

EXECUTION COPY

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NORTHERN UTILITIES, INC.

\$30,000,000 6.95% Senior Notes, Series A,  
due December 3, 2018

\$50,000,000 7.72% Senior Notes, Series B,  
due December 3, 2038

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NOTE PURCHASE AGREEMENT

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Dated as of December 3, 2008

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<b>EXHIBIT 4.4(a)</b>	<b>— Form of Opinion of Special Counsel for the Company</b>
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<b>EXHIBIT 4.4(c)</b>	<b>— Form of Opinion of Special Counsel for the Purchasers</b>

NORTHERN UTILITIES, INC.  
6 Liberty Lane West  
Hampton, New Hampshire 03842-1720

\$30,000,000 6.95% Senior Notes, Series A,  
due December 3, 2018  
\$50,000,000 7.72% Senior Notes, Series B,  
due December 3, 2038

Dated as of December 3, 2008

TO EACH OF THE PURCHASERS LISTED IN  
SCHEDULE A HERETO:

Ladies and Gentlemen:

Northern Utilities, Inc., a New Hampshire corporation (the "*Company*"), agrees with each of the purchasers whose names appear at the end hereof (each, a "*Purchaser*" and, collectively, the "*Purchasers*") as follows:

SECTION 1. AUTHORIZATION OF NOTES.

The Company will authorize the issue and sale of (i) \$30,000,000 principal amount of its 6.95% Senior Notes, Series A, due December 3, 2018 (the "*Series A Notes*") and (ii) \$50,000,000 principal amount of its 7.72% Senior Notes, Series B, due December 3, 2038 (the "*Series B Notes*", and together with the Series A Notes, the "*Notes*", such term to include any such notes issued in substitution therefor pursuant to **Section 13**). The Notes shall be substantially in the form set out in **Exhibits 1(a)** and **1(b)**, respectively, with such changes therefrom, if any, as may be approved by each Purchaser and the Company. Certain capitalized and other terms used in this Agreement are defined in **Schedule B**; and references to a "*Schedule*" or an "*Exhibit*" are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

SECTION 2. SALE AND PURCHASE OF NOTES.

Subject to the terms and conditions of this Agreement, the Company will issue and sell to each Purchaser and each Purchaser will purchase from the Company, at the Closing provided for in **Section 3**, Notes of the respective Series and in the principal amount specified opposite such Purchaser's name in **Schedule A** at the purchase price of 100% of the principal amount thereof. The Purchasers' obligations hereunder are several and not joint obligations and no Purchaser shall have any liability to any Person for the performance or non-performance of any obligation by any other Purchaser hereunder.

### SECTION 3. CLOSING.

The sale and purchase of the Notes to be purchased by each Purchaser shall occur at the offices of Chapman and Cutler LLP, 111 West Monroe Street, Chicago, Illinois 60603 at 10:00 a.m., Central time, at a closing (the "*Closing*") on December 3, 2008 or on such other Business Day thereafter on or prior to December 15, 2008 as may be agreed upon by the Company and the Purchasers. At the Closing the Company will deliver to each Purchaser the Notes to be purchased by such Purchaser in the form of a single Note (or such greater number of Notes in denominations of at least \$100,000 as such Purchaser may request) dated the date of the Closing and registered in such Purchaser's name (or in the name of its nominee), against delivery by such Purchaser to the Company or its order of immediately available funds in the amount of the purchase price therefor by wire transfer of immediately available funds to account number 004622844048 at Bank of America, General Funds, ABA number 026 009 593, for the account of Northern Utilities, Inc. If at the Closing the Company shall fail to tender such Notes to any Purchaser as provided above in this **Section 3**, or any of the conditions specified in **Section 4** shall not have been fulfilled to such Purchaser's satisfaction, such Purchaser shall, at its election, be relieved of all further obligations under this Agreement, without thereby waiving any rights such Purchaser may have by reason of such failure or such nonfulfillment.

### SECTION 4. CONDITIONS TO CLOSING.

Each Purchaser's obligation to purchase and pay for the Notes to be sold to such Purchaser at the Closing is subject to the fulfillment to such Purchaser's satisfaction, prior to or at the Closing, of the following conditions:

*Section 4.1. Representations and Warranties.* The representations and warranties of the Company in this Agreement shall be correct when made and at the time of the Closing.

*Section 4.2. Performance; No Default.* The Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or at the Closing and after giving effect to the issue and sale of the Notes (and the application of the proceeds thereof as contemplated by **Section 5.14**) no Default or Event of Default shall have occurred and be continuing. Neither the Company nor any Subsidiary shall have entered into any transaction since the date of the Memorandum that would have been prohibited by **Section 10.1, 10.2, 10.3, 10.4 or 10.5** had such Sections applied since such date.

*Section 4.3. Compliance Certificates.*

(a) *Officer's Certificate.* The Company shall have delivered to such Purchaser an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in **Sections 4.1, 4.2 and 4.9** have been fulfilled.

(b) *Secretary's Certificate.* The Company shall have delivered to such Purchaser a certificate of its Secretary or Assistant Secretary, dated the date of Closing, certifying as to the



resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Notes and this Agreement.

*Section 4.4. Opinions of Counsel.* Such Purchaser shall have received opinions in form and substance satisfactory to such Purchaser, dated the date of the Closing (a) from Dewey & LeBoeuf LLP, counsel for the Company, covering the matters set forth in **Exhibit 4.4(a)** and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its counsel to deliver such opinion to the Purchasers), (b) from Gary Epler, Chief Regulatory Counsel for Unitil Service Corp., covering the matters set forth in **Exhibit 4.4(b)** and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs Gary Epler to deliver such opinion to the Purchasers) and (c) from Chapman and Cutler LLP, the Purchasers' special counsel in connection with such transactions, substantially in the form set forth in **Exhibit 4.4(c)** and covering such other matters incident to such transactions as such Purchaser may reasonably request.

*Section 4.5. Purchase Permitted By Applicable Law, Etc.* On the date of the Closing such Purchaser's purchase of Notes shall (a) be permitted by the laws and regulations of each jurisdiction to which such Purchaser is subject, without recourse to provisions (such as section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (b) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (c) not subject such Purchaser to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. If requested by such Purchaser, such Purchaser shall have received an Officer's Certificate certifying as to such matters of fact as such Purchaser may reasonably specify to enable such Purchaser to determine whether such purchase is so permitted.

*Section 4.6. Sale of Other Notes.* Contemporaneously with the Closing the Company shall sell to each other Purchaser and each other Purchaser shall purchase the Notes to be purchased by it at the Closing as specified in **Schedule A**.

*Section 4.7. Payment of Special Counsel Fees.* Without limiting the provisions of **Section 15.1**, the Company shall have paid on or before the Closing the reasonable fees, charges and disbursements of the Purchasers' special counsel referred to in **Section 4.4** to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to the Closing.

*Section 4.8. Private Placement Numbers.* A Private Placement Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) shall have been obtained for each Series of the Notes.

*Section 4.9. Changes in Corporate Structure.* The Company shall not have changed its jurisdiction of incorporation or organization, as applicable, or, other than as contemplated by the Stock Purchase Agreement, been a party to any merger or consolidation or succeeded to all or

any substantial part of the liabilities of any other entity, at any time following the date of the most recent financial statements referred to in **Schedule 5.5**.

*Section 4.10. Funding Instructions.* At least three Business Days prior to the date of the Closing, each Purchaser shall have received written instructions signed by a Responsible Officer on letterhead of the Company confirming the information specified in **Section 3** including (i) the name and address of the transferee bank, (ii) such transferee bank's ABA number and (iii) the account name and number into which the purchase price for the Notes is to be deposited.

*Section 4.11. Proceedings and Documents.* All corporate and other proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be satisfactory to such Purchaser and its special counsel, and such Purchaser and its special counsel shall have received all such counterpart originals or certified or other copies of such documents as such Purchaser or such special counsel may reasonably request.

*Section 4.12. Regulatory Approvals.*

(a) *Acquisition.* The Acquisition shall have been (i) consummated in compliance with the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, (ii) reviewed and approved by the Federal Communications Commission and such other regulatory authorities as may have jurisdiction, and (iii) duly authorized by orders or other appropriate action of the New Hampshire Public Utilities Commission (the "*NHPUC*"), the Maine Public Utilities Commission (the "*MPUC*"), and the Massachusetts Department of Public Utilities ("*MDPU*"), such order(s) shall be in full force and effect at the time of the Closing and any appeal periods applicable thereto shall have expired with no appeals filed during such periods.

(b) *Sale of Notes.* The issue and sale of the Notes shall have been duly authorized by order of the NHPUC, the MPUC and such other regulatory authorities as may have jurisdiction, such order(s) shall be in full force and effect at the time of the Closing and any appeal periods applicable thereto shall have expired with no appeals filed during such periods.

*Section 4.13. Matters Related to Acquisition.* (a) Prior to the date of Closing, such Purchaser shall have received (i) a true and correct copy of the Stock Purchase Agreement (including all schedules and exhibits), and all amendments thereto, and (ii) *pro forma* balance sheets of the Company as of September 30, 2008, in form and substance reasonably satisfactory to such Purchaser, which shall reflect the financial condition of the Company after giving effect to the Acquisition and the consummation of the transactions contemplated thereby.

(b) On the date of Closing, prior to the issuance and sale of the Notes, (i) the Acquisition shall be consummated pursuant to the terms of the Stock Purchase Agreement, (ii) Unitil shall acquire good and marketable title to 100% of the issued and outstanding Voting Stock of the Company and Granite, and (iii) in connection with the foregoing, all outstanding Indebtedness of the Company and Granite that is required to be paid more than one year from the date on which it was incurred shall be paid and satisfied in full.

*Section 4.14. Unitil Credit Agreement.* Unitil and certain bank lenders shall have executed and delivered that certain Credit Agreement dated as of November 26, 2008, among Unitil, Bank of America, N.A., as Administrative Agent and Lender, and RBS Citizens, N.A. and TD Bank, N.A., as Lenders, providing for not less than \$45,000,000 in committed loans for the benefit of Unitil, which Credit Agreement shall be in full force and effect, and each Purchaser shall have received a true, correct and complete executed copy thereof.

## SECTION 5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each Purchaser that:

*Section 5.1. Organization; Power and Authority.* The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and proposes to transact, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to execute and deliver this Agreement and the Notes and to perform the provisions hereof and thereof.

