The Award Terms relating to a Performance Unit Award shall specify whether such award may be settled in shares of Common Stock (including shares of Restricted Stock) or cash or a combination thereof. If a Performance Unit Award is settled in shares of Restricted Stock, such shares of Restricted Stock shall be issued to the holder in book entry form and the holder of such Restricted Stock shall have such rights as a stockholder of the Company as determined pursuant to Section 3.2(e). Any Dividend Equivalents credited with respect to Performance Units shall be subject to the same restrictions that apply to such Performance Units. Prior to the settlement of a Performance Unit Award in shares of Common Stock, including Restricted Stock, the holder of such award shall have no rights as a stockholder of the Company.
- (d) **Breach of Restrictive Covenant.** Notwithstanding the foregoing provisions of this Section 4.2, if the holder of a Performance Unit Award breaches his or her obligations to the Company or any Subsidiary under a Restrictive Covenant, each Performance Unit Award held by such holder shall be cancelled as of the date on which the holder first breached such Restrictive Covenant, and the Company thereafter may require the repayment of any amounts received by such holder in connection with such award in accordance with Section 1.8.

**4.3 Termination of Employment or Service as a Non-Employee Director.** All of the terms relating to the satisfaction of Performance Measures and the termination of the Performance Period relating to a Performance Unit Award, or any forfeiture and cancellation of such award upon a termination of employment as an Employee or service as a Non-Employee Director of the holder of such award, whether by reason of Disability, Retirement, death or any other reason, shall be determined by the Committee and set forth in the applicable Award Terms.

## **V. DEFERRED STOCK UNITS**

**5.1 Deferred Stock Unit Awards.** The Committee may grant Deferred Stock Unit Awards to any Participant.

**5.2 Terms of Deferred Stock Unit Awards.** Subject to the minimum vesting restrictions in Section 1.7, Deferred Stock Unit Awards shall be subject to the following terms and conditions and shall be subject to such additional terms and conditions, not inconsistent with the terms of this Plan, as the Committee shall deem advisable.

- (a) **Number of Shares and Other Terms.** The Committee shall determine the number of shares of Common Stock subject to a Deferred Stock Unit Award and the time or times at which the shares of Common Stock subject to such Deferred Stock Units shall be issued or delivered, or whether cash in lieu of such shares shall be paid, to the holder of such Deferred Stock Units.
- (b) **Settlement of Deferred Stock Unit Awards.** The Award Terms relating to a Deferred Stock Unit Award shall specify (i) whether such award may be settled in shares of Common Stock or cash or a combination thereof and (ii) whether the holder thereof shall be entitled to receive Dividend Equivalents and, if determined by the Committee, interest on, or the deemed reinvestment of, any deferred Dividend Equivalents, with respect



to the number of shares of Common Stock subject to such award. Prior to the settlement of a Deferred Stock Unit Award, the holder of such award shall have no rights as a stockholder of the Company with respect to the shares of Common Stock subject to such award.

## VI. GENERAL

### 6.1 Effective Date and Term of Plan.

- (a) The Plan is effective as of February 1, 2022 (the “Effective Date”), subject to approval of the Plan by Exelon Corporation, as the Company’s sole stockholder. This Plan shall terminate ten (10) years after its effective date, unless terminated earlier by the Committee. Termination of this Plan shall not affect the terms or conditions of any award granted prior to termination.
- (b) Awards hereunder may be granted at any time prior to the termination of this Plan, provided that, subject to Section 2.1, no award may be granted later than ten (10) years after the effective date of this Plan. In the event that this Plan is not approved by the stockholder of the Company, this Plan and any awards hereunder shall be void and of no force or effect.

6.2 **Amendments.** The Committee may amend this Plan, as advisable, subject to any requirement of stockholder approval required by applicable law, rule or regulation, including any rule of the principal national stock exchange on which the Common Stock is then traded; provided, however, that no amendment may materially impair the rights of a holder of an outstanding award without the consent of such holder.

6.3 **Award Terms.** Each award under this Plan shall be evidenced by Award Terms setting forth the terms and conditions applicable to such award. No award shall be valid until such terms are approved by the Committee and communicated to (and accepted by, where applicable) the recipient of such award at such time and in such manner as shall be prescribed by the Company.

6.4 **Assumed Spin-Off Awards.** Notwithstanding anything in this Plan to the contrary, each Assumed Spin-Off Award shall be subject to the terms and conditions of the equity compensation plan and award agreement to which such Award was subject immediately prior to the Spin-Off, subject to the adjustment of such Award by the Compensation Committee of Exelon Corporation and the terms of the Employee Matters Agreement between the Company and Exelon Corporation, entered into in connection with the Spin-Off, provided that following the date of the Spin-Off, each such Award shall relate solely to shares of Stock and be administered by the Committee in accordance with the administrative procedures in effect under this Plan.

6.5 **Non-Transferability.** No award shall be transferable other than by will, the laws of descent and distribution or pursuant to beneficiary designation procedures approved by the Company or, to the extent expressly permitted in the Award Terms relating to such award, to the holder’s family members, a trust or entity established by the holder for estate planning purposes or a charitable organization designated by the holder. Except to the extent permitted by the foregoing sentence or the Award Terms relating to an award, each award may be exercised or settled during the holder’s lifetime only by the holder or the holder’s legal representative or similar person. Except as permitted by the second preceding sentence, no award may be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be

subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of any award, such award and all rights thereunder shall immediately become null and void.

- 6.6 Tax Withholding.** The Company shall have the right to require, prior to the issuance or delivery of any shares of Common Stock or the payment of any cash pursuant to an award made hereunder, or upon the vesting of any award that is considered deferred compensation, payment by the holder of such award of any federal, state, local or other taxes which may be required to be withheld or paid in connection with such award. The applicable Award Terms may provide that (i) the Company shall withhold whole shares of Common Stock which would otherwise be delivered to a holder, having an aggregate Fair Market Value determined as of the date the obligation to withhold or pay taxes arises in connection with an award (the "**Tax Date**"), or withhold an amount of cash which would otherwise be payable to a holder, in the amount necessary to satisfy any such obligation or (ii) the holder may satisfy any such obligation by any of the following means: (A) a cash payment to the Company, (B) authorizing the Company to withhold whole shares of Common Stock which would otherwise be delivered having an aggregate Fair Market Value, determined as of the Tax Date, or withhold an amount of cash which would otherwise be payable to a holder, equal to the amount necessary to satisfy any such obligation, (C) in the case of the exercise of an Option and except as may be prohibited by applicable law, a cash payment by a broker-dealer acceptable to the Company to whom the optionee has submitted an irrevocable notice of exercise or (D) any combination of (A) and (B), in each case to the extent set forth in the Award Terms relating to the award. Shares of Common Stock to be delivered or withheld may not have an aggregate Fair Market Value in excess of the amount determined by applying the maximum individual statutory tax rate in the Employee's applicable jurisdiction; provided that the Company shall be permitted to limit the number of shares so withheld to a lesser number if necessary, in the judgment of the Committee, to avoid adverse accounting consequences or for administrative convenience. Any fraction of a share of Common Stock which would be required to satisfy such an obligation shall be disregarded and the remaining amount due shall be paid in cash by the holder or paid in fractional form, as determined by the Committee.
- 6.7 Restrictions on Shares.** Each award made hereunder shall be subject to the requirement that if at any time the Company determines that the listing, registration or qualification of the shares of Common Stock subject to such award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares thereunder, such shares shall not be delivered unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company.
- 6.8 Adjustment for Equity Restructuring or Change in Capitalization.** In the event of any equity restructuring (within the meaning of Financial Accounting Standards Board Accounting Standards Codification Topic 718, Compensation—Stock Compensation or any successor or replacement accounting standard) that causes the per share value of shares of Common Stock to change, such as a stock dividend, stock split, spinoff, rights offering or recapitalization through an extraordinary cash dividend, the number and class of securities available under this Plan, the terms of each outstanding Option and SAR (including the number and class of securities subject to each outstanding Option or SAR and the purchase price or base price per share and any applicable Performance Measures), the terms of each outstanding Stock Award (including the number and class of securities subject thereto and any applicable Performance Measures), the terms of each outstanding Performance Unit Award (including the Performance Measures and the number and class

of securities subject thereto, if applicable) and the terms of each outstanding Deferred Stock Award (including the number and class of securities subject thereto), shall be appropriately adjusted by the Committee, such adjustments to be made in the case of outstanding Options and SARs in accordance with Section 409A of the Code. In the event of any other change in corporate capitalization, including a merger, consolidation, reorganization, or partial or complete liquidation of the Company, such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights of Participants. In either case, the decision of the Committee regarding any such adjustment shall be final, binding and conclusive.

#### **6.9 Corporate Transactions; Change in Control.**

- (a) If the Company shall be a party to a reorganization, merger, or consolidation or sale or other disposition of more than 50% of the operating assets of the Company (determined on a consolidated basis), other than in connection with a sale-leaseback or other arrangement resulting in the continued utilization of such assets (or the operating products of such assets) (a “**Corporate Transaction**”), the Board (as constituted prior to any Change in Control resulting from such Corporate Transaction) may, in its discretion:
  - (i) require that (A) some or all outstanding Options and SARs shall immediately become exercisable in full or in part, (B) the Restriction Period applicable to some or all outstanding Restricted Stock Awards and Restricted Stock Unit Awards shall lapse in full or in part, (C) the Performance Period applicable to some or all outstanding Performance Share Awards, Performance Unit Awards or other performance-based awards shall lapse in full or in part, and (D) the Performance Measures applicable to some or all outstanding awards shall be deemed to be satisfied at the target or any other level not exceeding the maximum levels allowable under their respective terms;
  - (ii) require that shares of capital stock of the corporation resulting from such Corporate Transaction, or a parent corporation thereof, be substituted for some or all of the shares of Common Stock subject to an outstanding award, with an appropriate and equitable adjustment to such award as determined by the Board in accordance with Section 6.7; and/or
  - (iii) require outstanding awards, in whole or in part, to be surrendered to the Company by the holder, and to be immediately cancelled by the Company, and to provide for the holder to receive (A) a cash payment in an amount equal to (1) in the case of an Option or an SAR, the number of shares of Common Stock then subject to the portion of such Option or SAR surrendered, to the extent such Option or SAR is then exercisable or becomes exercisable pursuant to Section 6.8(a)(i), multiplied by the excess, if any, of the Fair Market Value of a share of Common Stock as of the date of the Corporate Transaction, over the purchase price or base price per share of Common Stock subject to such Option or SAR, (2) in the case of a Stock Award, the number of shares of Common Stock then subject to the portion of such award surrendered, to the extent

the Restriction Period and Performance Period, if any, on such Stock Award have lapsed or will lapse pursuant to Section 6.8(a)(i) and to the extent that the Performance Measures, if any, have been satisfied or are deemed satisfied pursuant to 6.8(a)(i), multiplied by the Fair Market Value of a share of Common Stock as of the date of the Corporate Transaction, (3) in the case of a Performance Unit Award, the value of the Performance Units then subject to the portion of such award surrendered, to the extent the Performance Period applicable so such award has lapsed or will lapse pursuant to Section 6.8(a)(i) and to the extent the Performance Measures applicable to such award have been satisfied or are deemed satisfied pursuant to Section 6.8(a)(i) and (4) in the case of a Deferred Stock Unit Award, the number of shares of Common Stock then subject to the portion of such award surrendered multiplied by the Fair Market Value of a share of Common Stock as of the date of the Corporate Transaction; (B) shares of capital stock of the corporation resulting from such Corporate Transaction, or a parent corporation thereof, having a fair market value not less than the amount determined under clause (A) above; or (C) a combination of the payment of cash pursuant to clause (A) above and the issuance of shares pursuant to clause (B) above; provided that in the case of an award that is considered deferred compensation, within the meaning of Section 409A of the Code, no delivery of shares or payment of cash shall be accelerated pursuant to this Section 6.8(a) to the extent such acceleration would result in additional taxes under Section 409A of the Code.

- (b) For purposes of the Plan, “**Change in Control**” means, except as otherwise provided below, the first to occur of any of the following events after the date of the Spin-Off:
- (i) any SEC Person becomes the Beneficial Owner of 20% or more of the then outstanding common stock of the Company or of Voting Securities representing 20% or more of the combined voting power of all the then outstanding Voting Securities of the Company (such an SEC Person, a “**20% Owner**”); provided, however, that for purposes of this subsection (i), the following acquisitions shall not constitute a Change in Control: (1) any acquisition directly from the Company (excluding any acquisition resulting from the exercise of an exercise, conversion or exchange privilege unless the security being so exercised, converted or exchanged was acquired directly from the Company), (2) any acquisition by the Company, (3) any acquisition by an employee benefit plan (or related trust) sponsored or maintained by the Company or any corporation controlled by the Company (a “**Company Plan**”), or (4) any acquisition by any corporation pursuant to a transaction which complies with paragraphs (A), (B) and (C) of subsection (iii) of this definition; provided further, that for purposes of clause (2), if any 20% Owner of the Company other than the Company or any Company Plan becomes a 20% Owner by reason of an acquisition by the Company, and such 20% Owner of the Company shall, after such acquisition by the Company, become the Beneficial Owner of any additional outstanding common shares of the Company or any additional outstanding Voting Securities of

the Company (other than pursuant to any dividend reinvestment plan or arrangement maintained by the Company) and such beneficial ownership is publicly announced, such additional beneficial ownership shall constitute a Change in Control; or

- (ii) During any 24-month period beginning on the effective date of the Plan, individuals who as of the beginning of such period constitute the Board (the “**Incumbent Board**”) cease for any reason to constitute at least a majority of the Incumbent Board; provided, however, that any individual becoming a director whose election, or nomination for election by the Company’s stockholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest (as such terms are used in Rule 14a-11 promulgated under the Exchange Act) or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or
- (iii) consummation of a Corporate Transaction by the Company; excluding, however, a Corporate Transaction pursuant to which:
  - (A) all or substantially all of the individuals and entities who are the Beneficial Owners, respectively, of the outstanding common stock of Company and outstanding Voting Securities of the Company immediately prior to such Corporate Transaction beneficially own, directly or indirectly, more than 60% of, respectively, the then-outstanding shares of common stock and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation resulting from such Corporate Transaction (including, without limitation, a corporation which, as a result of such transaction, owns the Company or all or substantially all of the assets of the Company either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Corporate Transaction of the outstanding common stock of Company and outstanding Voting Securities of the Company, as the case may be;
  - (B) no SEC Person (other than the corporation resulting from such Corporate Transaction, and any Person which beneficially owned, immediately prior to such corporate Transaction, directly or indirectly, 20% or more of the outstanding common stock of the Company or the outstanding Voting Securities of the Company, as the case may be) becomes a 20% Owner, directly or indirectly, of the then-outstanding common stock of the corporation resulting from such Corporate Transaction or the combined

voting power of the outstanding voting securities of such corporation; and

- (C) individuals who were members of the Incumbent Board will constitute at least a majority of the members of the board of directors of the corporation resulting from such Corporate Transaction; or
- (iv) Approval by the Company's stockholders of a plan of complete liquidation or dissolution of the Company, other than a plan of liquidation or dissolution which results in the acquisition of all or substantially all of the assets of the Company by an Affiliated company.

Notwithstanding the occurrence of any of the foregoing events, a Change in Control shall not occur with respect to an award if, in advance of such event, the holder of such award agrees in writing that such event shall not constitute a Change in Control.