*Section 5.2. Authorization, Etc.* This Agreement and the Notes have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement constitutes, and upon execution and delivery thereof each Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

*Section 5.3. Disclosure.* The Company, through its agent, RBC Capital Markets, has delivered to each Purchaser a copy of a confidential Private Placement Memorandum, dated September 3, 2008 (the "*Memorandum*"), relating to the transactions contemplated hereby. The Memorandum fairly describes, in all material respects, the general nature of the business and principal properties of the Company and its Subsidiaries. This Agreement, the Memorandum and the documents, certificates or other writings delivered to the Purchasers by or on behalf of the Company in connection with the transactions contemplated hereby and identified in **Schedule 5.3**, and the financial statements listed in **Schedule 5.5** (this Agreement, the Memorandum and such documents, certificates or other writings identified in **Schedule 5.3** and such financial statements listed in **Schedule 5.5** delivered to each Purchaser being referred to, collectively, as the "*Disclosure Documents*"), taken as a whole, do not, as of their respective dates, contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made. Except as disclosed in the Disclosure Documents, since December 31, 2007, there

has been no change in the financial condition, operations, business or properties of the Company or any Subsidiary except changes that individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. There is no fact known to the Company that would reasonably be expected to have a Material Adverse Effect that has not been set forth herein or in the Disclosure Documents.

*Section 5.4. Organization and Ownership of Shares of the Company and Subsidiaries; Affiliates.* (a) **Schedule 5.4** contains (except as noted therein) complete and correct lists (i) of the Company's Subsidiaries, showing, as to each Subsidiary, the correct name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary, (ii) of the Company's Affiliates, other than Subsidiaries, and (iii) of the Company's directors and senior officers.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in **Schedule 5.4** as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and nonassessable and are owned by the Company or another Subsidiary free and clear of any Lien (except as otherwise disclosed in **Schedule 5.4**).

(c) Each Subsidiary identified in **Schedule 5.4** is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and is duly qualified as a foreign corporation or other legal entity and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and proposes to transact except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) No Subsidiary is a party to, or otherwise subject to any legal, regulatory, contractual or other restriction (other than this Agreement, the agreements listed on **Schedule 5.4** and customary limitations imposed by corporate or utility regulatory law or similar statutes) restricting the ability of such Subsidiary to pay dividends out of profits or make any other similar distributions of profits to the Company or any of its Subsidiaries that owns outstanding shares of capital stock or similar equity interests of such Subsidiary in an amount substantially inconsistent with the past practice of such Subsidiary.

(e) The Company is a Wholly-Owned Subsidiary of Unitil.

*Section 5.5. Financial Statements; Material Liabilities.* The Company has delivered to each Purchaser copies of the financial statements of the Company and its Subsidiaries listed on **Schedule 5.5**. All of said financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and its Subsidiaries as of the respective dates specified in such Schedule and the consolidated results of their operations and cash flows for the respective periods so specified and have been

prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to normal year-end adjustments). The Company and its Subsidiaries do not have any Material liabilities that are not disclosed on such financial statements or otherwise disclosed in the Disclosure Documents except liabilities, as would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect.

*Section 5.6. Compliance with Laws, Other Instruments, Etc.* The execution, delivery and performance by the Company of this Agreement and the Notes will not (i) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, or any other Material agreement or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary or (iii) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary except, in each case, as would not reasonably be expected to have a Material Adverse Effect.

*Section 5.7. Governmental Authorizations, Etc.* (a) The Company is subject to regulation by the NHPUC and the MPUC with respect to retail rates, adequacy of service, issuance of securities, accounting and other matters and to regulation by FERC under the Energy Policy Act of 2005 in regards to certain bookkeeping, accounting and reporting requirements. The issuance and sale of the Notes have been authorized by an order of the NHPUC and an order of the MPUC, which orders have each become final and the applicable waiting or appeal periods (including any extension thereof) have expired with no appeals filed during such periods. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company of this Agreement or the Notes other than the orders of the NHPUC and MPUC referenced above.

(b) The Acquisition, as it relates solely to the Company, has been authorized by orders of the NHPUC, the MPUC and the MDPU, which orders have each become final and all applicable waiting or appeal periods (including any extension thereof) with respect to such approvals have expired with no appeals filed during such periods, except that the appeal period applicable to the approval from the MDPU will expire December 8, 2008, however, the only party with standing to appeal such approval is the Massachusetts Attorney General who affirmed to Unitil in writing on November 26, 2008 that she will not appeal such approval.

*Section 5.8. Litigation; Observance of Agreements, Statutes and Orders.* (a) Except as disclosed in the Memorandum, there are no actions, suits, investigations or proceedings pending or, to the knowledge of the Company, threatened against or affecting the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

(b) Except as disclosed in the Memorandum, neither the Company nor any Subsidiary is in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including without limitation Environmental Laws or the USA Patriot Act) of any Governmental Authority, which default or violation, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

*Section 5.9. Taxes.* The Company and its Subsidiaries have filed all tax returns that are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which is not individually or in the aggregate Material or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The charges, accruals and reserves on the books of the Company and its Subsidiaries in respect of income taxes for all fiscal periods are recognized in accordance with GAAP, and, except as disclosed in the Memorandum, the Company knows of no unpaid assessment for additional income taxes for any fiscal period or any basis therefore. The federal income tax liabilities of the Company and its Subsidiaries have been finally determined (whether by reason of completed audits or the statute of limitations having run) for all fiscal years up to and including the fiscal year ended December 31, 2004.

*Section 5.10. Title to Property; Leases.* The Company and its Subsidiaries have good and sufficient title to their respective properties that individually or in the aggregate are Material, including all such properties reflected in the most recent audited balance sheet referred to in **Section 5.5** or purported to have been acquired by the Company or any Subsidiary after said date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement, except for those defects in title and Liens that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. All leases that individually or in the aggregate are Material are valid and subsisting and are in full force and effect in all material respects.

*Section 5.11. Licenses, Permits, Etc.* (a) The Company and its Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, proprietary software, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are Material, without known conflict with the rights of others, except for those conflicts that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) To the knowledge of the Company, there is no Material violation by any Person of any right of the Company or any of its Subsidiaries with respect to any patent, copyright, proprietary software, service mark, trademark, trade name or other right owned or used by the Company or any of its Subsidiaries that would reasonably be expected to have a Material Adverse Effect.

*Section 5.12. Compliance with ERISA.* (a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and would not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans (as defined in section 3 of ERISA), and no event, transaction or condition has occurred or exists that would reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to such penalty or excise tax provisions, or to Code section 401(a)(29) or 412, as augmented by Code sections 436 and 430, respectively, effective January 1, 2008, other than such liabilities or Liens as would not be individually or in the aggregate Material.

(b) None of the Plans that are subject to the minimum funding requirements of section 412 of the Code or section 302 of ERISA, nor any trust established thereunder, have incurred any “accumulated funding deficiency” or “liquidity shortfall” (as those terms are defined in section 302 of ERISA or section 412 of the Code), whether or not waived.

(c) The Company and its ERISA Affiliates have not incurred withdrawal liabilities (and are not subject to contingent withdrawal liabilities) under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that individually or in the aggregate are Material.

(d) The postretirement benefit obligations (determined as of the last day of the Company’s most recently ended fiscal year in accordance with Financial Accounting Standards Board Statement No. 106, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries have been determined in accordance with GAAP and are reflected in footnotes 4 and 5 of the Company’s audited financial statements for its most recently ended fiscal year.

(e) The execution and delivery of this Agreement and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975(c)(1)(A)–(D) of the Code. The representation by the Company to each Purchaser in the first sentence of this **Section 5.12(e)** is made in reliance upon and subject to the accuracy of such Purchaser’s representation in **Section 6.2** as to the sources of the funds used to pay the purchase price of the Notes to be purchased by such Purchaser.

*Section 5.13. Private Offering by the Company.* Neither the Company nor anyone acting on its behalf has offered the Notes or any similar securities for sale to, solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and not more than 54 other Institutional Investors, each of which has been offered the Notes at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of section 5 of the Securities Act or to the registration requirements of any securities or blue sky laws of any applicable jurisdiction.

**Section 5.14. Use of Proceeds; Margin Regulations.** The Company will, promptly following the Closing, recapitalize by applying the net proceeds from the sale of the Notes to purchase a portion of Unitil's equity investment in the Company acquired in connection with the Acquisition. No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). The Company does not own or carry any margin stock. As used in this Section, the terms "*margin stock*" and "*purpose of buying or carrying*" shall have the meanings assigned to them in said Regulation U.

**Section 5.15. Existing Funded Indebtedness; Future Liens.** (a) At the time of the Closing, the Company and its Subsidiaries will have no Funded Indebtedness outstanding.

(b) Neither the Company nor any Subsidiary has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien not permitted by **Section 10.2**.

(c) Neither the Company nor any Subsidiary is a party to, or otherwise subject to any provision contained in, any instrument evidencing Funded Indebtedness of the Company or such Subsidiary, any agreement relating thereto or any other agreement (including, but not limited to, its charter or other organizational document) which limits the amount of, or otherwise imposes restrictions on the incurring of, Funded Indebtedness of the Company.

**Section 5.16. Foreign Assets Control Regulations, Etc.** (a) Neither the sale of the Notes by the Company hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

(b) Neither the Company nor any Subsidiary (i) is a Person named on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or with whom people of the United States are restricted from doing business with under section 1 of the Anti-Terrorism Order or (ii) engages in any dealings or transactions with any such Person. The Company and its Subsidiaries are in compliance, in all material respects, with the USA Patriot Act.

(c) No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

**Section 5.17. Status under Certain Statutes.** Neither the Company nor any Subsidiary is subject to regulation under the Investment Company Act of 1940, as amended, the ICC



Termination Act of 1995, as amended, or the Federal Power Act, as amended. The Company is subject to regulation under the Public Utility Holding Company Act of 2005, as amended, and the Energy Policy Act of 2005, as amended.

*Section 5.18. Environmental Matters.* (a) Except as disclosed in the Memorandum, neither the Company nor any Subsidiary has knowledge of any claim or has received any notice of any claim, and no proceeding has been instituted raising any claim against the Company or any of its Subsidiaries or any of their respective real properties now or formerly owned, leased or operated by any of them or other assets, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as would not reasonably be expected to result in a Material Adverse Effect.

(b) Except as disclosed in the Memorandum, all buildings on all real properties now owned, leased or operated by the Company or any Subsidiary are in compliance with applicable Environmental Laws, except where failure to comply would not reasonably be expected to result in a Material Adverse Effect.

*Section 5.19. Notes Rank Pari Passu.* The obligations of the Company under this Agreement and the Notes rank *pari passu* in right of payment with all other senior unsecured Funded Indebtedness (actual or contingent) of the Company.

*Section 5.20 Acquisition.* The Acquisition has been consummated in accordance with the terms of the Stock Purchase Agreement and in accordance with all legal and regulatory requirements necessary for the valid and effective transfer of the shares of 100% of the Voting Stock of the Company and Granite to Unitil.

*Section 5.21. Solvency and Consideration.* On the date of Closing, after giving effect to the Acquisition and the issue and sale of the Notes and the application of the proceeds as contemplated by **Section 5.14** hereof, the Company is solvent, has capital not unreasonably small in relation to its business or any contemplated or undertaken transaction and has assets having a value both at fair valuation and a present fair salable value greater than the amount required to pay its debts as they become due and greater than the amount that will be required to pay its probable liability on its existing debts as they become due and matured. The Company does not intend to incur, nor does it believe, nor should it believe that it will incur, debts beyond its ability to pay such debts as they become due. The Company will not be rendered insolvent by the execution, delivery and performance of its obligations under or in respect of the Notes or this Agreement. The Company does not intend to hinder, delay or defraud its creditors by or through the execution, delivery or performance of its obligations under or in respect of the Notes or this Agreement.

## **SECTION 6. REPRESENTATIONS OF THE PURCHASERS.**

*Section 6.1. Purchase for Investment.* Each Purchaser severally represents that it is an institutional "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act and is purchasing the Notes for its own account or for one or more separate accounts maintained by such Purchaser or for the account of one or more pension or trust funds

and not with a view to the distribution thereof, *provided* that the disposition of such Purchaser's or their property shall at all times be within such Purchaser's or their control. Each Purchaser understands that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to and does not intend to register the Notes.

*Section 6.2. Source of Funds.* Each Purchaser severally represents that at least one of the following statements is an accurate representation as to each source of funds (a "*Source*") to be used by such Purchaser to pay the purchase price of the Notes to be purchased by such Purchaser hereunder:

(a) the Source is an "insurance company general account" (as the term is defined in the United States Department of Labor's Prohibited Transaction Exemption ("*PTE*") 95-60) in respect of which the reserves and liabilities (as defined by the annual statement for life insurance companies approved by the NAIC (the "*NAIC Annual Statement*")) for the general account contract(s) held by or on behalf of any employee benefit plan together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit plans maintained by the same employer (or affiliate thereof as defined in PTE 95-60) or by the same employee organization in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with such Purchaser's state of domicile; or

(b) the Source is a separate account that is maintained solely in connection with such Purchaser's fixed contractual obligations under which the amounts payable, or credited, to any employee benefit plan (or its related trust) that has any interest in such separate account (or to any participant or beneficiary of such plan (including any annuitant)) are not affected in any manner by the investment performance of the separate account; or

(c) the Source is either (i) an insurance company pooled separate account, within the meaning of PTE 90-1 or (ii) a bank collective investment fund, within the meaning of the PTE 91-38 and, except as disclosed by such Purchaser to the Company in writing pursuant to this clause (c), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(d) the Source constitutes assets of an "investment fund" (within the meaning of Part V of PTE 84-14 (the "*QPAM Exemption*")) managed by a "qualified professional asset manager" or "*QPAM*" (within the meaning of Part V of the QPAM Exemption), no employee benefit plan's assets that are included in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of section V(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by

such QPAM, exceed 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, as of the last day of its most recent calendar quarter, the QPAM does not own a 10% or more interest in the Company and no person controlling or controlled by the QPAM (applying the definition of “control” in section V(e) of the QPAM Exemption) owns a 20% or more interest in the Company (or less than 20% but greater than 10%, if such person exercises control over the management or policies of the Company by reason of its ownership interest) and (i) the identity of such QPAM and (ii) the names of all employee benefit plans whose assets are included in such investment fund have been disclosed to the Company in writing pursuant to this clause (d); or

(e) the Source constitutes assets of a “plan(s)” (within the meaning of section IV of PTE 96-23 (the “*INHAM Exemption*”)) managed by an “in-house asset manager” or “INHAM” (within the meaning of Part IV of the INHAM Exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a person controlling or controlled by the INHAM (applying the definition of “control” in section IV(d) of the INHAM Exemption) owns a 5% or more interest in the Company and (i) the identity of such INHAM and (ii) the name(s) of the employee benefit plan(s) whose assets constitute the Source have been disclosed to the Company in writing pursuant to this clause (e); or

(f) the Source is a governmental plan; or

(g) the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this clause (g); or

(h) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this **Section 6.2**, the terms “employee benefit plan,” “governmental plan,” and “separate account” shall have the respective meanings assigned to such terms in section 3 of ERISA.

**Section 6.3. Binding Effect.** Each Purchaser severally represents that this Agreement has been duly executed and delivered by it and this Agreement constitutes its valid and legally binding obligation, enforceable against it in accordance with its terms.

**Section 6.4. Access to Information; Knowledge and Experience.** Each Purchaser severally represents that it (i) has been furnished with or has had access to the information requested from the Company, (ii) has had an opportunity to discuss with management of the Company the business and financial affairs of the Company and (iii) has such knowledge and experience in business and financial matters and with respect to investments in securities similar to the Notes that it is capable of evaluating the risks and merits of this investment.

SECTION 7. INFORMATION AS TO COMPANY.

*Section 7.1. Financial and Business Information.* So long as any of the Notes are outstanding, the Company shall deliver to each holder of Notes that is an Institutional Investor:

(a) Quarterly Statements —

(i) within 90 days after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(A) an unaudited consolidated balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(B) consolidated statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

(ii) within 90 days after the end of each quarterly fiscal period in each fiscal year of Unitil (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(A) an unaudited consolidated balance sheet of Unitil and its Subsidiaries as at the end of such quarter, and

(B) consolidated statements of income, changes in shareholders' equity and cash flows of Unitil and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments, *provided* that delivery within the time period specified above of copies of Unitil's Quarterly Report on Form 10-Q (the "*Form 10-Q*") prepared in compliance with the requirements therefor and filed with the SEC shall be deemed to satisfy the requirements of **Section 7.1(a)(ii)**, *provided, further*, that the Company shall be deemed to have made such delivery of such Form 10-Q if Unitil shall have timely made such Form 10-Q available on "EDGAR" or on its home page on the worldwide web (at the date of this Agreement located at, respectively, <http://www.sec.gov/edgar.shtml> and <http://www.unitil.com>) (such availability being referred to as "*Electronic Delivery*");

(b) Annual Statements —

(i) within 120 days after the end of each fiscal year of the Company, duplicate copies of

(A) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such year, and

(B) consolidated statements of income, changes in shareholders' equity and cash flows of the Company and its Subsidiaries for such year,

(ii) within 120 days after the end of each fiscal year of Unitil, duplicate copies of

(A) a consolidated balance sheet of Unitil and its Subsidiaries as at the end of such year, and

(B) consolidated statements of income, changes in shareholders' equity and cash flows of Unitil and its Subsidiaries for such year,

(C) setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by a report thereon of independent public accountants of recognized national standing, which report shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such report in the circumstances

*provided* that the delivery within the time period specified above of Unitil's Form 10-K (the "*Form 10-K*") for such fiscal year (together with Unitil's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefor and filed with the SEC, shall be deemed to satisfy the requirements of **Section 7.1(b)(ii)**, *provided, further*, that the Company shall be deemed to have made such delivery of such Form 10-K if Unitil shall have timely made Electronic Delivery thereof;

(c) *SEC and Other Reports* — promptly upon their becoming available, one copy of (i) each proxy statement, financial statement, or report sent by the Company, Unitil or any Subsidiary to its public securities holders generally, and (ii) each regular or periodic report, each registration statement (without exhibits, and each prospectus and all amendments thereto filed by the Company, Unitil or any Subsidiary with the SEC; *provided* that copies of any such documents required to be delivered pursuant to this clause (c) may be delivered by Electronic Delivery;

(d) *Notice of Default or Event of Default* — promptly, and in any event within five days after a Responsible Officer becoming aware of the existence of any Default or Event of Default or that any Person has given any notice or taken any action with respect to a claimed default hereunder or that any Person has given any notice or taken any action with respect to a claimed default of the type referred to in **Section 11(e)**, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(e) *Material Adverse Events* — promptly upon the occurrence thereof, notice of any event, circumstance or condition which would reasonably be expected to materially and adversely affect the ability of the Company to perform its obligations under this Agreement and the Notes; and

(f) *Requested Information* — with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company, Unitil or any of their respective Subsidiaries (including, but without limitation, actual copies of Unitil's Form 10-Q and Form 10-K) or relating to the ability of the Company to perform its obligations hereunder and under the Notes as from time to time may be reasonably requested by any such holder of Notes.

**Section 7.2. Officer's Certificate.** Each set of financial statements delivered to a holder of Notes pursuant to **Section 7.1(a)(i)** or **Section 7.1(b)(i)** shall be accompanied by a certificate of a Senior Financial Officer setting forth:

(a) *Covenant Compliance* — the information (including detailed calculations) required in order to establish whether the Company was in compliance with the requirements of **Sections 10.1** (to the extent Funded Indebtedness is incurred during the period covered by such certificate) and **10.5**, during the quarterly or annual period covered by the statements then being furnished (including with respect to each such Section, where applicable, the calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of such Sections, and the calculation of the amount, ratio or percentage then in existence); and

(b) *Event of Default* — a statement that such Senior Financial Officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists (including, without limitation, any such event or condition resulting from the failure of the Company or any Subsidiary to comply with any Environmental Law), specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

*Section 7.3. Visitation.* The Company shall permit the representatives of each holder of Notes that is an Institutional Investor, at such Institutional Holder's expense, to visit and inspect any of the principal executive offices of the Company or any Subsidiary, including its books of account, to request copies and extracts therefrom and to discuss their respective affairs, finances and accounts with their respective officers and (with the consent of the Company, which consent will not be unreasonably withheld) independent public accountants, all at such reasonable times during customary business hours and as often as may reasonably be requested. Each holder of the Notes agrees to keep confidential any Confidential Information received as a result of the rights granted in this **Section 7** in the manner provided in **Section 20**.

## SECTION 8. PAYMENT AND PREPAYMENT OF THE NOTES.

### *Section 8.1. Required Prepayments.*

(a) *Series A Notes.* The Company agrees that on December 3 in each year commencing December 3, 2016 and ending December 3, 2018, it will redeem and there shall become due and payable on the principal indebtedness evidenced by the Series A Notes an amount equal to the lesser of (i) \$10,000,000 or (ii) the principal amount of the Series A Notes then outstanding.