- 6.10 Deferrals.** The Committee may determine that the delivery of shares of Common Stock or the payment of cash, or a combination thereof, upon the exercise or settlement of all or a portion of any award made hereunder shall be deferred, or the Committee may, in its sole discretion, approve deferral elections made by holders of awards. Deferrals shall be for such periods and upon such terms as shall be set forth in a deferral plan or program established by the Committee in its sole discretion in accordance with Section 409A of the Code.
- 6.11 No Right of Participation or Employment.** Unless otherwise set forth in an employment agreement, no person shall have any right to participate in this Plan. Neither this Plan nor any award made hereunder shall confer upon any person any right to continued employment or service with the Company, any Subsidiary or any Affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any Affiliate of the Company to terminate the employment or service of any person at any time without liability hereunder.
- 6.12 Rights as Stockholder.** No person shall have any right as a stockholder of the Company with respect to any shares of Common Stock or other equity security of the Company which is subject to an award hereunder unless and until such person becomes a stockholder of record with respect to such shares of Common Stock or equity security.
- 6.13 Designation of Beneficiary.** A holder of an award may file with the Company a written designation of one or more persons as such holder's beneficiary or beneficiaries (both primary and contingent) in the event of the holder's death or incapacity. To the extent an outstanding Option or SAR granted hereunder is exercisable, such beneficiary or beneficiaries shall be entitled to exercise such Option or SAR pursuant to procedures prescribed by the Company. Each beneficiary designation shall become effective only when filed in writing with the Company during the holder's lifetime on a form prescribed by the Company. The spouse of a married holder domiciled in a community property jurisdiction shall join in any designation of a beneficiary other than such spouse. The filing with the Company of a new beneficiary designation shall cancel all previously filed beneficiary designations. If a holder fails to designate a beneficiary, or if all designated beneficiaries of a holder predecease the holder, then each outstanding Option and SAR hereunder held by such holder, to the extent exercisable, may be exercised by such holder's executor, administrator, legal representative or similar person.

- 6.14 Governing Law.** This Plan, each award hereunder and the related Award Terms, and all determinations made and actions taken pursuant thereto, to the extent not otherwise governed by the Code or the laws of the United States, shall be governed by the laws of the Commonwealth of Pennsylvania and construed in accordance therewith without giving effect to principles of conflicts of laws, and, to the extent applicable, section 409A of the Code.
- 6.15 Foreign Employees.** Without amending this Plan, the Committee may grant awards to eligible persons who are foreign nationals or otherwise subject to the laws of a non-U.S. jurisdiction on such terms and conditions different from those specified in this Plan as may in the judgment of the Committee be necessary or desirable to foster and promote achievement of the purposes of this Plan and, in furtherance of such purposes the Committee may make such modifications, amendments, procedures, subplans and the like as may be necessary or advisable to comply with provisions of laws in other countries or jurisdictions in which the Company or its Subsidiaries operates or has employees.

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**CONSTELLATION ENERGY CORPORATION  
EMPLOYEE STOCK PURCHASE PLAN**

(Effective February 1, 2022)

**1. Establishment and Purpose.** The Constellation Energy Corporation Employee Stock Purchase Plan (the “**Plan**”) established by Constellation Energy Corporation, a Pennsylvania corporation (the “**Company**”), is effective as of February 1, 2022 (the “**Effective Date**”). The Plan provides employees of the Company and its Subsidiary Companies (as defined below) added incentive to remain employed by such companies and to encourage increased efforts to promote the best interests of such companies by permitting eligible employees to purchase shares of common stock, no par value, of the Company (“**Common Stock**”) at below-market prices. The Plan is intended to qualify as an “employee stock purchase plan” under section 423 of the Internal Revenue Code of 1986, as amended (the “**Code**”). For purposes of the Plan, the term “**Subsidiary Companies**” shall mean all corporations which are subsidiary corporations (within the meaning of section 424(f) of the Code) and of which the Company is the common parent. The Company and its Subsidiary Companies that, from time to time, have been designated by the Plan Administrator as eligible to participate in the Plan with respect to their employees are hereinafter referred to collectively as the “**Participating Companies**.”

**2. Eligibility.**

(a) **Eligible Employee.** Participation in the Plan shall be limited to each employee of the Participating Companies who satisfies all of the following conditions (an “**Eligible Employee**”) as of the first day of the relevant Purchase Period (as defined in Section 3): (i) such employee’s customary employment is for 20 or more hours per week; and (ii) such employee has been continuously employed by the Participating Companies for at least three consecutive calendar months.

Notwithstanding the foregoing, an individual rendering services to a Participating Company pursuant to either of the following agreements shall not be considered an Eligible Employee with respect to any period preceding the date on which a court or administrative agency issues a final determination that such individual is an employee: (1) an agreement providing that such services are to be rendered as an independent contractor or (2) an agreement with an entity, including a leasing organization within the meaning of section 414(n)(2) of the Code, that is not a Participating Company. For purposes of this Plan and in accordance with section 423 of the Code and the regulations thereunder, an individual’s employment relationship shall be treated as continuing while the individual is on military or sick leave or other bona fide leave of absence approved by the applicable Participating Company so long as the leave does not exceed three months or, if longer than three months, the individual’s right to reemployment is provided by statute or has been agreed to by contract or in a written policy of the Participating Company which provides for a right of reemployment following the leave of absence.

(b) **Limitations.** Notwithstanding anything contained in the Plan to the contrary, no Eligible Employee shall acquire a right to purchase Common Stock hereunder to the extent that (i) immediately after receiving such right, such employee would own 5% or more of the total combined voting power or value of all classes of stock of the Company or any Subsidiary Company (including any stock attributable to such employee under section 424(d) of the Code), or (ii) such right would permit such employee’s aggregate rights to purchase stock under all employee stock purchase plans of the Company and its Subsidiary Companies to accrue at a rate which exceeds \$25,000 of fair market value of such stock (determined as of the first day of the applicable Purchase Period) for each calendar year in which such right is outstanding at any time. In addition, the number of shares of Common Stock which may be purchased by any Eligible Employee during any Purchase Period shall not exceed 750 (subject to adjustment pursuant to



Section 15), or such other number as may be determined by the Plan Administrator (as defined in Section 12) and set forth in a written Appendix to the Plan.

3. **Offerings and Purchase Periods.** The Plan shall be implemented through consecutive offerings. Each offering shall be in such form and shall contain such terms and conditions as the Plan Administrator shall deem appropriate. The terms of separate offerings need not be identical; provided, however, that each offering shall comply with the provisions of the Plan, and the participants in each offering shall have equal rights and privileges under that offering in accordance with the requirements of section 423(b)(5) of the Code and the applicable Treasury Regulations thereunder. The first offering shall begin on March 1, 2022 and end on March 31, 2022. Each subsequent offering shall be implemented through and coincide with a "**Purchase Period**," which shall consist of the three consecutive month period beginning on each January 1, April 1, July 1 and October 1 commencing on or after the effective date of the Plan and prior to its termination.

4. **Participation.**

(a) **Enrollment.** Each Eligible Employee shall be entitled to enroll in the Plan as of any Purchase Period which begins on or after such employee has become an Eligible Employee. To enroll in the Plan, an Eligible Employee shall make a request to the Company or its designated agent at the time and in the manner specified by the Plan Administrator (as defined in Section 12), specifying the amount of payroll deduction to be applied to the compensation paid to the employee by the employee's employer while the employee is a participant in the Plan. The amount of each payroll deduction specified in such request for each such payroll period shall be a whole percentage amount or, to the extent permitted by the Plan Administrator, a fixed dollar amount, in any case not to exceed 10%, or such lesser percentage as may be determined by the Plan Administrator, of the participant's regular base salary or wages (after applicable withholdings and deductions) paid to him or her during the Purchase Period by any of the Participating Companies. Subject to compliance with applicable rules prescribed by the Plan Administrator, the request shall become effective as of the Purchase Period following the day the Company or its designated agent receives such request. Prior to the beginning of any Purchase Period, the Plan Administrator may, in its sole discretion, make modifications to the compensation that is subject to each participant's payroll deduction election for such Purchase Period, as the Plan Administrator deems to be appropriate. Payroll deductions shall be made for each participant in accordance with such participant's request until such participant's participation in the Plan terminates, such participant's request is revised, or the Plan is suspended or terminated, all as hereinafter provided.

(b) **Changes to Rate of Payroll Deduction.** A participant may change the amount of his or her payroll deduction under the Plan effective as of any subsequent Purchase Period by so directing the Company or its designated agent at the time and in the manner specified by the Plan Administrator. A participant may not change the amount of his or her payroll deduction effective as of any time other than the beginning of a Purchase Period, except that a participant may elect to suspend his or her payroll deduction under the Plan as provided in Section 7.

(c) **Purchase Accounts.** Payroll deductions for each participant shall be credited to a purchase account established on behalf of the participant on the books of the participant's employer or such employer's designated agent (a "**Purchase Account**"). At the end of each Purchase Period, the amount in each participant's Purchase Account will be applied to the purchase of the number of whole and fractional shares of Common Stock determined by dividing such amount by the Purchase Price (as defined in Section 5) for such Purchase Period. No interest shall accrue at any time for any amount credited to a Purchase Account of a participant (except as required by local law as determined by the Plan Administrator).

5. **Purchase Price.** The purchase price (the “**Purchase Price**”) per share of Common Stock hereunder for any Purchase Period shall be 90% of the lesser of (i) the closing price of a share of Common Stock on the national securities exchange or quotation service through which the Common Stock is listed or traded on the first day of such Purchase Period on which such exchange is open for trading or (ii) the closing price of a share of Common Stock on such exchange on the last day of such Purchase Period on which such exchange is open for trading. If such amount results in a fraction of one cent, the Purchase Price shall be increased to the next higher full cent.

6. **Issuance of Stock.** The Common Stock purchased by each participant shall be issued in book entry form and shall be considered to be issued and outstanding to such participant’s credit as of the end of the last day of each Purchase Period. The Plan Administrator may permit or require that shares be deposited directly with one or more brokers designated by the Plan Administrator or to one or more designated agents of the Company, and the Plan Administrator may use electronic or automated methods of share transfer. The Plan Administrator may require that shares be retained with such brokers or agents for a designated period of time and/or may establish other procedures to permit tracking of disqualifying dispositions of such shares, and may also impose a transaction fee with respect to a sale of shares of Common Stock issued to a participant’s credit and held by such a broker or agent. The Plan Administrator may permit shares purchased under the Plan to participate in a dividend reinvestment plan or program maintained by the Company and establish a default method for the payment of dividends.

After the close of each Purchase Period, information will be made available to each participant regarding the entries made to such participant’s Purchase Account, the number of shares of Common Stock purchased and the applicable Purchase Price. In the event that the maximum number of shares of Common Stock are purchased by the participant for the Purchase Period and cash remains credited to the participant’s Purchase Account, such cash shall be refunded to such participant. For purposes of the preceding sentence, the maximum number of shares of Common Stock that may be purchased by a participant for a Purchase Period shall be determined under Section 2.

7. **Suspension of Payroll Deduction or Termination of Participation.**

(a) **Suspension of Payroll Deduction.** A participant may elect at any time and in the manner specified by the Plan Administrator (as defined in Section 12) to suspend his or her payroll deduction under the Plan, provided such election is received by the Company or its designated agent prior to the date specified by the Plan Administrator for suspension of payroll deduction with respect to a Purchase Period. If the election is not received by such date, such suspension of payroll deduction shall be effective as of the next succeeding Purchase Period. Upon a participant’s suspension of payroll deduction, any cash credited to such participant’s Purchase Account shall be refunded to such participant. A participant who suspends payroll deduction under the Plan shall be permitted to resume payroll deduction as of any Purchase Period following the Purchase Period in which such suspension was effective, by making a new request at the time and in the manner specified by the Plan Administrator.

(b) **Termination of Participation.** If the participant dies, terminates employment with the Participating Companies for any reason, or otherwise ceases to be an Eligible Employee, such participant’s participation in the Plan shall terminate as soon as administratively practicable after the date of such event. Upon the termination of such participation, the cash credited to such participant’s Purchase Account on the date of such termination shall be refunded to such participant or his or her legal representative, as the case may be.

8. **Termination, Suspension or Amendment of the Plan.**

(a) **Termination.** The Company, by action of the Board of Directors of the Company (the “**Board**”) or the Plan Administrator (as defined in Section 12), may terminate the Plan at any time, in which case notice of such termination shall be given to all participants, but any failure to give such notice shall not impair the effectiveness of the termination. Without any action being required, the Plan shall terminate in any event when the maximum number of shares of Common Stock to be sold under the Plan (as provided in Section 13) has been purchased. Such termination shall not impair any rights which under the Plan shall have vested on or prior to the date of such termination. If at any time the number of shares of Common Stock remaining available for purchase under the Plan are not sufficient to satisfy all then-outstanding purchase rights, the Board or Plan Administrator may determine an equitable basis of apportioning available shares of Common Stock among all participants. Except as otherwise provided in Section 15, the cash, if any, credited to each participant’s Purchase Account shall be distributed to such participant as soon as practicable after the Plan terminates.

(b) **Suspension or Amendment.** The Board or the Plan Administrator may suspend payroll deductions under the Plan or amend the Plan from time to time in any respect for any reason. Except as permitted under the terms of the Plan or as is necessary to comply with applicable laws or regulations, no such amendment may materially adversely affect any purchase rights outstanding under the Plan without the consent of the affected participant. To the extent necessary to comply with section 423 of the Code or any other applicable law or regulation, a Plan amendment shall be conditioned on the approval of such amendment by the shareholders of the Company in such a manner and to such a degree as is required under section 423 of the Code. If payroll deductions under the Plan are suspended pursuant to this Section, such payroll deductions shall resume as of the first Purchase Period commencing with or immediately following the date on which such suspension ends, in accordance with the participants’ payroll deduction elections then in effect. Subject to the requirements of section 423 of the Code, without shareholder approval and without regard to whether any participant rights may be considered to have been “adversely affected,” the Board or the Plan Administrator shall in its sole discretion be entitled to change the Purchase Periods, change the maximum number of shares of Common Stock purchasable per participant in any Purchase Period, limit the frequency and/or number of changes in payroll deductions during a Purchase Period, establish or change the exchange ratio applicable to amounts withheld in a currency other than U.S. dollars, permit payroll withholding in excess of the amount designated by a participant in order to adjust for delays or mistakes in the Company’s processing of properly completed withholding elections, establish reasonable waiting and adjustment periods and/or accounting and crediting procedures to ensure that amounts applied toward the purchase of Common Stock for each participant properly correspond with the participant’s payroll deductions, and establish such other limitations or procedures as the Board or Plan Administrator determines in its sole discretion advisable which are consistent with the Plan.

9. **Non-Transferability.** Neither the payroll deductions credited to a participant’s account nor any rights with regard to the purchase of shares under the Plan may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 10) by the participant. Any such attempt at assignment, transfer, pledge or other disposition shall be void and without effect.

10. **Death of Participant.** To the extent permitted by the Plan Administrator in its sole discretion, a participant may file a written designation of a beneficiary who shall receive, in the event of the participant’s death, (i) the shares, if any, purchased by the participant and held in an account for such participant’s benefit and/or (ii) any cash credited to such participant’s Purchase Account. Such beneficiary designation may be changed by the participant at any time by written notice given to the Company. In the event of the death of a participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such participant’s death, or to the extent the Plan Administrator does not permit participants to designate

beneficiaries under the Plan, the Company shall deliver such shares and/or cash to the executor or administrator of the estate of the participant or otherwise in accordance with the applicable laws of descent and distribution.

**11. Shareholder's Rights.** No Eligible Employee or participant shall by reason of the Plan have any rights of a shareholder of the Company until he or she shall acquire a share of Common Stock as herein provided.

**12. Administration of the Plan.** The Plan shall be administered by the Chief Human Resources Office of the Company or his or her delegate (the "**Plan Administrator**"). In addition to the powers and authority specifically granted to the Plan Administrator pursuant to any other provision of the Plan, the Plan Administrator shall have full power and authority to: (i) interpret and administer the Plan and any instrument or agreement entered into under the Plan; (ii) establish such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; (iii) designate which Subsidiary Companies shall participate in the Plan; (iv) make any other determination and take any other action that the Plan Administrator deems necessary or desirable for administration of the Plan. Decisions of the Plan Administrator shall be final, conclusive and binding upon all persons having an interest in the Plan. The Plan shall be administered so as to ensure that all participants have the same rights and privileges as are provided by section 423(b)(5) of the Code.

**13. Maximum Number of Shares.** The maximum number of shares of Common Stock which may be purchased under the Plan is 18,000,000, subject to adjustment as set forth below. Shares of Common Stock sold hereunder may be treasury shares, authorized and unissued shares, shares purchased for participants in the open market (on an exchange or in negotiated transactions) or any combination thereof.