(b) *Series B Notes.* The Company agrees that on December 3 in each year commencing December 3, 2029 and ending December 3, 2038, it will redeem and there shall become due and payable on the principal indebtedness evidenced by the Series B Notes an amount equal to the lesser of (i) \$5,000,000 or (ii) the principal amount of the Series B Notes then outstanding (each such redemption being a "*Series B required sinking fund payment*"). At the same time the Company makes a Series B required sinking fund payment, the Company shall have the option (which shall be non-cumulative) to redeem an additional principal amount of the Series B Notes outstanding of \$5,000,000 (a "*Series B optional sinking fund payment*"); *provided*, that the cumulative amount of such Series B optional sinking fund payments may not exceed \$20,000,000 in principal amount of Series B Notes.

In the event that the Company shall prepay less than all of the Notes of any Series pursuant to any Series B optional sinking fund payment or **Section 8.2**, or shall purchase less than all of the Notes pursuant to **Section 8.5**, the amounts of the prepayments in respect of each Series (as applicable) of Notes required by this **Section 8.1** shall be deemed to be applied first, to the amount of principal scheduled to be paid on the maturity date of such Series, and then to the remaining scheduled required sinking payments in inverse chronological order.

*Section 8.2. Optional Prepayments.* The Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of, the Notes (but if in part then in a minimum aggregate principal amount of \$100,000), at 100% of the principal amount so prepaid, together with interest accrued thereon to the date of such prepayment, *plus* the Make-Whole Amount for such Series, determined for the prepayment date with respect to such principal amount, which Make-Whole Amount shall be payable (a) in connection with all optional prepayments of the Series A Notes pursuant to this **Section 8.2** and (b) only in connection with optional prepayments of the Series B Notes pursuant to this **Section 8.2** occurring on or prior to December 3, 2033. The amount to be paid in respect of the Series B

Notes in connection with any optional prepayment pursuant to this **Section 8.2** after December 3, 2033 shall be 100% of the principal amount so prepaid, together with interest accrued thereon to the date of such prepayment, but without payment of the Make-Whole Amount.

The Company will give each holder of Notes written notice of each optional prepayment under this **Section 8.2** not less than 15 days and not more than 45 days prior to the date fixed for such prepayment. Each such notice shall specify such date (which shall be a Business Day), the aggregate principal amount of the Notes of each Series to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with **Section 8.3**), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of Notes a certificate of a Senior Financial Officer specifying the calculation of each such Make-Whole Amount, if any, as of the specified prepayment date.

*Section 8.3. Allocation of Partial Prepayments.* In the case of each partial prepayment of the Notes pursuant to **Section 8.2**, the principal amount of the Notes to be prepaid shall be (a) allocated among each Series of Notes in proportion to the aggregate unpaid principal amount of each such Series of Notes, and (b) allocated *pro rata* among all of the holders of the Notes within such Series at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

*Section 8.4. Maturity; Surrender, Etc.* In the case of each prepayment of Notes pursuant to this **Section 8**, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment (which shall be a Business Day), together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

*Section 8.5. Purchase of Notes.* The Company will not and will not permit any Affiliate to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes of any Series except (a) upon the payment or prepayment of the Notes of all Series in accordance with the terms of this Agreement and the Notes or (b) pursuant to an offer to purchase any outstanding Notes of all Series made by the Company or an Affiliate *pro rata* to the holders of all Notes at the time outstanding upon the same terms and conditions; *provided that* any such offer pursuant to this clause (b) shall provide each holder with reasonably sufficient information to enable it to make an informed decision and shall remain open for at least ten Business Days. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment or prepayment of Notes pursuant to any provision of this Agreement and no Notes may be issued in substitution or exchange for any such Notes.



*Section 8.6. Make-Whole Amount.*

*“Make-Whole Amount”* means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal, *provided* that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

*“Called Principal”* means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to **Section 8.2** or has become or is declared to be immediately due and payable pursuant to **Section 12.1**, as the context requires.

*“Discounted Value”* means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

*“Reinvestment Yield”* means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by (i) the yields reported as of 10:00 a.m. (New York City time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as “Page PX1” (or such other display as may replace Page PX1) on Bloomberg Financial Markets for the most recently issued actively traded on the run U.S. Treasury securities having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date, or (ii) if such yields are not reported as of such time or the yields reported as of such time are not ascertainable (including by way of interpolation), the Treasury Constant Maturity Series Yields reported, for the latest day for which such yields have been so reported as of the second Business Day preceding the Settlement Date with respect to such Called Principal, in Federal Reserve Statistical Release H.15 (or any comparable successor publication) for actively traded U.S. Treasury securities having a constant maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date.

In the case of each determination under clause (i) or clause (ii), as the case may be, of the preceding paragraph, such implied yield will be determined, if necessary, by (a) converting U.S. Treasury bill quotations to bond equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between (1) the applicable U.S. Treasury security with the maturity closest to and greater than such Remaining Average Life and (2) the applicable U.S. Treasury security with the maturity closest to and less than such Remaining Average Life. The Reinvestment Yield shall be rounded to the number of decimal places as appears in the interest rate of the applicable Note.

*“Remaining Average Life”* means, with respect to any Called Principal, the number of years (calculated to the nearest one-twelfth year) obtained by dividing (i) such Called Principal into (ii) the sum of the products obtained by multiplying (a) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (b) the number of years

(calculated to the nearest one-twelfth year) that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

*“Remaining Scheduled Payments”* means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, *provided* that if such Settlement Date is not a date on which interest payments are due to be made under the terms of the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to **Section 8.2** or **Section 12.1**.

*“Settlement Date”* means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to **Section 8.2** or has become or is declared to be immediately due and payable pursuant to **Section 12.1**, as the context requires.

#### SECTION 9. AFFIRMATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

*Section 9.1. Compliance with Law.* Without limiting **Section 10.7**, the Company will, and will cause each of its Subsidiaries to, comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, ERISA, the USA Patriot Act and Environmental Laws, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or the failure to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

*Section 9.2. Insurance.* The Company will insure and keep insured, and will cause every Subsidiary to insure and keep insured, to a reasonable amount with reputable insurance companies, so much of their respective properties as companies engaged in a similar business and to the extent such companies in accordance with good business practice customarily insure properties of a similar character against loss by fire and from other causes or, in lieu thereof, in the case of itself or its Subsidiaries, the Company will maintain or cause to be maintained a system or systems of self-insurance which will accord with the approved practices of companies owning or operating properties of a similar character and maintaining such systems, and of a size similar to that of the Company and its direct and indirect Subsidiaries on a consolidated basis.

*Section 9.3. Maintenance of Properties.* The Company will, and will cause each of its Subsidiaries to, maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times,

*provided* that this Section shall not prevent the Company or any Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

**Section 9.4. Payment of Taxes and Claims.** The Company will, and will cause each of its Subsidiaries to, file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent the same have become due and payable and before they have become delinquent and all claims for which sums have become due and payable that have or might become a Lien on properties or assets of the Company or any Subsidiary, *provided* that neither the Company nor any Subsidiary need pay any such tax, assessment, charge, levy or claim if (i) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary or (ii) the nonpayment of all such taxes, assessments, charges, levies and claims in the aggregate would not reasonably be expected to have a Material Adverse Effect.

**Section 9.5. Corporate Existence, Etc.; Ownership of Subsidiaries.** (a) Subject to **Section 10.4(ii)** the Company will at all times preserve and keep in full force and effect its corporate existence. Subject to **Section 10.4**, the Company will at all times preserve and keep in full force and effect the legal existence of each of its Subsidiaries (unless merged into the Company or a Wholly-Owned Subsidiary) and all rights and franchises of the Company and its Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such legal existence, right or franchise would not, individually or in the aggregate, have a Material Adverse Effect.

(b) Notwithstanding anything to the contrary contained herein, except pursuant to an action or order by a Governmental Authority, the Company shall at all times be and remain a Wholly-Owned Subsidiary of Unitil.

**Section 9.6. Books and Records.** The Company will, and will cause each of its Subsidiaries to, maintain proper books of record and account in conformity with GAAP and all applicable requirements of any Governmental Authority having legal or regulatory jurisdiction over the Company or such Subsidiary, as the case may be.

**Section 9.7. Notes to Rank Pari Passu.** The Company will ensure that its payment obligations under this Agreement and the Notes will at all times rank at least *pari passu*, without preference or priority, with all other senior unsecured Funded Indebtedness of the Company.

## **SECTION 10. NEGATIVE COVENANTS.**

The Company covenants that so long as any of the Notes are outstanding:

*Section 10.1. Limitation on Funded Indebtedness.* (a) The Company will not, and will not permit any Subsidiary to, directly or indirectly, create, incur or assume any Funded Indebtedness other than:

(i) Funded Indebtedness evidenced by the Notes;

(ii) additional Funded Indebtedness, so long as the aggregate outstanding principal amount of such Funded Indebtedness, after giving effect to the application of the proceeds thereof (subject to the proviso set forth hereafter) and when added to all other Funded Indebtedness of the Company and its Subsidiaries (determined on a consolidated basis) then outstanding, does not exceed 65% of the Total Capitalization; *provided*, that in giving effect to the application of such proceeds, only applications which are substantially contemporaneous with the incurrence of such additional Funded Indebtedness shall be given such effect, except that if the application of such proceeds involves the redemption of other securities of the Company, and such redemption cannot be made substantially contemporaneously with the incurrence of such additional Funded Indebtedness, then such intended redemption shall nevertheless be given effect for purposes hereof if either (1) the Company shall have given irrevocable written notice of redemption of such other securities to the holders thereof at or prior to the time of the incurrence of such additional Funded Indebtedness and such redemption is thereafter made in accordance with the terms of such notice, or (2) if such notice was not permitted to be given at or prior to the time of the incurrence of such additional Funded Indebtedness and the redemption will occur within 180 days after such incurrence, then (A) the proceeds of such Funded Indebtedness to be used for such redemption shall have been set aside in an escrow or trust account with a United States bank or other financial institution having capital and surplus of at least \$35,000,000, together with written instructions to the escrow agent or trustee to send notice of redemption of such securities provided by the Company to the holders thereof in accordance with the terms of such securities and thereafter to use such proceeds for such redemption in accordance with the terms of such notice, such escrow or trust account to also provide (x) that the funds set aside therein are not to be released to or for the benefit of the Company except for the purpose of accomplishing the redemption contemplated thereby, or with the prior written consent of all holders of Notes then outstanding, and (y) that if the funds set aside therein are invested in securities by such bank or financial institution, they shall be invested only in direct obligations of the United States of America maturing in not more than 180 days, and (B) unless otherwise agreed to in writing by all of the holders of Notes then outstanding, the redemption to be funded from such escrow or trust account is actually made in accordance with the terms under which such escrow or trust account is established.

(b) In addition to the limitations contained in **Section 10.1(a)**, no Subsidiary shall create, incur, assume or become liable for or have outstanding, or permit its property to be subject to a Lien securing any Funded Indebtedness if, after giving effect thereto and to any concurrent transaction, the aggregate amount of all Funded Indebtedness of all Subsidiaries would exceed 20% of Total Shareholders' Equity.

(c) For the purposes of this **Section 10.1**, any Person becoming a Subsidiary after the date hereof shall be deemed, at the time it becomes a Subsidiary, to have incurred all of its then outstanding Indebtedness, and any Person extending, renewing or refunding any Indebtedness shall be deemed to have incurred such Indebtedness at the time of such extension, renewal or refunding.

*Section 10.2. Limitation on Liens.* Except as hereinafter in this Section expressly permitted, the Company will not at any time, nor will it permit any Subsidiary to, directly or indirectly, create, assume or suffer to exist, except in favor of the Company or any Subsidiary, any Lien upon any of its properties or assets, real or personal, whether now owned or hereafter acquired, or of or upon any income or profits therefrom, without making effective provision, and the Company covenants that in any such case it will make or cause to be made effective provision, whereby the Notes then outstanding shall be secured by such Lien equally and ratably with any and all other Indebtedness to be secured thereby, so long as any such other Indebtedness shall be so secured.

Nothing in this Section shall be construed to prevent the Company or a Subsidiary from creating, assuming or suffering to exist, and the Company and its Subsidiaries are hereby expressly permitted to create, assume or suffer to exist, without securing the Notes as hereinabove provided, Liens of the following character:

(a) any purchase money mortgage or other Lien existing on any property of the Company or a Subsidiary at the time of acquisition, whether or not assumed, or created contemporaneously with the acquisition or construction of property, to secure or provide for the payment of the purchase or construction price of such property, and any conditional sales agreement or other title retention agreement with respect to any property hereafter acquired; *provided, however*, that (i) the aggregate principal amount of the Indebtedness secured by all such mortgages and other Liens on a particular parcel of property shall not exceed 100% of the lesser of the total cost or fair market value at the time of the acquisition or construction of such property, including the improvements thereon (as determined in good faith by the Board of Directors of the Company or the relevant Subsidiary) and (ii) all such Indebtedness shall have been incurred within the applicable limitations provided in **Section 10.1**;

(b) refundings or extensions of any Lien permitted by this **Section 10.2** for amounts not exceeding the principal amount of the Indebtedness so refunded or extended at the time of the refunding or extension thereof, and covering only the same property theretofore securing the same;

(c) deposits, Liens or pledges to enable the Company or a Subsidiary to exercise any privilege or license, or to secure payment of worker's compensation, unemployment insurance, old age pensions or other social security, or to secure the performance of bids, tenders, contracts or leases to which the Company or a Subsidiary is a party, or to secure public or statutory obligations of the Company or a Subsidiary, or to secure surety, stay or appeal bonds to which the Company or a Subsidiary is a party; or other similar deposits or pledges made in the ordinary course of business;

(d) mechanics', workmen's, repairmen's, materialmen's or carrier's liens or other similar Liens arising in the ordinary course of business; or deposits or pledges to obtain the release of any such Liens;

(e) Liens arising out of judgments or awards against the Company or a Subsidiary with respect to which the Company or a Subsidiary shall in good faith be prosecuting an appeal or proceedings for review and in respect of which a stay of execution pending such appeal or proceeding for review shall have been secured; or Liens incurred by the Company or a Subsidiary for the purpose of obtaining a stay or discharge in the course of any legal proceeding to which the Company or a Subsidiary is a party;

(f) Liens for taxes (i) not yet subject to penalties for non-payment or (ii) being contested, *provided*, payment thereof is not required by **Section 9.4**; or minor survey exceptions, or minor encumbrances, easements or reservations of, or rights of others for, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties, which encumbrances, easements, reservations, rights and restrictions do not in the aggregate Materially detract from the value of said properties or Materially impair their use in the operation of the business of the Company or a Subsidiary;

(g) Liens incurred in connection with the lease of conversion burners and water heaters to customers;

(h) Liens on property acquired through the merger or consolidation of another utility company with or into, or the purchase of all or substantially all of the assets of another utility company by, the Company or a Subsidiary, *provided* that such Lien does not extend to other property of the Company or a Subsidiary;

(i) pledges, assignments and other security devices entered into in connection with the financing or refinancing of customers' conditional sales contracts;

(j) Liens securing short-term Indebtedness incurred in connection with the purchase and sale of gas and/or energy supply (including transportation charges) or Guarantees in respect of obligations under such contracts; *provided that*, such Liens attach solely to such gas or energy supply;

(k) unsecured contractual rights of the Company and its Subsidiaries in connection with funds contributed and borrowed under the Cash Pooling and Loan Agreement, to the extent advances from the Cash Pool (as defined in the Cash Pooling and Loan Agreement) are used for the purpose of purchasing gas and/or energy supply; *provided that*, if at any time any Liens are granted to secure such contractual rights, such Liens shall attach solely to such gas or energy supply; and

(l) Liens created or incurred after the date of Closing, in addition to those otherwise permitted by this **Section 10.2**, securing Indebtedness which does not exceed in

the aggregate \$10,000,000 at any one time outstanding; *provided* that all such Indebtedness shall have been incurred within the applicable limitations provided in **Section 10.1**;

If at any time the Company or a Subsidiary shall create or assume any Lien not permitted by this Section, to which the covenant to secure the Notes in the first paragraph of this **Section 10.2** is applicable, the Company will promptly deliver to each holder of record of the Notes then outstanding:

(x) an Officers' Certificate stating that the covenant of the Company contained in the first paragraph of this **Section 10.2** has been complied with; and

(y) an opinion of counsel addressed to such holders to the effect that such covenant has been complied with, and that any instruments executed by the Company in the performance of such covenant comply with the requirements of such covenant.

**Section 10.3. Transactions with Affiliates.** The Company will not and will not permit any Subsidiary to enter into directly or indirectly any transaction or group of related transactions (including without limitation the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Subsidiary), except in the ordinary course and pursuant to the reasonable requirements of the Company's or such Subsidiary's business and upon fair and reasonable terms no less favorable to the Company or such Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate, except as may be necessary in order for the Company to comply with requirements of any applicable state or federal statute or regulation; *provided, however*, that if it is not possible to identify what terms would apply to a comparable arm's-length transaction with a Person not an Affiliate, such transaction shall be upon such terms as shall be fair and reasonable under the circumstances.

**Section 10.4. Merger or Consolidation; Sale or Transfer of Assets.** The Company will not (a) consolidate with or be a party to a merger with any other corporation or (b) sell, lease or otherwise dispose of all or substantially all of the assets of the Company and its Subsidiaries; *provided, however*, that the Company may consolidate, merge or otherwise combine with any other corporation (including, without limitation, Granite), or sell, lease or otherwise dispose of all or substantially all of the assets of the Company and its Subsidiaries, if

(i) the corporation which results from such consolidation, merger or combination or the corporation to which the Company sells, leases or otherwise disposes of all or substantially all of its and its Subsidiaries' assets (in either case, the "*surviving corporation*") is either the Company (in the case of a merger, consolidation or combination), or, if not, is organized under the laws of any State of the United States or the District of Columbia,

(ii) in the event that the surviving corporation is not the Company, the obligations of the Company under this Agreement and the Notes are expressly assumed in writing by the surviving corporation and the surviving corporation shall furnish the

holders of the Notes an opinion of counsel satisfactory to such holders to the effect that the instrument of assumption has been duly authorized, executed and delivered and constitutes the legal, valid and binding contract and agreement of the surviving corporation enforceable in accordance with its terms, except as enforcement of such terms may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles, and

(iii) at the time of such consolidation, merger or combination or sale, lease or other disposition of all or substantially all of the Company's and its Subsidiaries' assets, and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing and the Company or the surviving corporation, as the case may be, could incur at least \$1.00 of additional Funded Indebtedness pursuant to **Section 10.1**.

*Section 10.5. Restrictions on Dividends.* (a) The Company will not except as hereinafter provided:

(i) declare or pay any dividend (other than dividends payable solely in shares of its own common stock); or

(ii) make any other distribution of cash, property or assets on any shares of any class of its capital stock or apply any of its cash, property or assets (other than amounts equal to net proceeds received from the sale of common stock of the Company subsequent to the date of this Agreement) to the purchase or retirement of, or make any other distribution, through reduction of capital or otherwise, in respect of any shares of its capital stock;

(which dividends, distributions, purchases and retirements are hereinafter referred to as "*distributions*") if, after giving effect to such distribution, the aggregate amount of (1) all such distributions declared, paid, made or applied subsequent to January 1, 2008, *plus* (2) all regular dividends declared on any class of Preferred Stock of the Company subsequent to January 1, 2008 and all amounts charged to retained earnings after January 1, 2008 in connection with the purchase or retirement of any shares of Preferred Stock of the Company, would exceed an amount equal to the sum of (x) 100% of the Company's Adjusted Net Income (Deficit) accumulated subsequent to January 1, 2008, *plus* (y) 100% of the net proceeds from any common or preferred equity issuances by the Company subsequent to January 1, 2008, *plus* (z) \$9,000,000.

(b) Notwithstanding the foregoing limitations, in connection with the consummation of the Acquisition, the Company may, promptly following the Closing, apply the proceeds from the sale of the Notes to recapitalize by applying the net proceeds from the sale of the Notes to purchase a portion of Unitil's equity investment in the Company acquired by Unitil in connection with the Acquisition.



(c) For the purposes of this **Section 10.5**, the amount of any distribution declared, paid or distributed in property shall be deemed to be the fair market value (as determined in good faith by the Board of Directors of the Company) of such property at the time of the making of the distribution in question.

*Section 10.6. Line of Business.* The Company will not and will not permit any Subsidiary to engage in any business if, as a result, the general nature of the business, taken on a consolidated basis, which would then be engaged in by the Company and its Subsidiaries would be substantially changed from the general nature of the business engaged in by the Company and its Subsidiaries on the date of this Agreement.

*Section 10.7. Terrorism Sanctions Regulations.* The Company will not and will not permit any Subsidiary to (a) become a Person named on the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or with whom the people of the United States are restricted from doing business with under section 1 of the Anti-Terrorism Order or (b) engage in any dealings or transactions with any such Person.