**14. Miscellaneous.** Except as otherwise expressly provided herein, (i) any request, election or notice under the Plan from an Eligible Employee or participant shall be transmitted or delivered to the Company or its designated agent and, subject to any limitations specified in the Plan, shall be effective when so delivered and (ii) any request, notice or other communication from the Company or its designated agent that is transmitted or delivered to Eligible Employees or participants shall be effective when so transmitted or delivered. The Plan, and the Company's obligation to sell and deliver shares of Common Stock hereunder, shall be subject to all applicable federal and state laws, rules and regulations, and to such approval by any regulatory or governmental agency as may, in the opinion of counsel for the Company, be required.

**15. Adjustments Upon Changes in Capitalization, Dissolution, Merger or Asset Sale.**

(a) **Changes in Capitalization.** Subject to any required action by the shareholders of the Company, the aggregate number and class of shares of Common Stock available for purchase under the Plan, the number and class of shares and the price per share of Common Stock covered by each outstanding right under the Plan and the maximum number and class of shares of Common Stock that may be purchased by a participant in any Purchase Period, shall be equitably adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Plan Administrator, in its sole discretion, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to a

purchase right. The Plan Administrator may, if it so determines in the exercise of its sole discretion, make provision for adjusting the aggregate number and class of shares of Common Stock available for purchase under the Plan, the number and class of shares and the price per share of Common Stock covered by each outstanding right under the Plan and the maximum number and class of shares that may be purchased by a participant in any Purchase Period, in the event the Company effects one or more reorganizations, recapitalizations, rights offerings or other increases or reductions of shares of its outstanding Common Stock.

(b) **Dissolution or Liquidation.** In the event of a proposed dissolution or liquidation of the Company, the Purchase Period then in progress will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Plan Administrator in its sole discretion.

(c) **Merger or Asset Sale.** In the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, each purchase right under the Plan shall be assumed or an equivalent purchase right shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation, unless the Plan Administrator determines, in the exercise of its sole discretion and in lieu of such assumption or substitution, to either (i) shorten the Purchase Period then in progress or (ii) terminate the Plan and distribute the amounts credited to each participant's Purchase Account. If the Plan Administrator shortens the Purchase Period then in progress, the Plan Administrator shall notify each participant in writing, at least 10 days prior to the end of the shortened Purchase Period, that the Purchase Period has been shortened, and that shares will be purchased at the end of such Purchase Period unless prior to such date the participant suspends his or her payroll deductions in accordance with Section 7.

**16. Rules for Non-United States Jurisdictions.** The Plan Administrator may establish rules or procedures relating to the operation and administration of the Plan to accommodate specific requirements of applicable local laws and procedures, including, without limitation, rules and procedures governing payroll deductions, payment of interest, conversion of local currency, payroll tax, withholding procedures and handling of stock certificates which vary with local requirements. The Plan Administrator may also adopt sub-plans applicable to particular Participating Companies or locations, which sub-plans may be designed to be separate offerings outside the scope of section 423 of the Code. The rules of such sub-plans may take precedence over the provisions of this Plan, with the exception of Section 4, but unless otherwise superseded by the terms of such sub-plan, the provisions of this Plan shall govern the operation of such sub-plan.

**17. No Enlargement of Employee Rights.** Nothing contained in this Plan shall be deemed to give any Eligible Employee the right to continued employment with the Company or any Subsidiary Company or to interfere with the right of the Company or any Subsidiary Company to discharge any Eligible Employee at any time.

**18. Governing Law.** This Plan, any related agreements (such as an enrollment form), and all determinations made and actions taken pursuant thereto, to the extent not otherwise governed by the Code or the law of the United States, shall be governed by the laws of the Commonwealth of Pennsylvania and construed in accordance therewith without giving effect to principles of conflicts of law.

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**Constellation 2022 Long-Term Incentive Plan**

**Restricted Stock Unit  
Award Notice**

**[Name of Participant]**

You have been granted a restricted stock unit award with respect to shares of Common Stock, without par value, of Constellation Energy Corporation, a Pennsylvania corporation (the "Company"), pursuant to the terms and conditions of the Constellation 2022 Long-Term Incentive Plan (the "Plan") and the Restricted Stock Unit Award Agreement (together with this Award Notice, the "Agreement"). The Restricted Stock Unit Award Agreement is attached, and the Plan and the Restricted Stock Unit Award Agreement have been made available to you on the Plan's administrative service provider's website. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

<u>Number of Shares Subject to Award</u> (based on the dollar value of your target award divided by the closing price of one share of Common Stock on the Grant Date, rounded up to the nearest whole share):	[●] shares, subject to adjustment as set forth in the Agreement and the Plan.
<u>Grant Date:</u>	[●]
<u>Vesting Schedule:</u> Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and the Participant, the Award shall vest as follows, provided that you remain an Employee from the Grant Date through the respective vesting date(s).	This Award shall vest in full on the [●] anniversary of the Grant Date.

CONSTELLATION ENERGY CORPORATION

By: \_\_\_\_\_

Name: [\_\_\_\_\_]

Title: [\_\_\_\_\_]

## Constellation 2022 Long-Term Incentive Plan

### Restricted Stock Unit Award Agreement

Constellation Energy Corporation, a Pennsylvania corporation (the "Company"), hereby grants to the individual (the "Participant") named in the award notice attached hereto (the "Award Notice") as of the date set forth in the Award Notice (the "Grant Date"), pursuant to the provisions of the Constellation 2022 Long-Term Incentive Plan (the "Plan"), a restricted stock unit award (the "Award") with respect to the number of shares of the Company's Common Stock, without par value ("Stock"), set forth in the Award Notice, upon and subject to the restrictions, terms and conditions set forth in the Plan and this agreement (the "Agreement"). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Award Subject to Acceptance of Agreement. The Award shall be subject to the terms of this Agreement, and shall be deemed to be accepted by the Participant unless the Participant declines the Award in writing within 90 days after the Grant Date.

2. Rights as a Stockholder. The Participant shall not be entitled to any privileges of ownership with respect to the shares of Stock subject to the Award unless and until, and only to the extent, such shares become vested pursuant to Section 3 hereof and the Participant becomes a stockholder of record with respect to such shares. As of each date on which the Company pays a regular cash dividend to record owners of shares of Common Stock (each, a "Dividend Payment Date"), the number of shares of Common Stock that are subject to the Award shall be increased by (i) the product of the total number of shares of Common Stock that are subject to the Award immediately prior to the record date for such Dividend Payment Date, but that have not been issued pursuant to Section 4 as of such record date, multiplied by the dollar amount of the cash dividend paid per share of Common Stock, divided by (ii) the Fair Market Value of a share of Common Stock on such Dividend Payment Date. Such additional Restricted Stock Units shall be subject to all of the terms and conditions of the Award, including the vesting conditions set forth in the Award Notice.

3. Restriction Period and Vesting.

3.1 Service-Based Vesting Condition. Except as otherwise provided in this Section 3, the Award shall vest in accordance with the vesting schedule set forth in the Award Notice. The period of time prior to the full vesting of the Award shall be referred to herein as the "Restriction Period."

3.2 Termination of Employment.

(a) Termination of Employment Due to Death or Disability. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period by reason of the Participant's death or Disability, and such Participant has not breached his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then the Award shall be 100% vested upon such termination of employment.

(b) Termination of Employment Due to Involuntary Termination Without Cause. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period by reason of the Company's involuntary termination of the Participant's employment other than for Cause (or by the Participant for "good reason", if applicable under, and as defined in, an executive severance plan in which such Participant participates), and such Participant timely executes a waiver and release provided by the Company and has not breached or threatened to breach his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then the Award shall become vested on a pro-rated basis as of the termination date based on the number of elapsed days in the Restriction Period as of the termination date divided by the total number of days in the Restriction Period (less any shares already vested), and the remaining shares subject to the Award shall be forfeited.

(c) Termination of Employment for Any Other Reason. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period for any reason other than those specified in paragraphs (a) or (b) above, or if Participant breaches or threatens to breach his or her obligations under any Restrictive Covenant or fails to timely execute a waiver and release as required by the Company, then the Award shall be immediately and automatically forfeited by the Participant and cancelled by the Company.

3.3 Change in Control. In the event of a Change in Control, the Board may, in its discretion: (i) require that the Restriction Period shall lapse in full or in part; (ii) require that shares of capital stock of the company resulting from such Change in Control, or the parent corporation thereof, be substituted for some or all of the shares of Stock subject to the Award, with an appropriate and equitable adjustment to the Award as determined by the Board; and/or (iii) require outstanding Awards, in whole or in part, to be surrendered to the Company by the Participant, and to be immediately cancelled by the Company, and to provide for the Participant to receive (A) a cash payment in an amount equal to the number of shares of Stock then subject to the portion of the Award surrendered, to the extent the Restriction Period has lapsed or will lapse pursuant to clause (i) of this Section 3.3, multiplied by the Fair Market Value of a share of Stock as of the date of the Change in Control; (B) shares of capital stock of the corporation resulting from such Change in Control, or a parent corporation thereof, having a Fair Market Value not less than the amount determined in clause (iii)(A) of this Section 3.3; or (C) a combination of a payment of cash pursuant to clause (iii)(A) of this Section 3.3 and the issuance of shares pursuant to clause (iii)(B) of this Section 3.3.



#### 3.4 Definitions.

(a) Cause. For purposes of this Award, "Cause" shall mean (A) with respect to a Participant whose position is at least salary band E09 (or its post-Spin-Off equivalent), the meaning of such term as defined in the Constellation Senior Management Severance Plan as in effect from time to time, or any successor plan thereto, or (B) with respect to any other Participant, the meaning of such term as defined in the Constellation Severance Benefit Plan as in effect from time to time, or any successor plan thereto, regardless of whether Participant is eligible to participate in such plan.

(b) Disability. For purposes of this Award, "Disability" shall have the meaning specified in any long-term disability plan maintained by the Company in which Participant is eligible to participate; provided that a Disability shall not be deemed to have occurred until the Company and the Subsidiaries have terminated Participant's employment in connection with such disability, and Participant has commenced the receipt of long-term disability benefits under such plan. If Participant is not eligible to participate in a long-term disability plan maintained by the Company, then Disability means a termination of Participant's employment by the Company and the Subsidiaries due to the inability of Participant to perform the essential functions of Participant's position, with or without reasonable accommodation, for a continuous period of at least twelve months, as determined solely by the Committee.

(c) Restrictive Covenant. For purposes of this Award, "Restrictive Covenant" shall mean any non-competition, non-solicitation, confidentiality, intellectual property or other restrictive covenant to which Participant is subject, required as a condition to receipt of this Award or contained in any other agreement between Participant and the Company or any of its affiliates.

(d) Spin-Off. For purposes of this Award, "Spin-Off" means the distribution of shares of common stock of the Company to the stockholders of Exelon Corporation as of February 1, 2022 pursuant to the Separation Agreement between the Company and Exelon Corporation, entered into in connection with such distribution.

4. Issuance or Delivery of Shares. Subject to Section 7.12 and except as otherwise provided for herein, within 60 days after the vesting of the Award, the Company shall issue or deliver, subject to the conditions of this Agreement, the vested shares of Stock to the Participant. Such issuance or delivery shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident to such issuance or delivery, except as otherwise provided in Section 7. Prior to the issuance to the Participant of the shares of Stock subject to the Award, the Participant shall have no direct or secured claim in any specific assets of the Company or in such shares of Stock and will have the status of a general unsecured creditor of the Company.

5. Clawback of Proceeds.

5.1 Clawback of Proceeds. If Participant breaches his or her obligations to the Company or any Subsidiary under a Restrictive Covenant, each restricted stock unit held by Participant shall be cancelled as of the date on which the Participant first breached such Restrictive Covenant, and the Company thereafter may require the repayment of any amounts received by Participant after such date in connection with the Award, in accordance with Section 1.8 of the Plan. In addition, the Award and any Shares issued pursuant to the Award shall be subject to clawback pursuant to the Clawback Policy contained in the Company's Corporate Governance Principles, as in effect from time to time, including any amendments thereto or new clawback policies required under the Dodd-Frank Wall Street Reform and Consumer Protection Act and implementing applicable stock exchange listing standards or rules and regulations thereunder, or as otherwise required by law or regulation.

5.2 Right of Setoff. The Participant agrees that by accepting the Award the Participant authorizes the Company and its affiliates, to the extent permitted under Section 409A of the Code, to deduct any amount or amounts owed by the Participant pursuant to this Section 5 from any amounts payable by or on behalf of the Company or any affiliate to the Participant, including, without limitation, any amount payable to the Participant as salary, wages, vacation pay, bonus or the vesting or settlement of the Award or any stock-based award. This right of setoff shall not be an exclusive remedy and the Company's or an affiliate's election not to exercise this right of setoff with respect to any amount payable to the Participant shall not constitute a waiver of this right of setoff with respect to any other amount payable to the Participant or any other remedy.

6. Transfer Restrictions and Investment Representation.

6.1 Nontransferability of Award. The Award may not be transferred by the Participant other than by will or the laws of descent and distribution. Except to the extent permitted by the foregoing sentence, the Award may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Award, the Award and all rights hereunder shall immediately become null and void.

6.2 Investment Representation. The Participant hereby covenants that (a) any sale of any share of Stock acquired upon the vesting of the Award shall be made either pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws and (b) the Participant shall comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance of the shares and, in connection therewith, shall execute any documents which the Committee shall in its sole discretion deem necessary or advisable.

7. Additional Terms and Conditions of Award.

7.1 Withholding Taxes. As a condition precedent to the issuance or delivery of the Stock upon the vesting of the Award, at the Company's discretion either (i) the Participant shall pay to the Company such amount as the Company (or an affiliate) determines is required, under all applicable federal, state, local, foreign or other laws or regulations, to be withheld and paid over as income or other withholding taxes (the "Required Tax Payments") with respect to the Award or (ii) the Company or an affiliate may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company or an affiliate to the Participant, which may include the withholding of whole shares of Stock which would otherwise be delivered to the Participant having an aggregate Fair Market Value, determined as of the date on which such withholding obligation arises, equal to the Required Tax Payments, in either case in accordance with such terms, conditions and procedures that may be prescribed by the Company. Shares of Stock withheld may not have a Fair Market Value in excess of the amount determined by applying the maximum individual statutory tax rate in the Participant's jurisdiction; provided that the Company shall be permitted to limit the number of shares so withheld to a lesser number if necessary, as determined by the Company, to avoid adverse accounting consequences or for administrative convenience; provided, however, that if a fraction of a share of Stock would be required to satisfy the maximum individual statutory rate in the Participant's jurisdiction, then such fraction of a share of Stock shall be disregarded and the remaining amount due shall be paid in cash by the Participant or withheld in fractional form, as determined by the Committee. No certificate representing a share of Stock shall be delivered until the Required Tax Payments have been satisfied in full. Any determination by the Company with respect to the withholding of shares of Stock to satisfy the Required Tax Payments shall be made by the Committee if the Participant is subject to Section 16 of the Exchange Act.

7.2 Compliance with Applicable Law. The Award is subject to the condition that if the listing, registration or qualification of the shares of Stock subject to the Award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares hereunder, the shares of Stock subject to the Award shall not be delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

7.3 Award Confers No Rights to Continued Employment. In no event shall the granting of the Award or its acceptance by the Participant, or any provision of the Agreement or the Plan, give or be deemed to give the Participant any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

7.4 Decisions of Board or Committee. The Board or the Committee shall have the right to resolve all questions which may arise in connection with the Award. Any

interpretation, determination or other action made or taken by the Board or the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

**7.5** Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of the Participant, acquire any rights hereunder in accordance with this Agreement or the Plan.

**7.6** Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Constellation Energy Corporation, [●], Attn: [●]<sup>1</sup>, and if to the Participant, to the last known mailing address of the Participant contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

**7.7** Governing Law. This Agreement, the Award and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the laws of the United States, shall be governed by the laws of the Commonwealth of Pennsylvania and construed in accordance therewith without giving effect to principles of conflicts of laws, and, to the extent applicable, Section 409A of the Code.

**7.8** Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this Agreement and the Plan conflict, the Plan shall control. The Participant hereby acknowledges receipt of a copy of the Plan.