#### SECTION 11. EVENTS OF DEFAULT.

An “Event of Default” shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in any of **Sections 7.1(d) or Section 10**; or

(d) the Company defaults in the performance of or compliance with any term contained herein (other than those referred to in **Sections 11(a), (b) and (c)**) and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual knowledge of such default and (ii) the Company receiving written notice of such default from any holder of a Note (any such written notice to be identified as a “notice of default” and to refer specifically to this **Section 11(d)**); or

(e) any representation or warranty made in writing by the Company or by any officer of the Company in this Agreement or in any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any material respect on the date as of which made; or

(f) (i) the Company or any Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole

amount or interest on any Indebtedness that is outstanding in an aggregate principal amount of at least \$5,000,000 beyond any period of grace provided with respect thereto, or (ii) the Company or any Subsidiary is in default in the performance of or compliance with any term of any evidence of any Indebtedness in an aggregate outstanding principal amount of at least \$5,000,000 or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be), due and payable before its stated maturity or before its regularly scheduled dates of payment, or (iii) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Indebtedness to convert such Indebtedness into equity interests), (x) the Company or any Subsidiary has become obligated to purchase or repay Indebtedness before its regular maturity or before its regularly scheduled dates of payment in an aggregate outstanding principal amount of at least \$5,000,000, or (y) one or more Persons have the right to require the Company or any Subsidiary so to purchase or repay such Indebtedness; or

(g) the Company or any Subsidiary (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing; or

(h) a court or other Governmental Authority of competent jurisdiction enters an order appointing, without consent by the Company or any of its Subsidiaries, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company or any of its Subsidiaries, or any such petition shall be filed against the Company or any of its Subsidiaries and such petition shall not be dismissed within 60 days; or

(i) a final judgment or judgments for the payment of money aggregating in excess of \$10,000,000 (in excess of insurance available therefor) are rendered against one or more of the Company and its Subsidiaries and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay.

## SECTION 12. REMEDIES ON DEFAULT, ETC.

*Section 12.1. Acceleration.* (a) If an Event of Default with respect to the Company described in **Section 11(g)** or **(h)** (other than an Event of Default described in clause (i) of **Section 11(g)** or described in clause (vi) of **Section 11(g)** by virtue of the fact that such clause encompasses clause (i) of **Section 11(g)**) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, any holder or holders of at least 66 2/3% in principal amount of the Notes at the time outstanding may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in **Section 11(a)** or **(b)** has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this **Section 12.1**, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon (including, but not limited to, interest accrued thereon at the Default Rate) and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

*Section 12.2. Other Remedies.* If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under **Section 12.1**, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

*Section 12.3. Rescission.* At any time after any Notes have been declared due and payable pursuant to **Section 12.1(b)** or **(c)**, the holders of not less than 66-2/3% in principal amount of the Notes then outstanding, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and (to the extent permitted by applicable law) any

overdue interest in respect of the Notes, at the Default Rate, (b) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to **Section 17**, and (c) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this **Section 12.3** will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

*Section 12.4. No Waivers or Election of Remedies, Expenses, Etc.* No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under **Section 15**, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this **Section 12**, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

#### SECTION 13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

*Section 13.1. Registration of Notes.* The Company shall keep at its principal executive office, or at such other office the address of which the Company may hereafter notify the holders of the Notes from time to time, a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

*Section 13.2. Transfer and Exchange of Notes.* Upon surrender of any Note to the Company at the address and to the attention of the designated officer (all as specified in **Section 18(iii)**), for registration of transfer or exchange (and in the case of a surrender for registration of transfer accompanied by a written instrument of transfer duly executed by the registered holder of such Note or such holder's attorney duly authorized in writing and accompanied by the relevant name, address and other information for notices of each transferee of such Note or part thereof), within ten Business Days thereafter, the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) of the same Series in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of the Note of such Series originally issued hereunder. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company

may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than \$100,000, provided that if necessary to enable the registration of transfer by a holder of its entire holding of Notes, one Note may be in a denomination of less than \$100,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representation set forth in **Section 6.2**.

*Section 13.3. Replacement of Notes.* Upon receipt by the Company at the address and to the attention of the designated officer (all as specified in **Section 18(iii)**) of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such Note is, or is a nominee for, an original Purchaser or another Institutional Investor that is a holder of a Note with a minimum net worth of at least \$5,000,000 or a Qualified Institutional Buyer, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

within ten Business Days thereafter, the Company at its own expense shall execute and deliver, in lieu thereof, a new Note of the same Series, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

#### **SECTION 14. PAYMENTS ON NOTES.**

*Section 14.1. Place of Payment.* Subject to **Section 14.2**, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in Hampton, New Hampshire, at the principal office of the Company in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

*Section 14.2. Home Office Payment.* So long as any Purchaser or its nominee shall be the holder of any Note, and notwithstanding anything contained in **Section 14.1** or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, and interest by the method and at the address specified for such purpose below such Purchaser's name in **Schedule A**, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company

pursuant to **Section 14.1**. Prior to any sale or other disposition of any Note held by a Purchaser or its nominee, such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes pursuant to **Section 13.2**. The Company will afford the benefits of this **Section 14.2** to any Institutional Investor that is the direct or indirect transferee of any Note purchased by a Purchaser under this Agreement and that has made the same agreement relating to such Note as the Purchasers have made in this **Section 14.2**.

## SECTION 15. EXPENSES, ETC.

*Section 15.1. Transaction Expenses.* Whether or not the transactions contemplated hereby are consummated, the Company will pay all reasonable costs and expenses (including reasonable attorneys' fees of a special counsel and, if reasonably required by the Required Holders, local or other counsel) incurred by the Purchasers and each other holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement or the Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement or the Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement or the Notes, or by reason of being a holder of any Note; (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby and by the Notes; and (c) the costs and expenses incurred in connection with the initial filing of this Agreement and all related documents and financial information with the SVO *provided*, that such costs and expenses under this clause (c) shall not exceed \$3,000. The Company will pay, and will save each Purchaser and each other holder of a Note harmless from, all claims in respect of any fees, costs or expenses, if any, of brokers and finders (other than those, if any, retained by a Purchaser or other holder).

*Section 15.2. Survival.* The obligations of the Company under this **Section 15** will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement or the Notes, and the termination of this Agreement.

## SECTION 16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the Notes, the purchase or transfer by any Purchaser of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of such Purchaser or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement and the Notes embody the entire agreement and understanding between each Purchaser and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

## SECTION 17. AMENDMENT AND WAIVER.

*Section 17.1. Requirements.* This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), with (and only with) the written consent of the Company and the Required Holders, except that (a) no amendment or waiver of any of the provisions of **Section 1, 2, 3, 4, 5, 6 or 21** hereof, or any defined term (as it is used therein), will be effective as to any Purchaser unless consented to by such Purchaser in writing, and (b) no such amendment or waiver may, without the written consent of the holder of each Note at the time outstanding affected thereby, (i) subject to the provisions of **Section 12** relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest or of the Make-Whole Amount on, the Notes, (ii) change the percentage of the principal amount of the Notes the holders of which are required to consent to any such amendment or waiver, or (iii) amend any of **Sections 8, 11(a), 11(b), 12, 17 or 20**.

### *Section 17.2. Solicitation of Holders of Notes.*

(a) *Solicitation.* The Company will provide each holder of the Notes (irrespective of the amount of Notes then owned by it) with sufficient information, sufficiently far in advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this **Section 17** to each holder of outstanding Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) *Payment.* The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security or provide other credit support, to any holder of Notes as consideration for or as an inducement to the entering into by any holder of Notes of any waiver or amendment of any of the terms and provisions hereof unless such remuneration is concurrently paid, or security is concurrently granted or other credit support concurrently provided, on the same terms, ratably to each holder of Notes then outstanding even if such holder did not consent to such waiver or amendment.

*Section 17.3. Binding Effect, Etc.* Any amendment or waiver consented to as provided in this **Section 17** applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and the holder of any Note nor any delay in exercising any rights hereunder or under any Note shall operate as a waiver of any rights of any holder of such Note. As used herein, the term "*this Agreement*" and references thereto shall mean this Agreement as it may from time to time be amended or supplemented.

*Section 17.4. Notes Held by Company, Etc.* Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or the Notes, or have directed the taking of any action provided herein or in the Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

#### SECTION 18. NOTICES.

All notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent:

(i) if to any Purchaser or its nominee, to such Purchaser or nominee at the address specified for such communications in **Schedule A**, or at such other address as such Purchaser or nominee shall have specified to the Company in writing,

(ii) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(iii) if to the Company, to the Company at its address set forth at the beginning hereof to the attention of Treasurer, or at such other address as the Company shall have specified to the holder of each Note in writing.

Notices under this **Section 18** will be deemed given only when actually received.

#### SECTION 19. REPRODUCTION OF DOCUMENTS.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser at the Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, electronic, digital, or other similar process and such Purchaser may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This **Section 19** shall not prohibit the Company or any other holder of Notes from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.



## SECTION 20. CONFIDENTIAL INFORMATION.

For the purposes of this **Section 20**, “Confidential Information” means information delivered to any Purchaser by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that was marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of the Company or such Subsidiary, provided that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any Person acting on such Purchaser’s behalf, (c) otherwise becomes known to such Purchaser other than through disclosure by the Company or any Subsidiary or (d) constitutes financial statements delivered to such Purchaser under **Section 7.1** that are otherwise publicly available. Each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by such Purchaser in good faith to protect confidential information of third parties delivered to such Purchaser, provided that such Purchaser may deliver or disclose Confidential Information to (i) its directors, officers, employees, agents, attorneys, trustees and Affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by its Notes), (ii) its financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this **Section 20**, (iii) any other holder of any Note, (iv) any Institutional Investor to which it sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this **Section 20**), (v) any Person from which it offers to purchase any security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this **Section 20**), (vi) any federal or state regulatory authority having jurisdiction over such Purchaser, (vii) the NAIC or the SVO or, in each case, any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser’s investment portfolio, or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which such Purchaser is a party or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser’s Notes and this Agreement after prior written notice provided to the Company. Any holder of a Note (and any employee, representative or other agent of such holder) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the taxpayer relating to such tax treatment and tax structure. The authorization in the immediately preceding sentence is not intended to permit, and does not permit, disclosure of any information not related to the tax treatment or tax structure of the transaction, including, for example, the identities of participants or potential participants and any Confidential Information regarding the operations or finances of the Company and its Subsidiaries. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this **Section 20** as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information

required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this **Section 20**.

**SECTION 21.      SUBSTITUTION OF PURCHASER.**

Each Purchaser shall have the right to substitute any one of its Affiliates as the purchaser of the Notes that it has agreed to purchase hereunder, by written notice to the Company, which notice shall be signed by both such Purchaser and such Affiliate, shall contain such Affiliate's agreement to be bound by this Agreement and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in **Section 6**. Upon receipt of such notice, any reference to such Purchaser in this Agreement (other than in this **Section 21**), shall be deemed to refer to such Affiliate in lieu of such original Purchaser. In the event that such Affiliate is so substituted as a Purchaser hereunder and such Affiliate thereafter transfers to such original Purchaser all of the Notes then held by such Affiliate, upon receipt by the Company of notice of such transfer, any reference to such Affiliate as a "Purchaser" in this Agreement (other than in this **Section 21**), shall no longer be deemed to refer to such Affiliate, but shall refer to such original Purchaser, and such original Purchaser shall again have all the rights of an original holder of the Notes under this Agreement.

**SECTION 22.      MISCELLANEOUS.**

*Section 22.1.    Successors and Assigns.* All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

*Section 22.2.    Payments Due on Non-Business Days.* Anything in this Agreement or the Notes to the contrary notwithstanding (but without limiting the requirement in **Section 8.4** that the notice of any optional prepayment specify a Business Day as the date fixed for such prepayment), any payment of principal of or Make-Whole Amount or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day; provided that if the maturity date of any Note is a date other than a Business Day, the payment otherwise due on such maturity date shall be made on the next succeeding Business Day and shall include the additional days elapsed in the computation of interest payable on such next succeeding Business Day.

*Section 22.3.    Accounting Terms.* All accounting terms used herein which are not expressly defined in this Agreement have the meanings respectively given to them in accordance with GAAP. Except as otherwise specifically provided herein, (i) all computations made pursuant to this Agreement shall be made in accordance with GAAP, and (ii) all financial statements shall be prepared in accordance with GAAP.

*Section 22.4.    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 (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

*Section 22.5. Construction, Etc.* Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

For the avoidance of doubt, all Schedules and Exhibits attached to this Agreement shall be deemed to be a part hereof.

*Section 22.6. Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

*SECTION 22.7. GOVERNING LAW.* THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND THE RIGHTS OF THE PARTIES SHALL BE GOVERNED BY, THE LAW OF THE STATE OF NEW YORK EXCLUDING CHOICE-OF-LAW PRINCIPLES OF THE LAW OF SUCH STATE THAT WOULD PERMIT THE APPLICATION OF THE LAWS OF A JURISDICTION OTHER THAN SUCH STATE.

*SECTION 22.8. JURISDICTION AND PROCESS; WAIVER OF JURY TRIAL.* (A) THE COMPANY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, THE CITY OF NEW YORK, OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE NOTES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, ANY CLAIM THAT IT IS NOT SUBJECT TO THE JURISDICTION OF ANY SUCH COURT, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(B) THE COMPANY CONSENTS TO PROCESS BEING SERVED BY OR ON BEHALF OF ANY HOLDER OF NOTES IN ANY SUIT, ACTION OR PROCEEDING OF THE NATURE REFERRED TO IN **SECTION 22.8(A)** BY MAILING A COPY THEREOF BY REGISTERED OR CERTIFIED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL), POSTAGE PREPAID, RETURN RECEIPT REQUESTED, TO IT AT ITS ADDRESS SPECIFIED IN **SECTION 18** OR AT SUCH OTHER ADDRESS OF WHICH SUCH HOLDER SHALL THEN HAVE BEEN NOTIFIED PURSUANT TO SAID SECTION. THE COMPANY AGREES THAT SUCH SERVICE UPON RECEIPT (I) SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON IT IN ANY SUCH SUIT, ACTION OR PROCEEDING AND (II) SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BE TAKEN AND HELD TO BE VALID PERSONAL SERVICE UPON AND PERSONAL DELIVERY TO IT. NOTICES HEREUNDER SHALL BE CONCLUSIVELY PRESUMED

RECEIVED AS EVIDENCED BY A DELIVERY RECEIPT FURNISHED BY THE UNITED STATES POSTAL SERVICE OR ANY REPUTABLE COMMERCIAL DELIVERY SERVICE.

(C) NOTHING IN THIS **SECTION 22.8** SHALL AFFECT THE RIGHT OF ANY HOLDER OF A NOTE TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW, OR LIMIT ANY RIGHT THAT THE HOLDERS OF ANY OF THE NOTES MAY HAVE TO BRING PROCEEDINGS AGAINST THE COMPANY IN THE COURTS OF ANY APPROPRIATE JURISDICTION OR TO ENFORCE IN ANY LAWFUL MANNER A JUDGMENT OBTAINED IN ONE JURISDICTION IN ANY OTHER JURISDICTION.

(D) THE PARTIES HERETO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT, THE NOTES OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HERewith OR THEREWITH.

[SIGNATURE PAGES FOLLOW]

If you are in agreement with the foregoing, please sign the form of agreement on a counterpart of this Agreement and return it to the Company, whereupon this Agreement shall become a binding agreement between you and the Company.

Very truly yours,

NORTHERN UTILITIES, INC.

By \_\_\_\_\_

Name:

Title:

**This Agreement is hereby  
accepted and agreed to as  
of the date thereof.**

**[VARIATION]**

**By** \_\_\_\_\_  
**Name:**  
**Title:**

## DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

*“Acquisition”* means the transactions contemplated by the Stock Purchase Agreement pursuant to which, among other things, Unitil will acquire all of the issued and outstanding Voting Stock of the Company and Granite.

*“Adjusted Net Income (Deficit)”* means the amount of net income (or if such net income is a deficit, the amount of such deficit) of the Company and its Subsidiaries for the period in question (taken as a cumulative whole) transferred to the retained earnings account on the books and records of the Company on a consolidated basis, as determined in accordance with GAAP, excluding any extraordinary non-cash gains and losses.

*“Affiliate”* means, at any time, and with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and, with respect to the Company, shall include any Person beneficially owning or holding, directly or indirectly, 20% or more of any class of voting or equity interests of the Company or any Subsidiary or any Person of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 20% or more of any class of voting or equity interests. As used in this definition, “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an “Affiliate” is a reference to an Affiliate of the Company.

*“Anti-Terrorism Order”* means Executive Order No. 13,224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism, 66 U.S. Fed. Reg. 49, 079 (2001), as amended.

*“Business Day”* means (a) for the purposes of **Section 8.6** only, any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are required or authorized to be closed, and (b) for the purposes of any other provision of this Agreement, any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York or Manchester, New Hampshire are required or authorized to be closed.

*“Capital Lease”* means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

*“Cash Pooling and Loan Agreement”* means the cash pooling and loan agreement, as amended and restated, dated December 1, 2008, between Unitil and certain of its Subsidiaries, including the Company, as further amended from time to time.

*“Closing”* is defined in **Section 3**.

*“Code”* means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

*“Company”* means Northern Utilities, Inc., a New Hampshire corporation, or any successor that becomes such in the manner prescribed in **Section 10.4**.

*“Confidential Information”* is defined in **Section 20**.

*“Default”* means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

*“Default Rate”* means, with respect to the Notes of any Series, that rate of interest that is the greater of (i) 2% per annum above the rate of interest stated in clause (a) of the first paragraph of the Notes of such Series or (ii) 2% over the rate of interest publicly announced by Bank of America, N.A. in Charlotte, North Carolina as its “base” or “prime” rate.

*“Electronic Delivery”* is defined in **Section 7.1(a)(ii)**.

*“Environmental Laws”* means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to Hazardous Material.

*“ERISA”* means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

*“ERISA Affiliate”* means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

*“Event of Default”* is defined in **Section 11**.

*“Exchange Act”* means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder from time to time in effect.

*“FERC”* means the Federal Energy Regulatory Commission and any successor Governmental Authority thereto.

*“Form 10-K”* is defined in **Section 7.1(b)(ii)**.

*“Form 10-Q”* is defined in **Section 7.1(a)(ii)**.



*"Funded Indebtedness"* of any Person as of any date as of which the amount thereof is to be determined, means (i) all Indebtedness of such Person required to be paid more than one year from the date as of which Funded Indebtedness is being determined pursuant to the terms of the agreement or instrument under which such Indebtedness was incurred, but there shall be excluded sinking fund, serial maturity, periodic installment and amortization payments on account of Indebtedness which are required to be made within one year from the date of such determination and (ii) all Guaranties of Funded Indebtedness of others described in clause (i) of this definition. Notwithstanding the foregoing, Funded Indebtedness shall not include: (a) obligations under contracts for the purchase of gas and energy supply, including transportation charges or Guaranties in respect of such obligations; (b) pension and benefit obligations, whether or not absolute or contingent or included, in accordance with GAAP, in determining total liabilities on the balance sheet; (c) amounts owed to or by the Company or any Subsidiary under the Cash Pooling and Loan Agreement; and (d) all obligations under operating leases.

*"GAAP"* means generally accepted accounting principles as in effect from time to time in the United States of America.

*"Governmental Authority"* means

(a) the government of

(i) the United States of America or any State or other political subdivision thereof, or

(ii) any other jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

*"Granite"* means Granite State Gas Transmission, Inc., a New Hampshire corporation.

*"Guaranty"* means, with respect to any Person, any obligation (except the endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing or in effect guaranteeing any indebtedness, dividend or other obligation of any other Person in any manner, whether directly or indirectly, including (without limitation) obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds (i) for the purchase or payment of such indebtedness or obligation, or (ii) to maintain any working capital or other balance sheet

condition or any income statement condition of any other Person or otherwise to advance or make available funds for the purchase or payment of such indebtedness or obligation;

(c) to lease properties or to purchase properties or services primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of any other Person to make payment of the indebtedness or obligation; or

(d) otherwise to assure the owner of such indebtedness or obligation against loss in respect thereof.

In any computation of the indebtedness or other liabilities of the obligor under any Guaranty, the indebtedness or other obligations that are the subject of such Guaranty shall be assumed to be direct obligations of such obligor.

*“Hazardous Material”* means any and all pollutants, toxic or hazardous wastes or other substances that might pose a hazard to health and safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, prohibited or penalized by any applicable law including, but not limited to, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas or similar restricted, prohibited or penalized substances.

*“holder”* means, with respect to any Note the Person in whose name such Note is registered in the register maintained by the Company pursuant to **Section 13.1**.

*“Indebtedness”* with respect to any Person means, at any time, without duplication,

(a) its liabilities for borrowed money;

(b) all liabilities which would appear on its balance sheet in accordance with GAAP in respect of Synthetic Leases if such Synthetic Leases were accounted for as Capital Leases;

(c) obligations due in respect of Capital Leases;

(d) its liabilities for the deferred purchase price of property acquired by such Person (excluding accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property); and

(e) without duplication, any Guaranty of such Person with respect to liabilities of a type described in any of clauses (a) through (d) above.