**7.9** Entire Agreement. This Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and the Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant's interest except by means of a writing signed by the Company and the Participant.

**7.10** Partial Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

**7.11** Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect the

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<sup>1</sup> NTD: Confirm address and contact person.

Participant's rights under this Agreement shall be subject to the written consent of the Participant. No course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

**7.1.2** Compliance With Section 409A of the Code. This Award is intended to be exempt from or comply with Section 409A of the Code and shall be interpreted and construed accordingly. To the extent this Agreement provides for the Award to become vested and be settled upon the Participant's termination of employment, the applicable shares of Stock shall be transferred to the Participant or his or her beneficiary upon the Participant's "separation from service," within the meaning of Section 409A of the Code; provided that if the Participant is a "specified employee," within the meaning of Section 409A of the Code, then to the extent the Award constitutes nonqualified deferred compensation, within the meaning of Section 409A of the Code, such shares of Stock shall be transferred to the Participant or his or her beneficiary upon the earlier to occur of (i) the six-month anniversary of such separation from service and (ii) the date of the Participant's death.



**Constellation 2022 Long-Term Incentive Plan**

**Restricted Stock Unit  
Award Notice**

**[Name of Participant]**

You have been granted a restricted stock unit award with respect to shares of Common Stock, without par value, of Constellation Energy Corporation, a Pennsylvania corporation (the "Company"), pursuant to the terms and conditions of the Constellation 2022 Long-Term Incentive Plan (the "Plan") and the Restricted Stock Unit Award Agreement (together with this Award Notice, the "Agreement"). The Restricted Stock Unit Award Agreement is attached, and the Plan and the Restricted Stock Unit Award Agreement have been made available to you on the Plan's administrative service provider's website. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

<u>Number of Shares Subject to Award</u> (based on the dollar value of your target award divided by the closing price of one share of Common Stock on the Grant Date, rounded up to the nearest whole share):	[●] shares, subject to adjustment as set forth in the Agreement and the Plan.
<u>Grant Date:</u>	[●]
<u>Vesting Schedule:</u> Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and the Participant, the Award shall vest as follows, provided that you remain an Employee from the Grant Date through the respective vesting date(s).	This Award shall vest <b>[as of the first Board of Directors meeting held in [●]] [on each of the first [●] anniversaries of the Grant Date with respect to one-[●] of the shares subject to the Award as of the Grant Date] [in full on the [●] anniversary of the Grant Date].<sup>1</sup></b>

CONSTELLATION ENERGY CORPORATION

By: \_\_\_\_\_  
Name: [\_\_\_\_\_]   
Title: [\_\_\_\_\_]

<sup>1</sup> Note to Draft: Insert applicable vesting schedule.

## Constellation 2022 Long-Term Incentive Plan

### Restricted Stock Unit Award Agreement

Constellation Energy Corporation, a Pennsylvania corporation (the "Company"), hereby grants to the individual (the "Participant") named in the award notice attached hereto (the "Award Notice") as of the date set forth in the Award Notice (the "Grant Date"), pursuant to the provisions of the Constellation 2022 Long-Term Incentive Plan (the "Plan"), a restricted stock unit award (the "Award") with respect to the number of shares of the Company's Common Stock, without par value ("Stock"), set forth in the Award Notice, upon and subject to the restrictions, terms and conditions set forth in the Plan and this agreement (the "Agreement"). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Award Subject to Acceptance of Agreement. The Award shall be subject to the terms of this Agreement, and shall be deemed to be accepted by the Participant unless the Participant declines the Award in writing within 90 days after the Grant Date.

2. Rights as a Stockholder. The Participant shall not be entitled to any privileges of ownership with respect to the shares of Stock subject to the Award unless and until, and only to the extent, such shares become vested pursuant to Section 3 hereof and the Participant becomes a stockholder of record with respect to such shares. As of each date on which the Company pays a regular cash dividend to record owners of shares of Common Stock (each, a "Dividend Payment Date"), the number of shares of Common Stock that are subject to the Award shall be increased by (i) the product of the total number of shares of Common Stock that are subject to the Award immediately prior to the record date for such Dividend Payment Date, but that have not been issued pursuant to Section 4 as of such record date, multiplied by the dollar amount of the cash dividend paid per share of Common Stock, divided by (ii) the Fair Market Value of a share of Common Stock on such Dividend Payment Date. Such additional Restricted Stock Units shall be subject to all of the terms and conditions of the Award, including the vesting conditions set forth in the Award Notice.

3. Restriction Period and Vesting.

3.1 Service-Based Vesting Condition. Except as otherwise provided in this Section 3, the Award shall vest in accordance with the vesting schedule set forth in the Award Notice. The period of time prior to the full vesting of the Award shall be referred to herein as the "Restriction Period."

3.2 Termination of Employment.

(a) Termination of Employment Due to Retirement, Death or Disability. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period by reason of the Participant's Retirement on or after July 1 of the year in which the Grant Date occurs, death or Disability, and such Participant has not breached his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then in any such case, the Award shall be 100% vested upon such termination of employment. If the



Participant's employment terminates by reason of the Participant's Retirement prior to July 1 of the year in which the Grant Date occurs, then the Award shall be immediately and automatically forfeited by the Participant and cancelled by the Company.

(b) Termination of Employment Due to Involuntary Termination Without Cause. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period by reason of the Company's involuntary termination of the Participant's employment other than for Cause (or by the Participant for "good reason", if applicable under, and as defined in, an executive severance plan in which such Participant participates), and such Participant timely executes a waiver and release provided by the Company and has not breached or threatened to breach his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then (i) if the Participant is eligible for Retirement as of the termination date, then the Award shall be 100% vested as of the termination date, and (ii) if the Participant is not eligible for Retirement as of the termination date, then the Award shall become vested on a pro-rated basis as of the termination date based on the number of elapsed days in the Restriction Period as of the termination date divided by the total number of days in the Restriction Period.

(c) Termination of Employment for Any Other Reason. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Restriction Period for any reason other than those specified in paragraphs (a) or (b) above, or if Participant breaches or threatens to breach his or her obligations under any Restrictive Covenant or fails to timely execute a waiver and release as required by the Company, then the Award shall be immediately and automatically forfeited by the Participant and cancelled by the Company.

3.3 Change in Control. In the event of a Change in Control, the Board may, in its discretion: (i) require that the Restriction Period shall lapse in full or in part; (ii) require that shares of capital stock of the company resulting from such Change in Control, or the parent corporation thereof, be substituted for some or all of the shares of Stock subject to the Award, with an appropriate and equitable adjustment to the Award as determined by the Board; and/or (iii) require outstanding Awards, in whole or in part, to be surrendered to the Company by the Participant, and to be immediately cancelled by the Company, and to provide for the Participant to receive (A) a cash payment in an amount equal to the number of shares of Stock then subject to the portion of the Award surrendered, to the extent the Restriction Period has lapsed or will lapse pursuant to clause (i) of this Section 3.3, multiplied by the Fair Market Value of a share of Stock as of the date of the Change in Control; (B) shares of capital stock of the corporation resulting from such Change in Control, or a parent corporation thereof, having a Fair Market Value not less than the amount determined in clause (iii)(A) of this Section 3.3; or (C) a combination of a payment of cash pursuant to clause (iii)(A) of this Section 3.3 and the issuance of shares pursuant to clause (iii)(B) of this Section 3.3.

#### 3.4 Definitions.

(a) Cause. For purposes of this Award, "Cause" shall mean (A) with respect to a Participant whose position is at least salary band E09 (or its post-Spin-Off equivalent), the meaning of such term as defined in the Constellation Senior Management Severance Plan as in effect from time to time, or any successor plan thereto, or (B) with respect to any other Participant, the meaning of such term as defined in the Constellation Severance Benefit Plan as in effect from time to time, or any successor plan thereto, regardless of whether Participant is eligible to participate in such plan.

(b) Disability. For purposes of this Award, "Disability" shall have the meaning specified in any long-term disability plan maintained by the Company in which Participant is eligible to participate; provided that a Disability shall not be deemed to have occurred until the Company and the Subsidiaries have terminated Participant's employment in connection with such disability, and Participant has commenced the receipt of long-term disability benefits under such plan. If Participant is not eligible to participate in a long-term disability plan maintained by the Company, then Disability means a termination of Participant's employment by the Company and the Subsidiaries due to the inability of Participant to perform the essential functions of Participant's position, with or without reasonable accommodation, for a continuous period of at least twelve months, as determined solely by the Committee.

(c) Restrictive Covenant. For purposes of this Award, "Restrictive Covenant" shall mean any non-competition, non-solicitation, confidentiality, intellectual property or other restrictive covenant to which Participant is subject, required as a condition to receipt of this Award or contained in any other agreement between Participant and the Company or any of its affiliates.

(d) Retirement. For purposes of this Award, "Retirement" shall mean the retirement of the Participant from employment with the Company and the Subsidiaries (other than a termination upon death, disability or involuntary termination for Cause) on or after attaining at least age 55 and completing at least ten years of service with the Company or Subsidiaries.

(e) Spin-Off. For purposes of this Award, "Spin-Off" means the distribution of shares of common stock of the Company to the stockholders of Exelon Corporation as of February 1, 2022 pursuant to the Separation Agreement between the Company and Exelon Corporation, entered into in connection with such distribution.

4. Issuance or Delivery of Shares. Subject to Section 7.12 and except as otherwise provided for herein, within 60 days after the vesting of the Award, the Company shall issue or deliver, subject to the conditions of this Agreement, the vested shares of Stock to the Participant. Such issuance or delivery shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident to such issuance or delivery, except as otherwise provided in Section 7. Prior to the issuance to the Participant of the shares of Stock subject to the Award, the Participant shall have no direct or secured claim in any specific

assets of the Company or in such shares of Stock and will have the status of a general unsecured creditor of the Company.

5. Clawback of Proceeds.

5.1 Clawback of Proceeds. If Participant breaches his or her obligations to the Company or any Subsidiary under a Restrictive Covenant, each restricted stock unit held by Participant shall be cancelled as of the date on which the Participant first breached such Restrictive Covenant, and the Company thereafter may require the repayment of any amounts received by Participant after such date in connection with the Award, in accordance with Section 1.8 of the Plan. In addition, the Award and any Shares issued pursuant to the Award shall be subject to clawback pursuant to the Clawback Policy contained in the Company's Corporate Governance Principles, as in effect from time to time, including any amendments thereto or new clawback policies required under the Dodd-Frank Wall Street Reform and Consumer Protection Act and implementing applicable stock exchange listing standards or rules and regulations thereunder, or as otherwise required by law or regulation.

5.2 Right of Setoff. The Participant agrees that by accepting the Award the Participant authorizes the Company and its affiliates, to the extent permitted under Section 409A of the Code, to deduct any amount or amounts owed by the Participant pursuant to this Section 5 from any amounts payable by or on behalf of the Company or any affiliate to the Participant, including, without limitation, any amount payable to the Participant as salary, wages, vacation pay, bonus or the vesting or settlement of the Award or any stock-based award. This right of setoff shall not be an exclusive remedy and the Company's or an affiliate's election not to exercise this right of setoff with respect to any amount payable to the Participant shall not constitute a waiver of this right of setoff with respect to any other amount payable to the Participant or any other remedy.

6. Transfer Restrictions and Investment Representation.

6.1 Nontransferability of Award. The Award may not be transferred by the Participant other than by will or the laws of descent and distribution. Except to the extent permitted by the foregoing sentence, the Award may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Award, the Award and all rights hereunder shall immediately become null and void.

6.2 Investment Representation. The Participant hereby covenants that (a) any sale of any share of Stock acquired upon the vesting of the Award shall be made either pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws and (b) the Participant shall comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance of the shares and, in connection therewith, shall execute any documents which the Committee shall in its sole discretion deem necessary or advisable.

7. Additional Terms and Conditions of Award.

7.1 Withholding Taxes. As a condition precedent to the issuance or delivery of the Stock upon the vesting of the Award, at the Company's discretion either (i) the Participant shall pay to the Company such amount as the Company (or an affiliate) determines is required, under all applicable federal, state, local, foreign or other laws or regulations, to be withheld and paid over as income or other withholding taxes (the "Required Tax Payments") with respect to the Award or (ii) the Company or an affiliate may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company or an affiliate to the Participant, which may include the withholding of whole shares of Stock which would otherwise be delivered to the Participant having an aggregate Fair Market Value, determined as of the date on which such withholding obligation arises, equal to the Required Tax Payments, in either case in accordance with such terms, conditions and procedures that may be prescribed by the Company. Shares of Stock withheld may not have a Fair Market Value in excess of the amount determined by applying the maximum individual statutory tax rate in the Participant's jurisdiction; provided that the Company shall be permitted to limit the number of shares so withheld to a lesser number if necessary, as determined by the Company, to avoid adverse accounting consequences or for administrative convenience; provided, however, that if a fraction of a share of Stock would be required to satisfy the maximum individual statutory rate in the Participant's jurisdiction, then such fraction of a share of Stock shall be disregarded and the remaining amount due shall be paid in cash by the Participant or withheld in fractional form, as determined by the Committee. No certificate representing a share of Stock shall be delivered until the Required Tax Payments have been satisfied in full. Any determination by the Company with respect to the withholding of shares of Stock to satisfy the Required Tax Payments shall be made by the Committee if the Participant is subject to Section 16 of the Exchange Act.

7.2 Compliance with Applicable Law. The Award is subject to the condition that if the listing, registration or qualification of the shares of Stock subject to the Award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares hereunder, the shares of Stock subject to the Award shall not be delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

7.3 Award Confers No Rights to Continued Employment. In no event shall the granting of the Award or its acceptance by the Participant, or any provision of the Agreement or the Plan, give or be deemed to give the Participant any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

7.4 Decisions of Board or Committee. The Board or the Committee shall have the right to resolve all questions which may arise in connection with the Award. Any

interpretation, determination or other action made or taken by the Board or the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

**7.5** Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of the Participant, acquire any rights hereunder in accordance with this Agreement or the Plan.

**7.6** Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Constellation Energy Corporation, [●], Attn: [●]<sup>2</sup>, and if to the Participant, to the last known mailing address of the Participant contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

**7.7** Governing Law. This Agreement, the Award and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the laws of the United States, shall be governed by the laws of the Commonwealth of Pennsylvania and construed in accordance therewith without giving effect to principles of conflicts of laws, and, to the extent applicable, Section 409A of the Code.

**7.8** Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this Agreement and the Plan conflict, the Plan shall control. The Participant hereby acknowledges receipt of a copy of the Plan.

**7.9** Entire Agreement. This Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and the Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant's interest except by means of a writing signed by the Company and the Participant.

**7.10** Partial Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

**7.11** Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect the

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<sup>2</sup> NTD: Confirm address and contact person.

Participant's rights under this Agreement shall be subject to the written consent of the Participant. No course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

**7.1.2** Compliance With Section 409A of the Code. This Award is intended to be exempt from or comply with Section 409A of the Code and shall be interpreted and construed accordingly. To the extent this Agreement provides for the Award to become vested and be settled upon the Participant's termination of employment, the applicable shares of Stock shall be transferred to the Participant or his or her beneficiary upon the Participant's "separation from service," within the meaning of Section 409A of the Code; provided that if the Participant is a "specified employee," within the meaning of Section 409A of the Code, then to the extent the Award constitutes nonqualified deferred compensation, within the meaning of Section 409A of the Code, such shares of Stock shall be transferred to the Participant or his or her beneficiary upon the earlier to occur of (i) the six-month anniversary of such separation from service and (ii) the date of the Participant's death.



## Constellation 2022 Long-Term Incentive Plan

### Performance Share Award Notice

[Name of Participant]

Award Number: [Award #]

You have been granted a performance share award with respect to shares of common stock of Constellation Energy Corporation, a Pennsylvania corporation (the "Company"), pursuant to the terms and conditions of the Constellation 2022 Long-Term Incentive Plan (the "Plan") and the Performance Share Award Agreement (together with this Award Notice, the "Agreement"). The Performance Share Award Agreement is attached, and the Plan and the Performance Share Award Agreement are available to you on the Plan's administrative service provider's site. Capitalized terms not defined herein shall have the meanings specified in the Plan or the Agreement.

Performance Share Award:

You have been awarded a performance share award with respect to a target of [●] shares of Common Stock, without par value, subject to adjustment as provided in the Plan (the "Target Shares").

Grant Date:

[●]

Performance Conditions and Vesting Schedule:

Except as otherwise provided in the Plan, the Agreement or any other agreement between the Company or any of its Subsidiaries and Participant, the number of shares of Common Stock earned under the Award (the "Earned Shares") or cash in lieu thereof shall be determined by the Committee in its sole discretion as a percentage of the number of Target Shares based on the achievement of the performance goals set forth in this Award Notice over the performance period beginning on [●] and ending on [●] (the "Performance Period"), and shall vest if the Participant remains continuously employed by the Company through the last day of the Performance Period.

Form of Payment:

The Award shall be payable 50% in shares of Common Stock and 50% in cash in lieu of shares, except that if the Participant has achieved 200% of his or her share ownership requirement as of [June 30], [●] (or, if earlier, the [June 30] immediately preceding his or her termination of employment), then the Award shall be payable 100% in cash. If payment is made in cash, the Fair Market Value of the Earned Shares shall be determined as of an administratively practicable date preceding the date the payment is made, as determined by the Company.



Performance Share Metrics<sup>1</sup>:

[•]

Performance Between Specified Levels

The percentage of Shares that become Earned Shares shall be determined using interpolation between performance levels as set forth above and none of the shares of common stock subject to a performance goal shall be Earned Shares for performance below the threshold performance level.

Adjustments to Target Levels and Payouts

In the event the Participant transfers between full- and part-time status during the Performance Period, the Participant's Award will be appropriately pro-rated based on each such period of employment. The Participant's Award also will be pro-rated for any period of unpaid leave-of-absence equal to or exceeding 24 months during the Performance Period. The Award is subject to adjustment for any promotion or demotion occurring within the first six months of the Performance Period.

The Committee, in its sole discretion, may amend or adjust either the target levels of performance set forth herein or the applicable performance results in recognition of unusual or nonrecurring events affecting the Company or its financial statements or changes in law or accounting principles, and may adjust the final amount payable based on company-wide performance or general market/economic conditions.

CONSTELLATION ENERGY CORPORATION

By: \_\_\_\_\_

Name: [\_\_\_\_\_]

Title: [\_\_\_\_\_]

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<sup>1</sup> NTD: Applicable Performance Share Metrics to be inserted.

**Constellation 2022 Long-Term Incentive Plan  
Performance Share Award Agreement**

Constellation Energy Corporation, a Pennsylvania corporation (the “Company”), hereby grants to the individual (the “Participant”) named in the award notice attached hereto (the “Award Notice”) as of the date set forth in the Award Notice (the “Grant Date”), pursuant to the provisions of the Constellation 2022 Long-Term Incentive Plan (the “Plan”), a performance share award (the “Award”) with respect to the number of Target Shares of the Company’s Common Stock, without par value (“Stock”), set forth in the Award Notice, upon and subject to the restrictions, terms and conditions set forth in the Plan and this agreement (the “Agreement”). Capitalized terms not defined herein shall have the meanings specified in the Plan.

1. Award Subject to Acceptance of Agreement. The Award shall be subject to the terms and conditions of this Agreement and shall be deemed to be accepted by the Participant unless the Participant declines the Award in writing within 90 days after the Grant Date.

2. Rights as a Stockholder. The Participant shall not be entitled to any privileges of ownership with respect to the shares of Stock subject to the Award unless and until, and only to the extent, such shares become Earned Shares pursuant to the Award Notice and become vested pursuant to Section 3 hereof and the Participant becomes a stockholder of record with respect to such shares.

3. Restriction Period and Vesting.

3.1. Performance-Based Vesting Conditions. Subject to the remainder of this Section 3, the number of shares that become Earned Shares shall be determined in accordance with the terms of this Agreement and the Plan based on the achievement of the performance goals and adjustments set forth in the Award Notice (the “Performance Measures”) over the performance period set forth in the Award Notice (the “Performance Period”), and shall vest if the Participant remains in continuous employment with the Company through the last day of the Performance Period. Attainment of the Performance Measures shall be determined and approved by the Committee prior to the settlement of the Award.

3.2. Termination of Employment.

(a) Termination Due to Retirement, Death or Disability. If the Participant’s employment with the Company and the Subsidiaries terminates by reason of Retirement, Disability or death, and the Participant has not breached his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then (i) if such event occurs within the first 12 months of the Performance Period, then the Participant shall become vested in a pro-rated number of the Earned Shares (or cash in lieu thereof) based on the number of elapsed days in such 12-month period as of the termination date (pro-ratio determined by dividing the number of elapsed days by 365), and (ii) if such event occurs after the first 12 months of the Performance Period, then the Participant shall become fully vested in all Earned Shares (or cash in lieu thereof); in each case based on the extent to which the applicable performance goals are attained at the

end of the Performance Period. In either event, the Earned Shares shall be issued, or the cash in lieu of such Earned Shares paid, within 2 1/2 months after the last day of the Performance Period.

(b) Termination Due to Involuntary Termination Without Cause. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Performance Period by reason of involuntary termination without Cause (or by the Participant for "good reason," if applicable under, and as defined in, an executive severance plan in which such Participant participates), and the Participant timely executes a waiver and release provided by the Company and has not breached his or her obligations to the Company or any of its affiliates under any Restrictive Covenant, then (i) if the Participant is eligible for Retirement as of the termination date, then the Participant shall become vested in a pro-rated number of the Earned Shares (or cash in lieu thereof) as determined under the applicable provisions of paragraph (a) above, and (ii) if the Participant is not eligible for Retirement as of the termination date, then the Participant shall become vested in a pro-rated number of Earned Shares (or cash in lieu thereof) based on the number of elapsed days in the Performance Period as of the termination date (with such proration determined by dividing the number of elapsed days by the total number of days in the Performance Period); in each case based on the extent to which the applicable performance goals are attained at the end of the Performance Period. In either event, the Earned Shares shall be issued, or the cash in lieu of such Earned Shares paid, within 2 1/2 months after the last day of the Performance Period.

(c) Termination for any Other Reason. If the Participant's employment with the Company and the Subsidiaries terminates prior to the end of the Performance Period for any reason other than those specified in paragraphs (a) and (b) above, or if Participant breaches or threatens to breach his or her obligations under any Restrictive Covenant or does not timely execute any waiver and release as required by the Company, then the Award shall be immediately forfeited by the Participant and cancelled by the Company.

3.3. Change in Control. In the event of a Change in Control, the Board may, in its discretion: (i) require that (A) the Performance Period shall lapse in full or in part, and (B) the Performance Measures shall be deemed to be satisfied at the target or any other level not exceeding the maximum levels allowable under the Award; (ii) require that shares of capital stock of the company resulting from such Change in Control, or the parent corporation thereof, be substituted for some or all of the shares of Stock subject to the Award, with an appropriate and equitable adjustment to the Award as determined by the Board; and/or (iii) require outstanding Awards, in whole or in part, to be surrendered to the Company by the Participant, and to be immediately cancelled by the Company, and to provide for the Participant to receive (A) a cash payment in an amount equal to the number of shares of Stock then subject to the portion of the Award surrendered, to the extent the Performance Period has lapsed or will lapse pursuant to clause (i) of this Section 3.3, and to the extent that the Performance Measures have been satisfied, multiplied by the Fair Market Value of a share of Stock as of the date of the Change in Control; (B) shares of capital stock of the corporation resulting from such Change in Control, or a parent corporation thereof, having a Fair Market Value not less than the amount determined in clause (iii)(A) of this Section 3.3; or (C) a combination of a payment of cash pursuant to clause (iii)(A) of this Section 3.3 and the issuance of shares pursuant to clause (iii)(B) of this Section 3.3.

### 3.4. Definitions.

(a) Cause. For purposes of this Award, "Cause" shall mean (A) with respect to a Participant whose position is at least [salary band E09 (or its post-Spin-Off equivalent), the meaning of such term as defined in the Constellation Senior Management Severance Plan as in effect from time to time, or any successor plan thereto, or (B) with respect to any other Participant, the meaning of such term as defined in the Constellation Severance Benefit Plan as in effect from time to time, or any successor plan thereto, regardless of whether Participant is eligible to participate in such plan.

(b) Disability. For purposes of this Award, "Disability" shall have the meaning specified in any long-term disability plan maintained by the Company in which Participant is eligible to participate; provided that a Disability shall not be deemed to have occurred until the Company and the Subsidiaries have terminated Participant's employment in connection with such disability, and Participant has commenced the receipt of long-term disability benefits under such plan. If Participant is not eligible to participate in a long-term disability plan maintained by the Company, then Disability means a termination of Participant's employment by the Company and the Subsidiaries due to the inability of Participant to perform the essential functions of Participant's position, with or without reasonable accommodation, for a continuous period of at least twelve months, as determined solely by the Committee.

(c) Restrictive Covenant. For purposes of this Award, "Restrictive Covenant" shall mean any non-competition, non-solicitation, confidentiality, intellectual property or other restrictive covenant to which Participant is subject, required as a condition to receipt of this Award or contained in any other agreement between Participant and the Company or any of its affiliates.

(d) Retirement. For purposes of this Award, "Retirement" shall mean the retirement of the Participant from employment with the Company or Subsidiaries (other than a termination upon death, disability or involuntary termination for Cause) on or after attaining at least age 55 and completing at least ten years of service with the Company or Subsidiaries.

(e) Spin-Off. For purposes of this Award, "Spin-Off" means the distribution of shares of common stock of the Company to the stockholders of Exelon Corporation as of February 1, 2022 pursuant to the Separation Agreement between the Company and Exelon Corporation, entered into in connection with such distribution.

4. Issuance or Delivery of Shares and Payment of Cash. Subject to Section 7.12 and except as otherwise provided for herein or in the Plan, the Company shall issue, deliver or pay to the Participant, subject to the conditions of this Agreement, the vested portion of any Earned Shares, or cash in lieu thereof, not later than March 15th of the year following the completion of the Performance Period. Any issuance or delivery of shares of Stock shall be evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company. The Company shall pay all original issue or transfer taxes and all fees and expenses incident to such issuance or delivery, except as otherwise provided in Section 7. Prior to the issuance to the Participant of the shares of Stock subject to the Award, the Participant shall

have no direct or secured claim in any specific assets of the Company or in such shares of Stock, and will have the status of a general unsecured creditor of the Company.

5. Clawback of Proceeds.

5.1. Clawback of Proceeds. If Participant breaches his or her obligations to the Company or any Subsidiary under a Restrictive Covenant, the Award shall be cancelled as of the date on which the Participant first breached such Restrictive Covenant and the Company thereafter may require the repayment of any amounts received by Participant after such date in connection with the Award, in accordance with Section 1.8 of the Plan. In addition, the Award and any Shares issued or cash paid pursuant to the Award shall be subject to clawback pursuant to the Clawback Policy contained in the Company's Corporate Governance Principles, as in effect from time to time, including any amendments thereto or new clawback policies required under the Dodd-Frank Wall Street Reform and Consumer Protection Act and implementing applicable stock exchange listing standards or rules and regulations thereunder, or as otherwise required by law or regulation.

5.2. Right of Setoff. The Participant agrees that by accepting the Award the Participant authorizes the Company and its affiliates, to the extent permitted under Section 409A of the Code, to deduct any amount or amounts owed by the Participant pursuant to this Section 5 from any amounts payable by or on behalf of the Company or any affiliate to the Participant, including, without limitation, any amount payable to the Participant as salary, wages, vacation pay, bonus or the vesting or settlement of the Award or any stock-based award. This right of setoff shall not be an exclusive remedy and the Company's or an affiliate's election not to exercise this right of setoff with respect to any amount payable to the Participant shall not constitute a waiver of this right of setoff with respect to any other amount payable to the Participant or any other remedy.

6. Transfer Restrictions and Investment Representation.

6.1. Nontransferability of Award. The Award may not be transferred by the Participant other than by will or the laws of descent and distribution. Except to the extent permitted by the foregoing sentence, the Award may not be sold, transferred, assigned, pledged, hypothecated, encumbered or otherwise disposed of (whether by operation of law or otherwise) or be subject to execution, attachment or similar process. Upon any attempt to so sell, transfer, assign, pledge, hypothecate, encumber or otherwise dispose of the Award, the Award and all rights hereunder shall immediately become null and void.

6.2. Investment Representation. The Participant hereby covenants that (a) any sale of any share of Stock acquired upon the vesting of the Award shall be made either pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), and any applicable state securities laws, or pursuant to an exemption from registration under the Securities Act and such state securities laws and (b) the Participant shall comply with all regulations and requirements of any regulatory authority having control of or supervision over the issuance of the shares and, in connection therewith, shall execute any documents which the Committee shall in its sole discretion deem necessary or advisable.

7. Additional Terms and Conditions of Award.

7.1. Withholding Taxes. As a condition precedent to the issuance or delivery of the Stock upon the vesting of the Award, at the Company's discretion either (i) the Participant shall pay to the Company such amount as the Company (or an affiliate) determines is required, under all applicable federal, state, local, foreign or other laws or regulations, to be withheld and paid over as income or other withholding taxes (the "Required Tax Payments") with respect to the Award or (ii) the Company or an affiliate may, in its discretion, deduct any Required Tax Payments from any amount then or thereafter payable by the Company or an affiliate to the Participant, which may include the withholding of whole shares of Stock which would otherwise be delivered to the Participant having an aggregate Fair Market Value, determined as of the date on which such withholding obligation arises, equal to the Required Tax Payments, in either case in accordance with such terms, conditions and procedures that may be prescribed by the Company. Shares of Stock withheld may not have a Fair Market Value in excess of the amount determined by applying the maximum individual statutory tax rate in the Participant's jurisdiction; provided that the Company shall be permitted to limit the number of shares so withheld to a lesser number if necessary, as determined by the Company, to avoid adverse accounting consequences or for administrative convenience; provided, however, that if a fraction of a share of Stock would be required to satisfy the maximum individual statutory rate in the Participant's jurisdiction, then such fraction of a share of Stock shall be disregarded and the remaining amount due shall be paid in cash by the Participant or paid in fractional form, as determined by the Committee. No certificate representing a share of Stock shall be delivered until the Required Tax Payments have been satisfied in full. Any determination by the Company with respect to the withholding of shares of Stock to satisfy the Required Tax Payments shall be made by the Committee if the Participant is subject to Section 16 of the Exchange Act. To the extent the Award is paid in cash, the Required Tax Payments shall be withheld from such payment.

7.2. Compliance with Applicable Law. The Award is subject to the condition that if the listing, registration or qualification of the shares of Stock subject to the Award upon any securities exchange or under any law, or the consent or approval of any governmental body, or the taking of any other action is necessary or desirable as a condition of, or in connection with, the delivery of shares hereunder, the shares of Stock subject to the Award shall not be delivered, in whole or in part, unless such listing, registration, qualification, consent, approval or other action shall have been effected or obtained, free of any conditions not acceptable to the Company. The Company agrees to use reasonable efforts to effect or obtain any such listing, registration, qualification, consent, approval or other action.

7.3. Award Confers No Rights to Continued Employment. In no event shall the granting of the Award or its acceptance by the Participant, or any provision of the Agreement or the Plan, give or be deemed to give the Participant any right to continued employment by the Company, any Subsidiary or any affiliate of the Company or affect in any manner the right of the Company, any Subsidiary or any affiliate of the Company to terminate the employment of any person at any time.

7.4. Decisions of Board or Committee. The Board or the Committee shall have the right to resolve all questions which may arise in connection with the Award. Any interpretation, determination or other action made or taken by the Board or the Committee regarding the Plan or this Agreement shall be final, binding and conclusive.

7.5. Successors. This Agreement shall be binding upon and inure to the benefit of any successor or successors of the Company and any person or persons who shall, upon the death of the Participant, acquire any rights hereunder in accordance with this Agreement or the Plan.

7.6. Notices. All notices, requests or other communications provided for in this Agreement shall be made, if to the Company, to Constellation Energy Corporation, [●], Attn: [●]<sup>2</sup>, and if to the Participant, to the last known mailing address of the Participant contained in the records of the Company. All notices, requests or other communications provided for in this Agreement shall be made in writing either (a) by personal delivery, (b) by facsimile or electronic mail with confirmation of receipt, (c) by mailing in the United States mails or (d) by express courier service. The notice, request or other communication shall be deemed to be received upon personal delivery, upon confirmation of receipt of facsimile or electronic mail transmission or upon receipt by the party entitled thereto if by United States mail or express courier service; provided, however, that if a notice, request or other communication sent to the Company is not received during regular business hours, it shall be deemed to be received on the next succeeding business day of the Company.

7.7. Governing Law. This Agreement, the Award and all determinations made and actions taken pursuant hereto and thereto, to the extent not governed by the laws of the United States, shall be governed by the laws of the Commonwealth of Pennsylvania and construed in accordance therewith without giving effect to principles of conflicts of laws, and, to the extent applicable, Section 409A of the Code.

7.8. Agreement Subject to the Plan. This Agreement is subject to the provisions of the Plan and shall be interpreted in accordance therewith. In the event that the provisions of this Agreement and the Plan conflict, the Plan shall control. The Participant hereby acknowledges receipt of a copy of the Plan.

7.9. Entire Agreement. This Agreement and the Plan constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and the Participant with respect to the subject matter hereof, and may not be modified adversely to the Participant's interest except by means of a writing signed by the Company and the Participant.

7.10. Partial Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

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<sup>2</sup> NTD: Confirm address and contact person.

7.11. Amendment and Waiver. The Company may amend the provisions of this Agreement at any time; provided that an amendment that would adversely affect the Participant's rights under this Agreement shall be subject to the written consent of the Participant. No course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement.

7.12. Compliance with Section 409A of the Code. This Award is intended to be exempt from or comply with Section 409A of the Code, and shall be interpreted and construed accordingly. To the extent this Agreement provides for the Award to become vested and be settled upon the Participant's termination of employment, the applicable shares of Stock shall be transferred to the Participant or his or her beneficiary upon the Participant's "separation from service," within the meaning of Section 409A of the Code; provided that if the Participant is a "specified employee," within the meaning of Section 409A of the Code, then to the extent the Award constitutes nonqualified deferred compensation, within the meaning of Section 409A of the Code, such shares of Stock shall be transferred to the Participant or his or her beneficiary upon the earlier to occur of (i) the six-month anniversary of such separation from service and (ii) the date of the Participant's death.





## SEPARATION AGREEMENT

THIS SEPARATION AGREEMENT (this "*Agreement*") is entered into as of \_\_\_\_\_, 20 \_\_\_\_\_ between Constellation Energy Corporation ("*Constellation*"), \_\_\_\_\_ ("*Subsidiary*"), and, collectively with Constellation, the "*Company*") and \_\_\_\_\_ (the "*Executive*").

### WITNESSETH:

WHEREAS, the Executive is separating from all positions with the Company and its respective affiliates.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, the Company and the Executive agree as follows:

1 Resignation & Termination of Employment. The Executive's employment will be terminated and Executive hereby resigns, each effective as of the close of business on \_\_\_\_\_, 20 \_\_\_\_\_ (the "*Termination Date*"), from his or her position as \_\_\_\_\_ and from all other positions as an officer or director of Constellation and its subsidiaries and affiliates. During the period commencing on the date hereof and ending on the Termination Date, Executive shall cooperate with and assist in the orderly transition of his or her duties, and shall diligently perform such other services reasonably consistent with his or her position as may be requested from time to time. Executive's current base salary and annual incentive target shall remain in effect, and Executive (and his or her eligible dependents) shall also remain eligible to participate in the Company's applicable employee benefit plans, and shall remain subject to and comply with the Company's code of business conduct and other employment policies.

2 Payment of Accrued Amounts. The Company shall pay to the Executive the portion of his or her annual salary that has accrued but is unpaid as of the Termination Date and an additional amount representing the Executive's accrued but unused vacation days as of the Termination Date, in each case not later than the second payroll date after the Termination Date.

3 Severance Payments. The Company shall pay to the Executive:

(a) cash severance payments in an aggregate amount equal to \$ [2.0 for named executive officers; 1.25 - 2.0 for other officers] times the sum of (i) \$ which is equal to the product of (representing the Executive's annual base salary) and (ii) \$ (representing the Executive's target annual incentive). For named executive officers and other "specified employees" within the meaning of section 409A of the Code, payment shall commence in the form of a lump sum payment of \$ to be made as of the first payroll date occurring on or after the date that is six months after the Termination Date, followed by substantially equal regular payroll installments of the remainder over a period of [eighteen for named executive officers; twelve to eighteen for other officers] months; for other officers, payment shall commence not later than 45 days after the Termination Date in substantially equal payroll installments over a period of [15 - 24 months]; and

(b) a pro-rated annual incentive award for [the year in which the Termination Date occurs] based on the number of days elapsed during such year as of the Termination Date, the amount of which (if any) shall be determined based on business performance measures in a manner consistent with that applied to active peer executives of Subsidiary (assuming a meaningful impact performance rating) and payable at the time such awards are paid to such executives (but not later than March 15 of the following year), and each such payment shall be considered a separate short-term deferral for purposes of section 409A of the Internal Revenue Code ("*Code*").

4 Tax Withholding. The Company shall deduct from the amounts payable to the Executive pursuant to this Agreement the amount of all required federal, state and local withholding taxes in accordance with the Executive's Form W-4 on file with the Company and all applicable social security and Medicare taxes.

5 Outplacement Assistance and Financial Counseling Services. During the twelve-month period following the Termination Date, the Company shall reimburse the Executive for reasonable fees incurred for services rendered to the Executive by a professional outplacement organization selected by the Executive and reasonably acceptable to the Company to provide individual outplacement services, and Executive shall be eligible to receive financial counseling services

consistent with the terms and conditions applicable to active peer executives under Constellation's executive perquisite policy. Executive may apply for external positions via search firms which also recruit executives for the Company.

§ Long Term Incentive Awards.

(a) Executive shall remain eligible to receive long-term performance share awards under Constellation's long-term incentive program for the performance cycles commencing in the year in which the Termination Date occurs and the two preceding years to the extent provided under the terms and conditions of the program in effect at the time of grant, and the respective payout amounts (if any) of which shall be determined in a manner consistent with that used to determine the amounts of such awards payable to active executives for such respective periods, and each such award shall be payable at the time or times such respective awards are paid to active executives and considered a separate, short-term deferral for purposes of section 409A of the Code; and

(b) the non-vested portions of Executive's restricted stock unit awards under Constellation's long term incentive program in effect on the date of grant shall vest to the extent provided under the terms and conditions of the program as of the Termination Date [and, with respect to named executive officers and other "specified employees," payable six months after the Termination Date].

All such awards payable in shares shall be subject to the Company's applicable resale restrictions, if any.

¶ Supplemental Executive Retirement Benefits. The Executive shall be eligible for a retirement benefit under the Company's applicable supplemental non-qualified pension plan (the "SERP"), if any, in accordance with the terms and conditions thereof, except that in determining such benefit, the Executive shall be subject to the Executive's timely execution of the Waiver and Release, be credited with [24 months for named executive officers; 15 -24 months for other officers] additional service calculated as though he or she received the severance benefits specified in Section 3(a) as regular salary and incentive pay over such period (and limited in its application to the amounts of such payments that exceed the compensation limitations applicable to qualified pension plans under the Code) and any other service previously granted to such Executive. Such benefit shall be paid as provided in Section 8(c).

¶ Employee and Other Benefits.

(a) During the period commencing on the Termination Date and ending [24 months for named executive officers; 15 - 24 months for other officers] after the Termination Date (the "*Severance Period*") and in satisfaction of COBRA continuation coverage during such period with respect to healthcare benefits, (i) the Executive (and his or her participating dependents) shall be eligible to participate in, and shall receive benefits under Constellation's welfare benefit plans (including medical, dental and vision) in which the Executive (and his or her eligible dependents) were participating immediately prior to the Termination Date, and (ii) the Executive shall be eligible to participate in the life insurance programs in which he or she was a participant immediately prior to the Termination Date, in each case on the same basis as if the Executive had remained actively employed during the Severance Period.

(b) Following the Severance Period, if the Executive has attained at least age 50 and has completed at least 10 years of service as of the end of the Severance Period, including, with respect to Executives who were employed immediately prior to the spin-off of Constellation Energy Corporation by Exelon Corporation or one of its Subsidiaries and employed immediately after the spin-off by the Company or one of its Subsidiaries, years of service with Exelon Corporation and its Subsidiaries, the Executive (and his or her eligible dependents) shall be eligible for retiree benefits in accordance with and subject to the terms and conditions of the Company's applicable health care plans, as in effect for employees of his or her legacy business unit from time to time (including the Company's right to amend or terminate such plans at any time). Such benefits shall not duplicate any benefits that may then be available to the Executive from any other employer and shall be secondary to Medicare.

(c) The Company shall pay to the Executive, in the time and manner specified in the terms and conditions of such plans and any distribution elections by the Executive in effect thereunder, his or her account balances (if any) under Constellation's applicable deferred compensation plans, as adjusted by any applicable earnings and losses on such account balances, and the Executive's benefit under any applicable supplemental executive retirement plan.

(d) The Executive shall be entitled to purchase the laptop computer furnished by the Company for his or her use, subject to removal of data and programs as determined by the Company. The Executive shall be responsible for payment of expenses incurred after the Termination Date with respect to the Company-owned cellular phone furnished for his or her use.

(e) If the Executive is entitled to any benefit under any employee benefit plan of the Company that is accrued and vested on the Termination Date and that is not expressly referred to in this Agreement, such benefit shall be provided to the Executive in accordance with the terms of such employee benefit plan.

(f) Notwithstanding Section 8(e) or anything else contained in this Agreement to the contrary, the Executive acknowledges and agrees that he or she is not and shall not be entitled to benefits under any other severance or change in control plan, program, agreement or arrangement, and that the benefits provided under this Agreement shall be the sole and exclusive benefits to which the Executive may become entitled upon his or her termination of employment. In the event the Executive dies prior to executing the Waiver and Release, neither he or she, his or her estate, nor any other person shall be entitled to any further compensation or benefits under this Agreement, unless and until the executor of the Executive's estate (and/or such other heirs or representatives as may be requested by the Company) executes upon Company request and does not revoke such a Waiver and Release.

**¶** Waiver and Release. Notwithstanding anything herein to the contrary, Executive's right to the payments and benefits under this Agreement shall be contingent upon (a) Executive having executed and delivered to the Company a waiver and general release agreement in the form attached hereto (the "*Waiver and Release*") not earlier than the Termination Date but in no event more than 21 days [45 days if a group termination] after the Termination Date (the "*Consideration Period*"), (b) Executive not revoking such release in accordance with the terms of the release and (c) Executive not violating any of Executive's on-going obligations under this Agreement; provided, however, that the Company has the discretion to pay such benefits prior to receipt of the Waiver and Release and/or the expiration of the revocation period; provided further that if Executive does not execute and deliver the Waiver and Release to the Company prior to the expiration of the Consideration Period or if the Executive revokes the Waiver and Release in accordance with its terms, Executive shall pay to the Company within 10 days following the expiration of the Consideration Period or the date such release was revoked, a lump sum payment of all payments received by Executive to date hereunder.

**¶** Restrictive Covenants. The Executive acknowledges and agrees that he or she is bound by, and subject to, the Non-Solicitation and Confidentiality Agreement dated as of \_\_\_\_\_ (the "*Restrictive Covenants*") and the Waiver and Release. The Executive shall comply with, and observe, the Restrictive Covenants including, without limitation, the confidential information, non-solicitation and intellectual property provisions and related covenants contained therein, all of which are hereby incorporated by reference. In the event that Executive has breached any of the Restrictive Covenants or the Waiver and Release or has engaged in conduct during his or her employment with the Company that would constitute grounds for termination for Cause (as defined in the Constellation Senior Management Severance Plan), benefits under this Agreement shall terminate immediately, and Executive shall reimburse Constellation for any benefits received.

**¶** Certain Tax Matters.

(a) If it is determined by Constellation's independent auditors that any severance payment, benefit or enhancement provided to the Executive pursuant to the terms of this Agreement is or will become subject to any excise tax under section 4999 of the Code, or any similar tax payable under any United States federal, state, local, foreign or other law ("*Excise Taxes*"), then such payment, benefit or enhancement shall be reduced to the largest amount which would not cause any such Excise Tax to be payable by the Executive and not cause a loss of the related income tax deduction by the Company.

(b) The parties intend for this Agreement to comply with section 409A of the Code. In the event the timing of any payment or benefit under this Agreement would result in any tax or penalty under section 409A of the Code, the Company may reasonably adjust the timing of such payment or benefit if doing so will eliminate or materially reduce such tax or penalty and amend this Agreement accordingly. Executive acknowledges that Executive has been advised to consult Executive's personal tax advisor concerning this Agreement, and has not relied on the Company for tax advice.

**¶** Non-disparagement. The Executive shall not publish, comment upon or disseminate any public statements suggesting or accusing the Company or any of its affiliates, employees, officers, directors or agents of any misconduct or

unlawful behavior, or that brings the Company or any of its affiliates or the employees, officers, directors or agents of the Company or any of its affiliates into disrepute, or tarnish any of their images or reputations. The provisions of this Section 12 shall not apply to truthful testimony as a witness, compliance with other legal obligations, assertion of or defense against any claim of breach of this Agreement, or any activity that otherwise may be required or permitted by the lawful order of a court or agency of competent jurisdiction, and shall not require the Executive to make false statements or disclosures.

**13** Publicity. Executive shall not issue or cause the publication of any press release or other announcement with respect to the terms or provisions of this Agreement, nor disclose the contents hereof to any third party (other than to members of his or her immediate family or to tax, financial and legal advisors), without obtaining the consent of Constellation, except where such release, announcement or disclosure shall be required by applicable law or administrative regulation or agency or other legal process.

**14** Other Employment; Other Plans. The Executive shall not be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive under any provision of this Agreement. The amounts payable hereunder shall not be reduced by any payments received by the Executive from any other employer; *provided, however*, that any continued welfare benefits provided for by Section 8(a) shall not duplicate any benefits that are provided to the Executive and his or her family by such other employer and shall be secondary to any coverage provided by Medicare.

**15** Cooperation by the Executive. During the Severance Period, the Executive shall (a) be reasonably available to the Company to respond to requests by them for information pertaining to or relating to matters which may be within the knowledge of the Executive and (b) cooperate with the Company in connection with any existing or future litigation or other proceedings brought by or against the Company, its subsidiaries or affiliates, to the extent Constellation reasonably deems the Executive's cooperation necessary, including truthful testimony in any related proceeding.

**16** Successors; Binding Agreement. This Agreement shall inure to the benefit of and be binding upon the Company and its successors, and by the Executive, his or her spouse, personal or legal representatives, executors, administrators and heirs. This Agreement, being personal, may not be assigned by Executive.

**17** Governing Law; Validity. This Agreement shall be interpreted, construed and enforced in accordance with the terms of the Constellation Senior Management Severance Plan, and the applicable provisions of the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*") and section 409A of the Code.

**18** Entire Agreement. This Agreement and the Waiver and Release constitute the entire agreement and understanding between the parties with respect to the subject matter hereof and supersede and preempt any other understandings, agreements or representations by or between the parties, written or oral, which may have related in any manner to the subject matter hereof. Executive acknowledges that the Company has made no representations regarding the tax consequences of payments under this Agreement and has had the opportunity to consult Executive's tax advisor.

**19** Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed to be an original and both of which together shall constitute one and the same instrument.

**20** Miscellaneous. No provision of this Agreement may be modified or waived unless such modification or waiver is agreed to in writing and executed by the Executive and by a duly authorized officer of the Company. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. Failure by the Executive or the Company to insist upon strict compliance with any provision of this Agreement or to assert any right which the Executive or the Company may have hereunder shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

**21** Beneficiary. If the Executive dies prior to receiving all of the amounts payable hereunder (other than amounts payable under any plan referenced in Section 8, which shall be governed by any beneficiary designation in effect thereunder) but after executing the Waiver and Release, such amounts shall be paid, except as may be otherwise expressly provided herein or in the applicable plans, to the beneficiary ("*Beneficiary*") designated with respect to this Agreement by the Executive in writing to the Vice President, Corporate Compensation of the Company during his or her lifetime, which the

Executive may change from time to time by new designation filed in like manner without the consent of any Beneficiary; or if no such Beneficiary is designated, to his or her surviving spouse, and if there be none, to his or her estate.

¶7 Nonalienation of Benefits. Benefits payable under this Agreement shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, prior to actually being received by the Executive, and any such attempt to dispose of any right to benefits payable hereunder shall be void.

¶8 Severability. If all or any part of this Agreement is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not serve to invalidate any portion of this Agreement not declared to be unlawful or invalid, except that in the event a determination is made that the Restrictive Covenants as applied to the Executive are invalid or unenforceable in whole or in part, then this Agreement shall be void and the Company shall have no obligation to provide benefits hereunder. Any paragraph or part of a paragraph so declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of such paragraph or part of a paragraph to the fullest extent possible while remaining lawful and valid.

¶9 Communications. Nothing in this Agreement or the Waiver and Release shall be construed to prohibit or limit the Executive from filing a charge with, or reporting possible violations of law or regulation to any governmental agency or entity, including but not limited to the National Labor Relations Board, Nuclear Regulatory Commission, U.S. Equal Opportunity Commission, the Department of Labor, the Department of Justice, the Securities Exchange Commission, the Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of applicable law or regulation, or taking any other action protected under section 211 of the Energy Reorganization Act. The Executive does not need the prior authorization of the Company to make any such charges, reports or disclosures, and is not required to notify the Company that Executive has made such charges reports or disclosures, and no such report or disclosure shall be considered a violation of Section 12 of this Agreement or the Waiver and Release. In addition, neither this Agreement nor the Waiver and Release limits the Executive's ability to receive a monetary award from a government-administered whistleblower award program for providing any such reports or disclosures directly to a governmental agency. Executive acknowledges, however, that the Waiver and Release requires Executive to specifically waive all rights to recover any monetary damages from the Company, including but not limited to lost wages and benefits, lost pay, damages for emotional distress, punitive damages, reinstatement, and attorneys' fees and costs.

¶10 Sections. Except where otherwise indicated by the context, any reference to a "Section" shall be to a Section of this Agreement.

IN WITNESS WHEREOF, Constellation and Subsidiary have caused this Agreement to be executed by their duly authorized officers and the Executive has executed this Agreement as of the day and year first above written.

CONSTELLATION ENERGY CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SUBSIDIARY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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EXECUTIVE

By: \_\_\_\_\_

Name: \_\_\_\_\_

## WAIVER AND RELEASE UNDER SEPARATION AGREEMENT

In consideration for the Executive's receiving severance benefits under the Separation Agreement (as defined below), (the "Executive") hereby agrees as follows:

1. **Release.** Except with respect to the Company's obligations under the Separation Agreement by and between Constellation Energy Corporation, [Executive's employing subsidiary] (collectively, the "Company") and the Executive dated as of \_\_\_\_\_ ("Separation Agreement"), the Executive, on behalf of Executive and his or her heirs, executors, assigns, agents, legal representatives and personal representatives, hereby releases, acquits and forever discharges the Company, its agents, the subsidiaries, affiliates, and their respective officers, directors, agents, servants, employees, attorneys, shareholders, successors, assigns and affiliates, of and from any and all claims, liabilities, demands, causes of action, costs, expenses, attorneys fees, damages, indemnities and obligations of every kind and nature, in law, equity, or otherwise, known and unknown, foreseen or unforeseen, disclosed and undisclosed, suspected and unsuspected, arising out of or in any way related to agreements, events, acts or conduct at any time prior to the day of execution of this Waiver and Release, including but not limited to any and all such claims and demands directly or indirectly arising out of or in any way connected with the Executive's employment or other service with the Company, or any of its Subsidiaries or affiliates; the Executive's termination of employment and other service with the Company or any of its subsidiaries or affiliates; claims or demands related to salary, bonuses, commissions, stock, stock options, restricted stock or any other ownership interests in the Company or any of its subsidiaries and affiliates, vacation pay, fringe benefits, expense reimbursements, sabbatical benefits, severance, change in control or other separation benefits, or any other form of compensation or equity; and claims pursuant to any federal, state, local law, statute, ordinance, common law or other cause of action including but not limited to, the federal Civil Rights Act of 1964, as amended; the federal Age Discrimination in Employment Act of 1967, as amended; the federal Americans with Disabilities Act of 1990; the Employee Retirement Income Security Act of 1974, as amended, tort law; contract law; wrongful discharge; discrimination; fraud; defamation; harassment; emotional distress; or breach of the covenant of good faith and fair dealing. This Waiver and Release does not apply to (a) the payment of any benefits to which the Executive may be entitled under the terms of a Company-sponsored tax qualified retirement or savings plan or (b) Executive's entitlement to indemnification, and coverage as an insured, with respect to his service as an officer, director, employee or agent in accordance with the terms and conditions of Article VII of the Constellation Energy Corporation Amended and Restated Bylaws.

2. **No Inducement.** The Executive agrees that no promise or inducement to enter into this Waiver or Release has been offered or made except as set forth in this Waiver and Release and the Separation Agreement, that the Executive is entering into this Waiver and Release without any threat or coercion and without reliance on any statement or representation made on behalf of the Company or any of its subsidiaries or affiliates, or by any person employed by or representing the Company or any of its subsidiaries or affiliates, except for the written provisions and promises contained in this Waiver and Release and the Separation Agreement.

3. **Advice of Counsel; Time to Consider; Revocation.** The Executive acknowledges the following:

(a) **The Executive has read this Waiver and Release, and understands its legal and binding effect, including that by signing and not revoking this Waiver and Release the Executive waives and releases any and all claims under the Age Discrimination in Employment Act of 1967, as amended, including but not limited to the Older Workers Benefits Protection Act. The Executive is acting voluntarily and of the Executive's own free will in executing this Waiver and Release.**

(b) **The Executive has been advised to seek and has had the opportunity to seek legal counsel in connection with this Waiver and Release.**

(c) **The Executive was given at least [twenty-one (21) / forty-five (45)] days to consider the terms of this Waiver and Release before signing it.**

(d) **[At the time Executive was given this Waiver and Release, Executive was informed that his or her termination was not part of a group separation.]**

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**The Executive understands that, if the Executive signs the Waiver and Release, the Executive may revoke it within seven (7) days after signing it, provided that Executive will not receive any severance benefits under the Separation Agreement. The Executive understands that this Waiver and Release will not be effective until after the seven-day period has expired and no consideration will be due the Executive.**

¶ Severability. If all or any part of this Waiver and Release is declared by any court or governmental authority to be unlawful or invalid, such unlawfulness or invalidity shall not invalidate any other portion of this Waiver and Release. Any Section or a part of a Section declared to be unlawful or invalid shall, if possible, be construed in a manner which will give effect to the terms of the Section to the fullest extent possible while remaining lawful and valid.

¶ Amendment. This Waiver and Release shall not be altered, amended, or modified except by written instrument executed by the Company and the Executive. A waiver of any portion of this Waiver and Release shall not be deemed a waiver of any other portion of this Waiver and Release.

¶ Applicable Law. The provisions of this Waiver and Release shall be interpreted and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its choice of law principles.

IN WITNESS WHEREOF, the Executive has executed this Waiver and Release as of the date specified below.

[EXECUTIVE]

By: \_\_\_\_\_

Name: \_\_\_\_\_

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**Constellation Energy Corporation (50% and Greater)**  
**12/31/2021**

<b>Subsidiary</b>	<b>Jurisdiction</b>
2014 ESA HoldCo, LLC	Delaware
2014 ESA Project Company, LLC	Delaware
2015 ESA Holdco, LLC	Delaware
2015 ESA Investco, LLC	Delaware
2015 ESA Project Company, LLC	Delaware
A/C Fuels Company	Pennsylvania
Annova LNG Brownsville A, LLC	Delaware
Annova LNG Common Infrastructure, LLC	Delaware
Annova LNG, LLC	Delaware
Annova LNG, LLC Series A	Delaware
Annova LNG, LLC Series Z	Delaware
APS Constellation, LLC	Delaware
AV Solar Ranch 1, LLC	Delaware
AVSR Holding, LLC	Delaware
AVSR, LLC	Delaware
Beebe 1B Renewable Energy, LLC	Delaware
Beebe Renewable Energy, LLC	Delaware
Bennett Creek Windfarm, LLC	Idaho
Bethlehem Renewable Energy, LLC	Delaware
Big Top, LLC	Oregon
Blue Breezes II, L.L.C.	Minnesota
Blue Breezes, L.L.C.	Minnesota
Bluestem Wind Energy Holdings, LLC	Delaware
Bluestem Wind Energy Member Holdings, LLC	Delaware
Bluestem Wind Energy Member, LLC	Delaware
Bluestem Wind Energy, LLC	Delaware
Breakerbox, LLC	Pennsylvania
Butter Creek Power, LLC	Oregon
Calvert Cliffs Nuclear Power Plant, LLC	Maryland
Cassia Gulch Wind Park LLC	Idaho
Cassia Wind Farm LLC	Idaho
CD Panther I, Inc.	Maryland
CD Panther II, LLC	Delaware
CD Panther Partners, L.P.	Delaware
CD SEGS V, Inc.	Maryland
CD SEGS VI, Inc.	Maryland
CE Culm, Inc.	Maryland
CE FundingCo, LLC	Delaware
CEG Finance, LLC	Delaware
CER Generation, LLC	Delaware
CEU Arkoma West, LLC	Delaware
CEU CoLa, LLC	Delaware
CEU East Fort Peck, LLC	Delaware
CEU Fayetteville, LLC	Delaware
CEU Floyd Shale, LLC	Delaware

CEU Holdings, LLC	Delaware
CEU Huntsville, LLC	Delaware
CEU Kingston, LLC	Delaware
CEU Niobrara, LLC	Delaware
CEU Ohio Shale, LLC	Delaware
CEU Paradigm, LLC	Delaware
CEU Pinedale, LLC	Delaware
CEU Plymouth, LLC	Delaware
CEU Simplicity, LLC	Delaware
CEU W&D, LLC	Delaware
Chesapeake HVAC, Inc.	Delaware
CII Solarpower I, Inc.	Maryland
Clinton Battery Utility, LLC	Delaware
CNE Gas Holdings, LLC	Kentucky
CNEG Holdings, LLC	Delaware
CNEGH Holdings, LLC	Delaware
CoLa Resources LLC	Delaware
Colorado Bend II Power, LLC	Delaware
Colorado Bend Services, LLC	Delaware
Constellation Building Services, Inc.	Delaware
Constellation ClearSight, LLC	Delaware
Constellation Connect, LLC	Delaware
Constellation EG, LLC	Delaware
Constellation Energy Canada, Inc.	Ontario
Constellation Energy Commodities Group Maine, LLC	Delaware
Constellation Energy Gas Choice, LLC	Delaware
Constellation Energy Generation, LLC	Pennsylvania
Constellation Energy Nuclear Group, LLC	Maryland
Constellation Energy Power Choice, LLC	Delaware
Constellation Energy Resources, LLC	Delaware
Constellation Energy Solutions, LLC	Delaware
Constellation Energy Upstream Holdings, LLC	Delaware
Constellation FitzPatrick, LLC	Delaware
Constellation Framingham, LLC	Delaware
Constellation Fulton, LLC	Delaware
Constellation Generation Acquisitions, LLC	Delaware
Constellation Generation Consolidation, LLC	Illinois
Constellation Generation Development, LLC	Delaware
Constellation Generation Limited	United Kingdom
Constellation Generation Services, LLC	Delaware
Constellation Generation Supply, LLC	Delaware
Constellation Handley Power, LLC	Delaware
Constellation Holdings, LLC	Maryland
Constellation Home Products & Services, LLC	Delaware
Constellation LNG, LLC	Delaware
Constellation Mystic Power, LLC	Delaware
Constellation New Boston, LLC	Delaware
Constellation New England Holdings, LLC	Delaware
Constellation NewEnergy - Gas Division, LLC	Kentucky

Constellation NewEnergy, Inc.	Delaware
Constellation Nuclear Power Plants, LLC	Delaware
Constellation Nuclear Security, LLC	Delaware
Constellation Nuclear, LLC	Delaware
Constellation Power Source Generation, LLC	Maryland
Constellation Power, Inc.	Maryland
Constellation PowerLabs, LLC	Pennsylvania
Constellation Renewables Holding, LLC	Delaware
Constellation Renewables Holdings II, LLC	Delaware
Constellation Renewables Partners Holdings, LLC	Delaware
Constellation Renewables Partners, LLC	Delaware
Constellation Renewables, LLC	Delaware
Constellation Solar Horizons, LLC	Delaware
Constellation Solar New Jersey III, LLC	Delaware
Constellation Texas II Power Holdings, LLC	Delaware
Constellation Texas II Power, LLC	Delaware
Constellation Texas Land Company, LLC	Delaware
Constellation Texas Power Services, LLC	Delaware
Constellation Ventures International Holdings II Limited	United Kingdom
Constellation Ventures International Holdings Limited	United Kingdom
Constellation VTI, LLC	Delaware
Constellation West Medway, LLC	Delaware
Constellation Wind 1, LLC	Texas
Constellation Wind 2, LLC	Texas
Constellation Wind 3, LLC	Texas
Constellation Wind, LLC	Delaware
Constellation Wyman, LLC	Delaware
Continental Wind Holding, LLC	Delaware
Continental Wind, LLC	Delaware
COSI Central Wayne, Inc.	Maryland
COSI Sunnyside, Inc.	Maryland
Cow Branch Wind Power, L.L.C.	Missouri
CP Sunnyside I, Inc.	Maryland
CP Windfarm, LLC	Minnesota
CR Clearing, LLC	Missouri
Criterion Power Partners, LLC	Delaware
DE Asset Operations, LLC	Delaware
Denver Airport Solar, LLC	Delaware
Distrigas of Massachusetts LLC	Delaware
Everett LNG LLC	Delaware
Exelon Wind Canada Inc.	Canada
ExGen Energy, S. de R.L. de C.V.	Mexico
Fair Wind Power Partners, LLC	Delaware
Fauquier Landfill Gas, L.L.C.	Delaware
Four Corners Windfarm, LLC	Oregon
Four Mile Canyon Windfarm, LLC	Oregon
Fourmile Wind Energy, LLC	Maryland
Grande Prairie Generation, Inc.	Alberta
Greensburg Wind Farm, LLC	Delaware

Handsome Lake Energy, LLC	Maryland
Harvest II Windfarm, LLC	Delaware
Harvest Windfarm, LLC	Michigan
High Mesa Energy, LLC	Idaho
High Plains Wind Power, LLC	Texas
Hot Springs Windfarm, LLC	Idaho
JExel Nuclear Company	Japan
Lake Houston Power, LLC	Delaware
Loess Hills Wind Farm, LLC	Missouri
Michigan Wind 1, LLC	Delaware
Michigan Wind 2, LLC	Delaware
Michigan Wind 3, LLC	Delaware
Minergy LLC	Wisconsin
Mountain Top Wind Power, LLC	Maryland
NewEnergy Receivables LLC	Delaware
Nine Mile Point Nuclear Station, LLC	Delaware
North Shore District Energy, LLC	Delaware
Oregon Trail Windfarm, LLC	Oregon
Pacific Canyon Windfarm, LLC	Oregon
Panther Creek Holdings, Inc.	Delaware
Panther Creek Partners	Delaware
Pegasus Power Company, Inc.	California
Pinedale Energy, LLC	Colorado
R.E. Ginna Nuclear Power Plant, LLC	Maryland
Renewable Power Generation Holdings, LLC	Delaware
Renewable Power Generation, LLC	Delaware
Rolling Hills Landfill Gas, LLC	Delaware
Sacramento PV Energy, LLC	Delaware
Sand Ranch Windfarm, LLC	Oregon
Sendero Wind Energy, LLC	Delaware
Shooting Star Wind Project, LLC	Delaware
Sky Valley, LLC	Delaware
Sugar Beet Wind, LLC	Delaware
Sunbeam LeaseCo, LLC	Delaware
Threemile Canyon Wind I, LLC	Oregon
Titan STC, LLC	Delaware
Tuana Springs Energy, LLC	Idaho
V.G. Investment Holdings, LLC	Delaware
Volta SPV CMX, LLC	Delaware
Volta SPV NTR, LLC	Delaware
Volta SPV RSL, LLC	Delaware
W&D Gas Partners, LLC	Delaware
Wagon Trail, LLC	Oregon
Ward Butte Windfarm, LLC	Oregon
West Medway II Holdings, LLC	Delaware
West Medway II, LLC	Delaware
Whitetail Wind Energy, LLC	Delaware
Wildcat Finance, LLC	Delaware
Wildcat Wind LLC	New Mexico

Wind Capital Holdings, LLC	Missouri
Wolf Hollow II Power, LLC	Delaware
Wolf Hollow Services, LLC	Delaware

**Constellation Energy Generation, LLC (50% and Greater)**  
**12/31/2021**

<b>Subsidiary</b>	<b>Jurisdiction</b>
2014 ESA HoldCo, LLC	Delaware
2014 ESA Project Company, LLC	Delaware
2015 ESA Holdco, LLC	Delaware
2015 ESA Investco, LLC	Delaware
2015 ESA Project Company, LLC	Delaware
A/C Fuels Company	Pennsylvania
Annova LNG Brownsville A, LLC	Delaware
Annova LNG Common Infrastructure, LLC	Delaware
Annova LNG, LLC	Delaware
Annova LNG, LLC Series A	Delaware
Annova LNG, LLC Series Z	Delaware
APS Constellation, LLC	Delaware
AV Solar Ranch 1, LLC	Delaware
AVSR Holding, LLC	Delaware
AVSR, LLC	Delaware
Beebe 1B Renewable Energy, LLC	Delaware
Beebe Renewable Energy, LLC	Delaware
Bennett Creek Windfarm, LLC	Idaho
Bethlehem Renewable Energy, LLC	Delaware
Big Top, LLC	Oregon
Blue Breezes II, L.L.C.	Minnesota
Blue Breezes, L.L.C.	Minnesota
Bluestem Wind Energy Holdings, LLC	Delaware
Bluestem Wind Energy Member Holdings, LLC	Delaware
Bluestem Wind Energy Member, LLC	Delaware
Bluestem Wind Energy, LLC	Delaware
Breakerbox, LLC	Pennsylvania
Butter Creek Power, LLC	Oregon
Calvert Cliffs Nuclear Power Plant, LLC	Maryland
Cassia Gulch Wind Park LLC	Idaho
Cassia Wind Farm LLC	Idaho
CD Panther I, Inc.	Maryland
CD Panther II, LLC	Delaware
CD Panther Partners, L.P.	Delaware
CD SEGS V, Inc.	Maryland
CD SEGS VI, Inc.	Maryland
CE Culm, Inc.	Maryland
CE FundingCo, LLC	Delaware
CEG Finance, LLC	Delaware
CER Generation, LLC	Delaware
CEU Arkoma West, LLC	Delaware
CEU CoLa, LLC	Delaware
CEU East Fort Peck, LLC	Delaware
CEU Fayetteville, LLC	Delaware
CEU Floyd Shale, LLC	Delaware



CEU Holdings, LLC	Delaware
CEU Huntsville, LLC	Delaware
CEU Kingston, LLC	Delaware
CEU Niobrara, LLC	Delaware
CEU Ohio Shale, LLC	Delaware
CEU Paradigm, LLC	Delaware
CEU Pinedale, LLC	Delaware
CEU Plymouth, LLC	Delaware
CEU Simplicity, LLC	Delaware
CEU W&D, LLC	Delaware
Chesapeake HVAC, Inc.	Delaware
CII Solarpower I, Inc.	Maryland
Clinton Battery Utility, LLC	Delaware
CNE Gas Holdings, LLC	Kentucky
CNEG Holdings, LLC	Delaware
CNEGH Holdings, LLC	Delaware
CoLa Resources LLC	Delaware
Colorado Bend II Power, LLC	Delaware
Colorado Bend Services, LLC	Delaware
Constellation Building Services, Inc.	Delaware
Constellation ClearSight, LLC	Delaware
Constellation Connect, LLC	Delaware
Constellation EG, LLC	Delaware
Constellation Energy Canada, Inc.	Ontario
Constellation Energy Commodities Group Maine, LLC	Delaware
Constellation Energy Gas Choice, LLC	Delaware
Constellation Energy Nuclear Group, LLC	Maryland
Constellation Energy Power Choice, LLC	Delaware
Constellation Energy Resources, LLC	Delaware
Constellation Energy Solutions, LLC	Delaware
Constellation Energy Upstream Holdings, LLC	Delaware
Constellation FitzPatrick, LLC	Delaware
Constellation Framingham, LLC	Delaware
Constellation Fulton, LLC	Delaware
Constellation Generation Acquisitions, LLC	Delaware
Constellation Generation Consolidation, LLC	Illinois
Constellation Generation Development, LLC	Delaware
Constellation Generation Limited	United Kingdom
Constellation Generation Services, LLC	Delaware
Constellation Generation Supply, LLC	Delaware
Constellation Handley Power, LLC	Delaware
Constellation Holdings, LLC	Maryland
Constellation Home Products & Services, LLC	Delaware
Constellation LNG, LLC	Delaware
Constellation Mystic Power, LLC	Delaware
Constellation New Boston, LLC	Delaware
Constellation New England Holdings, LLC	Delaware
Constellation NewEnergy - Gas Division, LLC	Kentucky
Constellation NewEnergy, Inc.	Delaware

Constellation Nuclear Power Plants, LLC	Delaware
Constellation Nuclear Security, LLC	Delaware
Constellation Nuclear, LLC	Delaware
Constellation Power Source Generation, LLC	Maryland
Constellation Power, Inc.	Maryland
Constellation PowerLabs, LLC	Pennsylvania
Constellation Renewables Holding, LLC	Delaware
Constellation Renewables Holdings II, LLC	Delaware
Constellation Renewables Partners Holdings, LLC	Delaware
Constellation Renewables Partners, LLC	Delaware
Constellation Renewables, LLC	Delaware
Constellation Solar Horizons, LLC	Delaware
Constellation Solar New Jersey III, LLC	Delaware
Constellation Texas II Power Holdings, LLC	Delaware
Constellation Texas II Power, LLC	Delaware
Constellation Texas Land Company, LLC	Delaware
Constellation Texas Power Services, LLC	Delaware
Constellation Ventures International Holdings II Limited	United Kingdom
Constellation Ventures International Holdings Limited	United Kingdom
Constellation VTI, LLC	Delaware
Constellation West Medway, LLC	Delaware
Constellation Wind 1, LLC	Texas
Constellation Wind 2, LLC	Texas
Constellation Wind 3, LLC	Texas
Constellation Wind, LLC	Delaware
Constellation Wyman, LLC	Delaware
Continental Wind Holding, LLC	Delaware
Continental Wind, LLC	Delaware
COSI Central Wayne, Inc.	Maryland
COSI Sunnyside, Inc.	Maryland
Cow Branch Wind Power, L.L.C.	Missouri
CP Sunnyside I, Inc.	Maryland
CP Windfarm, LLC	Minnesota
CR Clearing, LLC	Missouri
Criterion Power Partners, LLC	Delaware
DE Asset Operations, LLC	Delaware
Denver Airport Solar, LLC	Delaware
Distrigas of Massachusetts LLC	Delaware
Everett LNG LLC	Delaware
Exelon Wind Canada Inc.	Canada
ExGen Energy, S. de R.L. de C.V.	Mexico
Fair Wind Power Partners, LLC	Delaware
Fauquier Landfill Gas, L.L.C.	Delaware
Four Corners Windfarm, LLC	Oregon
Four Mile Canyon Windfarm, LLC	Oregon
Fourmile Wind Energy, LLC	Maryland
Grande Prairie Generation, Inc.	Alberta
Greensburg Wind Farm, LLC	Delaware
Handsome Lake Energy, LLC	Maryland

Harvest II Windfarm, LLC	Delaware
Harvest Windfarm, LLC	Michigan
High Mesa Energy, LLC	Idaho
High Plains Wind Power, LLC	Texas
Hot Springs Windfarm, LLC	Idaho
JExel Nuclear Company	Japan
Lake Houston Power, LLC	Delaware
Loess Hills Wind Farm, LLC	Missouri
Michigan Wind 1, LLC	Delaware
Michigan Wind 2, LLC	Delaware
Michigan Wind 3, LLC	Delaware
Minergy LLC	Wisconsin
Mountain Top Wind Power, LLC	Maryland
NewEnergy Receivables LLC	Delaware
Nine Mile Point Nuclear Station, LLC	Delaware
North Shore District Energy, LLC	Delaware
Oregon Trail Windfarm, LLC	Oregon
Pacific Canyon Windfarm, LLC	Oregon
Panther Creek Holdings, Inc.	Delaware
Panther Creek Partners	Delaware
Pegasus Power Company, Inc.	California
Pinedale Energy, LLC	Colorado
R.E. Ginna Nuclear Power Plant, LLC	Maryland
Renewable Power Generation Holdings, LLC	Delaware
Renewable Power Generation, LLC	Delaware
Rolling Hills Landfill Gas, LLC	Delaware
Sacramento PV Energy, LLC	Delaware
Sand Ranch Windfarm, LLC	Oregon
Sendero Wind Energy, LLC	Delaware
Shooting Star Wind Project, LLC	Delaware
Sky Valley, LLC	Delaware
Sugar Beet Wind, LLC	Delaware
Sunbeam LeaseCo, LLC	Delaware
Threemile Canyon Wind I, LLC	Oregon
Titan STC, LLC	Delaware
Tuana Springs Energy, LLC	Idaho
V.G. Investment Holdings, LLC	Delaware
Volta SPV CMX, LLC	Delaware
Volta SPV NTR, LLC	Delaware
Volta SPV RSL, LLC	Delaware
W&D Gas Partners, LLC	Delaware
Wagon Trail, LLC	Oregon
Ward Butte Windfarm, LLC	Oregon
West Medway II Holdings, LLC	Delaware
West Medway II, LLC	Delaware
Whitetail Wind Energy, LLC	Delaware
Wildcat Finance, LLC	Delaware
Wildcat Wind LLC	New Mexico
Wind Capital Holdings, LLC	Missouri

Wolf Hollow II Power, LLC  
Wolf Hollow Services, LLC

Delaware  
Delaware

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-262458), Form S-8 (No. 333-262459) and Form S-8 (No. 333-262460) of Constellation Energy Corporation of our report dated February 25, 2022 relating to the financial statements and financial statement schedule, which appear in Constellation Energy Generation, LLC's (formerly known as Exelon Generation Company, LLC) Annual Report on Form 10-K for the year ended December 31, 2021.

/s/ PricewaterhouseCoopers LLP  
Baltimore, Maryland  
February 25, 2022

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Laurie Brlas**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

*/s/ LAURIE BRLAS*

\_\_\_\_\_  
**Laurie Brlas**

**DATE: February 18, 2022**

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Yves C. de Balmann**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

/s/ YVES C. DE BALMANN

\_\_\_\_\_  
**Yves C. de Balmann**

**DATE: February 18, 2022**

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Rhonda Ferguson**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

/s/ RHONDA FERGUSON

**Rhonda Ferguson**

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**DATE: February 18, 2022**



POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Bradley Halverson**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

/s/ BRADLEY HALVERSON

**Bradley Halverson**

**DATE: February 18, 2022**

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Charles Harrington**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

*/s/* CHARLES HARRINGTON

\_\_\_\_\_  
Charles Harrington

**DATE: February 19, 2022**

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Julie Holzrichter**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

/s/ JULIE HOLZRICHTER

\_\_\_\_\_  
**Julie Holzrichter**

**DATE: February 18, 2022**

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Ashish Khandpur**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

*/s/* ASHISH KHANDPUR

\_\_\_\_\_  
**Ashish Khandpur**

**DATE:** February 18, 2022

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **Robert Lawless**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

*/s/* ROBERT LAWLESS

**Robert Lawless**

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**DATE:** February 18, 2022

POWER OF ATTORNEY

**KNOW ALL MEN BY THESE PRESENTS** that I, **John Richardson**, do hereby appoint Joseph Dominguez and David Dardis, or either of them, attorney for me and in my name and on my behalf to sign the annual Securities and Exchange Commission report on Form 10-K for 2021 of Constellation Energy Corporation, together with any amendments thereto, to be filed with the Securities and Exchange Commission, and generally to do and perform all things necessary to be done in the premises as fully and effectually in all respects as I could do if personally present.

/s/ JOHN RICHARDSON

\_\_\_\_\_  
**John Richardson**

**DATE: February 18, 2022**

**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) OF THE  
SECURITIES AND EXCHANGE ACT OF 1934**

I, Joseph Dominguez, certify that:

1. I have reviewed this annual report on Form 10-K of Constellation Energy Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ JOSEPH DOMINGUEZ

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President and Chief Executive Officer  
(Principal Executive Officer)

Date: February 25, 2022

**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) OF THE  
SECURITIES AND EXCHANGE ACT OF 1934**

I, Daniel L. Eggers, certify that:

1. I have reviewed this annual report on Form 10-K of Constellation Energy Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DANIEL L. EGGERS

Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

Date: February 25, 2022



**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) OF THE  
SECURITIES AND EXCHANGE ACT OF 1934**

I, Joseph Dominguez, certify that:

1. I have reviewed this annual report on Form 10-K of Constellation Energy Generation, LLC;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ JOSEPH DOMINGUEZ

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President and Chief Executive Officer  
(Principal Executive Officer)

Date: February 25, 2022

**CERTIFICATION PURSUANT TO RULE 13a-14(a) AND 15d-14(a) OF THE  
SECURITIES AND EXCHANGE ACT OF 1934**

I, Daniel L. Eggers, certify that:

1. I have reviewed this annual report on Form 10-K of Constellation Energy Generation, LLC;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DANIEL L. EGGERS

Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)

Date: February 25, 2022

**Certificate Pursuant to Section 1350 of Chapter 63 of Title 18 United States Code**

The undersigned officer hereby certifies, as to the Report on Form 10-K of Constellation Energy Corporation for the year ended December 31, 2021, that (i) the report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and (ii) the information contained in the report fairly presents, in all material respects, the financial condition and results of operations of Constellation Energy Corporation.

/s/ JOSEPH DOMINGUEZ  
Joseph Dominguez  
President and Chief Executive Officer

Date: February 25, 2022

**Certificate Pursuant to Section 1350 of Chapter 63 of Title 18 United States Code**

The undersigned officer hereby certifies, as to the Report on Form 10-K of Constellation Energy Corporation for the year ended December 31, 2021, that (i) the report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and (ii) the information contained in the report fairly presents, in all material respects, the financial condition and results of operations of Constellation Energy Corporation.

/s/ DANIEL L. EGGERS

Daniel L. Eggers

Executive Vice President and Chief Financial Officer

Date: February 25, 2022

**Certificate Pursuant to Section 1350 of Chapter 63 of Title 18 United States Code**

The undersigned officer hereby certifies, as to the Report on Form 10-K of Constellation Energy Generation, LLC for the year ended December 31, 2021, that (i) the report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and (ii) the information contained in the report fairly presents, in all material respects, the financial condition and results of operations of Constellation Energy Generation, LLC.

/s/ JOSEPH DOMINGUEZ  
Joseph Dominguez  
President and Chief Executive Officer

Date: February 25, 2022

**Certificate Pursuant to Section 1350 of Chapter 63 of Title 18 United States Code**

The undersigned officer hereby certifies, as to the Report on Form 10-K of Constellation Energy Generation, LLC for the year ended December 31, 2021, that (i) the report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and (ii) the information contained in the report fairly presents, in all material respects, the financial condition and results of operations of Constellation Energy Generation, LLC.

/s/ DANIEL L. EGGERS

Daniel L. Eggers

Executive Vice President and Chief Financial Officer

Date: February 25, 2022