*“Institutional Investor”* means (a) any Purchaser of a Note, (b) any holder of a Note holding (together with one or more of its affiliates) more than 5% of the aggregate principal

amount of the Notes then outstanding, (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, and (d) any Related Fund of any holder of any Note.

*“Lien”* means, with respect to any Person, any mortgage, lien, pledge, adverse claim, charge, security interest or other encumbrance in or on, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person (including in the case of stock, stockholder agreements, voting trust agreements and all similar arrangements).

*“Make-Whole Amount”* is defined in **Section 8.6**.

*“Material”* means material in relation to the business, operations, affairs, financial condition, assets, or properties of the Company and its Subsidiaries taken as a whole.

*“Material Adverse Effect”* means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole, or (b) the ability of the Company to perform its obligations under this Agreement and the Notes, or (c) the validity or enforceability of this Agreement or the Notes.

*“Memorandum”* is defined in **Section 5.3**.

*“MPUC”* means the Maine Public Utilities Commission and any successor Governmental Authority.

*“Multiemployer Plan”* means any Plan that is a “multiemployer plan” (as such term is defined in section 4001(a)(3) of ERISA).

*“NAIC”* means the National Association of Insurance Commissioners or any successor thereto.

*“Notes”* is defined in **Section 1**.

*“NHPUC”* means the New Hampshire Public Utilities Commission and any successor Governmental Authority.

*“Officer’s Certificate”* means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

*“Person”* means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, business entity or Governmental Authority.

*“Plan”* means an “employee benefit plan” (as defined in section 3(3) of ERISA) subject to Title I of ERISA that is or, within the preceding five years, has been established or

maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

*“Preferred Stock”* means any class of capital stock of a Person that is preferred over any other class of capital stock (or similar equity interests) of such Person as to the payment of dividends or the payment of any amount upon liquidation or dissolution of such Person.

*“property”* or *“properties”* means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

*“PTE”* is defined in **Section 6.2(a)**.

*“Purchaser”* is defined in the first paragraph of this Agreement.

*“Qualified Institutional Buyer”* means any Person who is a “qualified institutional buyer” within the meaning of such term as set forth in Rule 144A(a)(1) under the Securities Act.

*“Related Fund”* means, with respect to any holder of any Note, any fund or entity that (i) invests in Securities or bank loans, and (ii) is advised or managed by such holder, the same investment advisor as such holder or by an affiliate of such holder or such investment advisor.

*“Required Holders”* means, at any time, the holders of at least a majority in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates).

*“Responsible Officer”* means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

*“SEC”* shall mean the Securities and Exchange Commission of the United States, or any successor thereto.

*“Securities”* or *“securities”* shall have the meaning specified in Section 2(1) of the Securities Act.

*“Securities Act”* means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

*“Senior Financial Officer”* means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company or of Unitil, as applicable.

*“Series”* means any series of Notes issued pursuant to this Agreement.

*“Series A Notes”* is defined in **Section 1** of this Agreement.

*“Series B Notes”* is defined in **Section 1** of this Agreement.

***“Stock Purchase Agreement”*** means the Stock Purchase Agreement dated as of February 15, 2008 by and among Nisource Inc. and Bay State Gas Company, as Sellers, and Unitil, as Purchaser.

***“Subsidiary”*** means, as to any Person, any other Person in which such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such second Person, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such first Person or one or more of its Subsidiaries or such first Person and one or more of its Subsidiaries (unless such partnership or joint venture can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a “Subsidiary” is a reference to a Subsidiary of the Company.

***“SVO”*** means the Securities Valuation Office of the NAIC or any successor to such Office.

***“Synthetic Lease”*** means, at any time, any lease (including leases that may be terminated by the lessee at any time) of any property (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee retains or obtains ownership of the property so leased for U.S. federal income tax purposes, other than any such lease under which such Person is the lessor.

***“Total Capitalization”*** at any date means the sum of (x) Funded Indebtedness of the Company and its Subsidiaries, and (y) Total Shareholders’ Equity as of such date. Such Total Capitalization shall be exclusive of Accumulated and Other Comprehensive Income (within the meaning of GAAP) derived from pension and benefit obligations.

***“Total Shareholders’ Equity”*** means, as of any date of determination, the aggregate amount for total common stock equity, preference stock and Preferred Stock as presented in accordance with GAAP on a consolidated balance sheet of the Company as of such date.

***“Unitil”*** means Unitil Corporation, a New Hampshire corporation.

***“USA Patriot Act”*** means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

***“Voting Stock”*** means Securities of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporate directors (or Persons performing similar functions).

***“Wholly-Owned Subsidiary”*** means, at any time, any Subsidiary one hundred percent of all of the equity interests (except directors’ qualifying shares) and voting interests of which are

owned by any one or more of the Company and the Company's other Wholly-Owned Subsidiaries at such time.

## **DISCLOSURE MATERIALS**

Regulatory approvals for the Acquisition and issuance of the Notes as discussed under the captions “The Acquisitions – Regulatory Requirements and Approvals and Closing,” “Recent Developments – Regulatory Proceedings,” “Our Company – Our Operations – Regulation and Restructuring” and “The Acquisitions – Description of the Acquisitions,” in Unitil Corporation’s Form S-3, as amended (File No. 333-152823), filed with the Securities and Exchange Commission.

## **SUBSIDIARIES OF THE COMPANY AND OWNERSHIP OF SUBSIDIARY STOCK**

a. (i) None.

(ii) None.

(iii) Directors and Officers

### **Directors**

---

Robert V. Antonucci  
David P. Brownell  
Michael J. Dalton  
Albert H. Elfner, III  
Edward F. Godfrey  
Michael B. Green  
Eben S. Moulton  
M. Brian O'Shaughnessy  
Robert G. Schoenberger  
Charles H. Tenney III  
Sarah P. Voll

### **Officers**

### **Title**

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Robert G. Schoenberger	President
George R. Gantz	Senior Vice President
Thomas P. Meissner, Jr.	Senior Vice President
Mark H. Collin	Treasurer
Laurence M. Brock	Controller
Sandra L. Whitney	Secretary



## **Schedule 5.5**

### **Financial Statements**

1. Audited Financial Statements of Northern Utilities, Inc. as of December 31, 2007 and 2006 and for the years ended December 31, 2007, 2006 and 2005.
2. Unaudited and Condensed Financial Statements of Northern Utilities, Inc. as of and for the Three Months Ended March 31, 2008 and 2007.
3. Unaudited and Condensed Financial Statements of Northern Utilities, Inc. as of and for the Six Months Ended June 30, 2008 and 2007.
4. Unaudited and Condensed Financial Statements of Northern Utilities, Inc. as of and for the Nine Months Ended September 30, 2008 and 2007.

[FORM OF SERIES A NOTE]

NORTHERN UTILITIES, INC.

**6.95% SENIOR NOTE, SERIES A, DUE DECEMBER 3, 2018**

No. [\_\_\_\_\_]   
 \$[\_\_\_\_\_]

December 3, 2008   
 PPN 665876 B\*8

For Value Received, the undersigned, Northern Utilities, Inc. (herein called the “Company”), a corporation organized and existing under the laws of the State of New Hampshire, hereby promises to pay to [\_\_\_\_\_] or registered assigns, the principal sum of [\_\_\_\_\_] Dollars (or so much thereof as shall not have been prepaid) on [\_\_\_\_\_, \_\_\_\_], with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance hereof at the rate of 6.95% per annum from the date hereof, payable semiannually, on the [\_\_\_\_] day of June and December in each year, commencing with the June or December next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law, on any overdue payment of interest and, during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any Make-Whole Amount, at a rate per annum from time to time equal to the greater of (i) 8.95% or (ii) 2% over the rate of interest publicly announced by Bank of America, N.A. from time to time in Charlotte, North Carolina as its “base” or “prime” rate, payable semiannually as aforesaid (or, at the option of the registered holder hereof, on demand).

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of the United States of America at the principal office of the Company in Hampton, New Hampshire, or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Notes (herein called the “Notes”) issued pursuant to the Note Purchase Agreement, dated as of December 3, 2008 (as from time to time amended, the “Note Purchase Agreement”), between the Company and the respective Purchasers named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, to have (i) agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) made the representation set forth in Section 6.2 of the Note Purchase Agreement. Unless otherwise indicated, capitalized terms used in this Note shall have the respective meanings ascribed to such terms in the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder’s attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving

EXHIBIT 1(a)   
 (to Note Purchase Agreement)

payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

This Note is subject to optional prepayment in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the Company and the holder of this Note shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

NORTHERN UTILITIES, INC.

By \_\_\_\_\_  
Name:  
Title:

**[FORM OF SERIES B NOTE]**

**NORTHERN UTILITIES, INC.**

**7.72% SENIOR NOTE, SERIES B, DUE DECEMBER 3, 2038**

No. [\_\_\_\_\_]   
 \$[\_\_\_\_\_]

December 3, 2008   
 PPN 665876 B@6

For Value Received, the undersigned, Northern Utilities, Inc. (herein called the "*Company*"), a corporation organized and existing under the laws of the State of New Hampshire, hereby promises to pay to [\_\_\_\_\_] or registered assigns, the principal sum of [\_\_\_\_\_] Dollars (or so much thereof as shall not have been prepaid) on [\_\_\_\_\_, \_\_\_\_], with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance hereof at the rate of 7.72% per annum from the date hereof, payable semiannually, on the [\_\_\_\_] day of June and December in each year, commencing with the June or December next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law, on any overdue payment of interest and, during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any Make-Whole Amount, at a rate per annum from time to time equal to the greater of (i) 9.72% or (ii) 2% over the rate of interest publicly announced by Bank of America, N.A. from time to time in Charlotte, North Carolina as its "base" or "prime" rate, payable semiannually as aforesaid (or, at the option of the registered holder hereof, on demand).

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of the United States of America at the principal office of the Company in Hampton, New Hampshire, or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Notes (herein called the "*Notes*") issued pursuant to the Note Purchase Agreement, dated as of December 3, 2008 (as from time to time amended, the "*Note Purchase Agreement*"), between the Company and the respective Purchasers named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, to have (i) agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) made the representation set forth in Section 6.2 of the Note Purchase Agreement. Unless otherwise indicated, capitalized terms used in this Note shall have the respective meanings ascribed to such terms in the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving

payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

This Note is subject to optional prepayment in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the Company and the holder of this Note shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

Very truly yours,

NORTHERN UTILITIES, INC.

By \_\_\_\_\_  
Name:  
Title: