**OPTION AND EASEMENT AGREEMENT**

between

**Pederson Trust I**

as Owner

and

**RWE Renewables Development, LLC**

as Grantee

dated effective July 9, 2020

## OPTION AND EASEMENT AGREEMENT

THIS OPTION AND EASEMENT AGREEMENT (the "Agreement") is made and entered into as of the Effective Date, by and between Owner and Grantee, as further designated in the Basic Terms below:

**Basic Terms**

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| **Effective Date of this Agreement:** | July 9, 2020 |
| **Owner & Address ("Owner" includes successors and assigns of Owner):** | Pederson Trust I<br><br>**See Signature Page for Address** |
| **Grantee & Address ("Grantee" includes successors and assigns of Grantee):** | RWE Renewables Development, LLC<br>701 Brazos St., Suite 1400<br>Austin, TX 78701 |
| **Property:** | Approximately **114.71** acres, more or less, of land more particularly described in Exhibit A, Section 1 attached hereto.<br><br>The Property identified on Exhibit A, Section 1 may be adjusted by Grantee pursuant to the terms of the Agreement when the total acreage in a Project is established. The total acreage in a Project, number of acres included in the Property and the number of Generating Units installed on the Property shall be determined as of the last day of the period for the payment requiring such determination. |
| **Interest in the Property Owned by Owner:** | Cumulative 100% fee simple interests more specifically reflected in Exhibit A, Section 2. |
| **Signing Bonus** | If Grantee receives a fully executed original version of this Agreement by all parties constituting Owner by July 3rd, 2020 ("Bonus Date"), Owner shall be paid the greater of (i) $15.00 per acre included in the Property; or (ii) $2,500.00 (collectively, the "Signing Bonus"), which Signing Bonus if payable shall be due 30 days after the Effective Date. For the avoidance of doubt, no Signing Bonus shall be due to Owner if a fully executed original version of this Agreement is not received by Grantee by the Bonus Date. |

<table>
<tr><td>Option Term Payment:</td><td>The following amounts to be paid in accordance with Section 3.2 hereof.<br><br><table>
<tr><th><u>Year</u></th><th><u>Per Acre Amount</u></th><th><u>Payment Due Dates</u></th></tr>
<tr><td>1</td><td>$8.00</td><td>30 days after Effective Date</td></tr>
<tr><td>2</td><td>$8.00</td><td>$2^{nd}$ Anniversary of Effective Date</td></tr>
<tr><td>3</td><td>$8.00</td><td>$3^{rd}$ Anniversary of Effective Date</td></tr>
<tr><td>4</td><td>$9.00</td><td>$4^{th}$ Anniversary of Effective Date</td></tr>
<tr><td>5</td><td>$9.00</td><td>$5^{th}$ Anniversary of Effective Date</td></tr>
<tr><td>6</td><td>$10.00</td><td>$6^{th}$ Anniversary of Effective Date</td></tr>
<tr><td>7</td><td>$10.00</td><td>$7^{th}$ Anniversary of Effective Date</td></tr>
</table><br>If the acreage payment for the Property is less than $3,000.00 for Years 1–7 of the Option Term, the Owner shall be paid $3,000.00 per year for such respective year of the Option Term.<br><u>AND</u><br>If Grantee elects to erect a meteorological tower or lidar unit on the Property, Owner shall be paid an additional Three Thousand Dollars ($3,000.00) per year for a meteorological tower or Two Thousand Dollars ($2,000) per year for a lidar unit (collectively the "Met Tower Payment"), payable as provided in Section 3.7.</td></tr>
<tr><td>Operations Term Payment Prior to Generation Commencement Date:</td><td>From the Option Exercise Date to the Generation Commencement Date, no Option Term Payment shall be due but Grantee shall pay Owner an amount equal to the per acre Option Term Payment in effect immediately prior to commencement of the Operations Term due on the applicable anniversary of the Effective Date.</td></tr>
<tr><td>Operations Term After Generation Commencement Date –<br><br>Pooled Base Payment:</td><td>Pooled Base Payment for the Project is equal to the specified dollar amount listed below for the applicable Easement Year multiplied by the number of megawatts (as rated by the turbine manufacturer) of all Generating Units in the Project.<br><br><table>
<tr><th><u>Easement Year</u></th><th><u>Dollar Amount Per MW</u></th></tr>
<tr><td>1 – 10</td><td>$3,000.00/MW</td></tr>
<tr><td>11 – 20</td><td>$3,500.00/MW</td></tr>
<tr><td>21 – 30</td><td>$4,000.00/MW</td></tr>
</table></td></tr>
</table>

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| **Operations Term After Generation Commencement Date --**<br><br>**Base Payment (Owner's portion of the Pooled Base Payment"):** | Base Payment payable to Owner shall be calculated from the Pooled Base Payment (as defined above and below) and is the sum of the "Base Acreage Payment" plus the "Base Generating Unit Payment" (each as set forth below), payable as more specifically provided in Article 3.<br><br>a. Base Acreage Payment: Owner shall receive a Base Acreage Payment calculated as the product of 40% of Pooled Base Payment, multiplied by the acreage in the Property divided by the total acreage in the Project. The Base Acreage Payment shall be paid to Owner, regardless of whether there are Generating Units installed on the Property.<br><br>b. Base Generating Unit Payment: If Owner has any Generating Units installed on the Property, Owner shall receive a Base Generating Unit Payment calculated as the product of 60% of the Pooled Base Payment, multiplied by the total installed MW capacity (as rated by the manufacturer) on the Property divided by the total installed MW capacity (as rated by the manufacturer) for the Project. If there are no Generating Units installed on the Property, Base Generating Unit Payment shall be zero dollars ($0). A Generating Unit is "installed" on the Property for purposes of this Agreement if the tower to the Generating Unit is installed and located on the Property.<br><br>Notwithstanding the foregoing, Base Payment to Owner shall be a minimum of $1,500.00 per year. |
| **Operations Term After Generation Commencement Date –**<br><br>**Pooled Royalty Payment:** | Pooled Royalty Payment for the Project is equal to the Net Revenues multiplied by the percentage specified below for such Easement Year:<br><br><u>Easement Year</u> — <u>Percentage of Net Revenues</u><br>1 – 10 — 4.0 %<br>11 – 20 — 4.5 %<br>21 – 30 — 5.0 % |

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| **Operations Term After Generation Commencement Date –**<br><br>**Royalty Payment (Owner's portion of the Pooled Royalty Payment):** | Royalty Payment payable to Owner shall be calculated from the Pooled Royalty Payment (as defined above and below) and is the sum of the "Royalty Generating Unit Payment" and the "Royalty Acreage Payment" (each as set forth below), payable to the extent that Royalty Payment for the Property exceeds the Base Payment paid to Owner for the Property, as more specifically provided in Article 3<br><br>a. Royalty Acreage Payment: Owner shall receive a Royalty Acreage Payment calculated as the product of 40% of Pooled Royalty Payment, multiplied by the acreage in the Property divided by the total acreage in the Project. The Royalty Acreage Payment shall be paid to Owner, regardless of whether there are Generating Units installed on the Property.<br><br>b. Royalty Generating Unit Payment: If Owner has any Generating Units installed on the Property, Owner shall receive a Royalty Generating Unit Payment calculated as the product of 60% of the Pooled Royalty Payment, multiplied by the total installed MW capacity (as rated by the manufacturer) on the Property divided by the total installed MW capacity (as rated by the manufacturer) for the Project. If there are no Generating Units installed on the Property, Generating Unit Payment shall be zero dollars ($0). A Generating Unit is "installed" on the Property for purposes of this Agreement if the tower to the Generating Unit is installed and located on the Property. |
| **Operations Term After Generation Commencement Date –**<br><br>**Construction Payments:** | One-Time "**Construction Payment(s)**" shall be paid to the Owner in the following amounts, payable as provided in Article 3:<br><br>If there are any Generating Units installed on the Property, a one-time payment of Five Thousand Dollars ($5,000.00) per Generating Unit installed upon the Property will be paid in accordance with Article 3. Regardless of whether there are Generating Units installed on the Property, a one-time payment shall be paid to the Owner in the following amounts: (1) One Dollar ($1.00) per linear foot for permanent roads on the Property; (2) Three Dollars ($3.00) per linear foot for a set of overhead Transmission Facilities on the Property; and (3) One Dollar ($1.00) per linear foot trenched for underground Transmission Facilities on the Property, provided however no payment under (2) or (3) shall be made for each circuit of below ground Transmission Facilities or overhead Transmission Facilities located within three (3) feet of any road on the Property.<br><br>Additionally, a one-time payment of One Thousand Dollars ($1,000.00) shall be paid to the Owner for each occupied permanent residence on the Property as of the Effective Date; provided, however, this payment shall only be made for houses that have actually been occupied for more than six of the twelve months prior to the Effective Date. |

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| **Operations Term After Generation Commencement Date – Easement Payments:** | If there are no Generating Units on the Property, an annual **"Easement Payment"** shall be paid to the Owner in the following amounts payable as provided in Article 3:<br><br>(1) One Dollar ($1.00) per linear foot for permanent roads on the Property; (2) Three Dollars ($3.00) per linear foot for a set of overhead Transmission Facilities on the Property; (3) One Dollar ($1.00) per linear foot trenched for underground Transmission Facilities on the Property, provided however no payment under (2) or (3) shall be made for each circuit of below ground Transmission Facilities or overhead Transmission Facilities located within three (3) feet of any permanent road on the Property. |

## ARTICLE 1. DEFINITIONS AND CONSTRUCTION

Section 1.1 Defined Terms. When used in this Agreement, the following capitalized terms shall have the definitions indicated:

"**Affiliate**": Any person or entity (i) who, directly or indirectly (including through one or more intermediaries), holds an equity interest in Grantee (a "Parent Company") or (ii) in which Grantee or a Parent Company, directly or indirectly (including through one or more intermediaries) holds an equity interest. The term "Affiliate" also includes any person or entity which directly or indirectly controls, or is under common control with, or is controlled by, Grantee. As used in this definition, "control" (including, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or other ownership interests, by contract or otherwise); any person or entity which owns directly or indirectly ten percent (10%) or more of the securities having ordinary voting power for the election of directors or other governing body of an entity will be deemed to control such entity.

"**Agreement**": This Option and Easement Agreement (including the Easements).

"**Base Payment**": The Base Payment payable by Grantee to Owner described in the Basic Terms and Article 3.

"**Commencement of Construction**": Grantee shall have reached Commencement of Construction on the Project if Grantee commences the grading and groundwork for any road (excluding any groundwork done for the purpose of conducting a ground survey, environmental studies, wind measurement work or installing meteorological towers) on the Project and diligently pursues construction of the Project thereafter.

"**Construction Payment**": The Construction Payment payable by Grantee to Owner described in the Basic Terms and Article 3.

"**County**": The county (or respective counties) in which the Property is situated.

"**Easements**": If the Option is exercised, the following easements effective on the date specified in the Notice of Exercise of the Option in, on, over, across, along and above the Property and the easements described in other parts of this Agreement:

(a) An exclusive easement and right of access and of ingress to and egress from the Windpower Facilities, as well as an easement for access to and from adjacent lands, in each case by means of any existing roads on the Property, and by such other roads as Grantee may construct on the Property from time to time, or by other means commercially and financially reasonable as determined by Tenant to be necessary for the benefit of and for the purposes incidental to Project and Operations on the Property ("Access Easement") (See Section 5.4 regarding use by Owner of Grantee roads.)

(b) An exclusive easement for the construction, erection, installation, use, operation, maintenance, repair, improvement, replacement and removal of Windpower Facilities, including but not limited to, Generating Units.

(c) An exclusive easement for the aerial overhang of the rotors of Generating Units located on properties adjacent to the Property ("Overhang Easement").

(d) An exclusive easement for any audio, visual, view, light, shadow, noise, vibration, air turbulence, wake, electromagnetic or other effect of any kind or nature whatsoever resulting, directly or indirectly, from any Operations conducted, or Windpower Facilities owned, leased, operated or maintained by Grantee on the Property and on lands near the Property ("Other Easement").

(e) An exclusive easement to capture, use and convert the unobstructed wind resources over and across the Property.

(f) The Non-Obstruction Easement, as described in Section 7.1 herein.

(g) An exclusive easement for the installation, use, repair, replacement and removal of Transmission Facilities ("Transmission Easement").

(h) An easement to trim, cut down and remove all trees (whether natural or cultivated), brush, vegetation and fire and electrical hazards now or hereafter existing on the Property which might obstruct receipt of or access to wind flow throughout the Property or interfere with or endanger the Windpower Facilities or Operations, as determined by Grantee ("Clearance Easement").

(i) An easement to undertake any such purposes or other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the purposes or uses set forth in this Agreement or that are compatible with such purposes or uses and do not substantially interfere with any use reserved to Owner.

The easement rights granted by Owner under this Agreement constitute **EASEMENTS IN GROSS**, personal to and for the benefit of Grantee, its successors and assigns, as owner of such easements, and the Parties expressly agree that such easement rights shall be transferable in accordance with the assignment provisions of this Agreement. The Parties expressly intend for all easement rights herein to be, and for this Agreement to create, **EASEMENTS IN GROSS** in Grantee, and neither such easements nor this Agreement shall be appurtenant to any other property or interest.

"**Easement Payment**": The Easement Payment payable by Grantee to Owner described in the Basic Terms and Article 3.

"**Easement Year**": The period from the expiration of the Development Term through the first anniversary of the Operations Term (which shall be deemed the first Operations Year), and each subsequent twelve months thereafter during the Operations Term.

"**Effective Date**": The date, described in the Basic Terms, upon which this Agreement becomes effective.

"**Exercise of Option**": The notification provided by Grantee as provided in Section 1A.4.

"**Encumbrances**": Any liens, encumbrances, covenants, conditions, reservations, restrictions, easements, leases, licenses, occupancies, tenancies, mineral rights, water rights or other matters affecting, relating to or encumbering the Property or any portion thereof.

"**Event of Force Majeure**": Strikes, lockouts or other labor disturbances; delays in transportation; inability to secure labor or materials in the open market; acts of God or the elements, including fire, flood, washout perils at sea, lightning, earthquake or accidents; conditions arising out of or attributable to acts of war, civil disturbances or riots; the effect of any Laws; the failure of any governmental authority to issue any permit, entitlement, approval or authorization within a reasonable period of time after an application for the same has been submitted; the inability to sell electricity at commercially reasonable prices in the open market during a period when a force majeure clause under Grantee's power purchase contracts is in effect or any other matter or condition beyond the reasonable control of the party in question, whether or not similar to the matters or conditions herein specifically enumerated; and (in the case of Grantee) while litigation contesting all or any portion of the right, title and interest of Owner in the Property and/or of Grantee under this Agreement shall be pending and not finally determined.

"**Generating Units**": Wind-powered electric generating units (also known as turbines) and their associated equipment.

"**Generation Commencement Date**": The date on which all of the Generating Units that are then being constructed for the Project have passed their initial performance tests and have begun to commercially deliver electricity, but in no case later than the date that is six (6) months after the day the first Generating Unit in the Project begins to commercially deliver electricity. Generation of Test Energy from Windpower Facilities will not trigger the Generation Commencement Date.

"**Laws**": All valid and applicable laws, statutes, ordinances, regulations, orders and assessments of any federal, state, county or local governmental authority with jurisdiction over the Windpower Facilities or the Property.

"**Lender**": Any financial institution or other Person that from time to time provides secured financing for some or all of the Windpower Facilities or Operations, and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns.

"**Net Revenue(s)**": For any Easement Year beginning on the Generation Commencement Date (or in the case of calculating Test Energy prior to the Generation Commencement Date), the sum of the following offset by Grantee Settlement Costs (defined below).

(a) all revenues actually received by Grantee from the physical sale of energy generated from Generating Units installed within the Project including from merchant sales made at the resource node to the applicable regional transmission operator ("RTO");
(b) all revenues actually received by Grantee from the sale, transfer or trade of any state or federal issued pollution credits or renewable energy credits generated by Generating Units installed within the Project; and
(c) all revenues actually received from Grantee Hedge Agreements (defined below).

Net Revenues shall include only the items listed in the preceding sentence. For the avoidance of doubt, the parties acknowledge and agree that Net Revenues shall not include, without limitation, the following: (i) any proceeds from any lump sum payment(s) to cancel or modify any obligation under any capacity, energy, or renewable energy credit purchase contract or other contract related to the Project or payment of liquidated or other damages or any indemnity payments under any capacity, energy or renewable energy credit purchase contract related to the Project; (ii) any energy used in the operation of the Project or parasitic losses; (iii) any proceeds received from the sale, lease or other disposition of the Windpower Facilities, (or any interest therein), or financing of the Windpower Facilities or Grantee's interest in the Property or the Agreement; (iv) any rental or lump sum payment received by Grantee in exchange for Grantee's assigning, subleasing, mortgaging or otherwise transferring all or any interest of Grantee in this Agreement or any Windpower Facilities; (v) amounts received as reimbursements for wheeling costs, transmission lines or network upgrades or like costs or expenses; (vi) subject to Section (b) of this paragraph, any amounts or proceeds from any governmental tax credit, benefit or incentive such as the federal or state production tax credits, investment tax credits, government grants, tax abatements or exemptions, or any other current or future created governmental tax credit, benefit or incentive; and (vii) payments from any insurance policy or revenues from products purchased or sold not in the course of ordinary energy sales, including but not limited to business interruption or hedge instruments between Grantee and its Affiliates which were entered into as part of a financing arrangement and not in the ordinary course of business.

"**Operations**": The activities which Grantee has the right to undertake pursuant to this Agreement.

"**Option**": The option described in Article IA.

**"Option Exercise Date"**: The date Grantee declares the Easements to be effective in the Exercise of Option delivered to Owner.

**"Payment"**: The Base Payment and the Royalty Payment.

**"Pooled Base Payment"**: An amount equal to the specified dollar amount listed in the Basic Terms multiplied by the number of megawatts (as rated by the turbine manufacturer) of all Generating Units in the Project.

**"Pooled Royalty Payment"**: An amount equal to the Net Revenue multiplied by the percentage specified in the Basic Terms.

**"Project"**: The wind energy project of which the Property and adjacent lands containing Windpower Facilities are a part. Grantee may determine whether any particular group of lands, Windpower Facilities constitutes a single Project or multiple Projects for purposes of this Agreement, and in the case of multiple Projects, which portion of the Property shall be included within such Project.

**"Property"**: The Property as defined and described in the Basic Terms.

**"Real Property Records"**: The official public records of the County in which deeds and other instruments affecting title to real property are required to be recorded to place third parties on constructive notice of them.

**"Royalty Payment"**: The Royalty Payment payable by Grantee to Owner as described in the Basic Terms.

**"Grantee Hedge Agreements"** means any financially settled transaction in which no physical delivery of energy occurs to hedge Grantee's exposure for the sale of energy from the Project such as commodity swap transactions, commodity basis swap transactions, commodity cap transactions, commodity floor transactions, commodity collar transactions, commodity spot transactions, commodity index transactions, or other similarly financially structured transactions or any combination of these transactions provided, however that puts and calls shall be excluded from this definition.

**Grantee Settlement Costs:** The sum of the following:

(a) if the sale of energy occurs at a Hub, the difference, if any, between (i) the sum of all locational marginal prices published at a resource node for all settlement intervals in a month and (ii) the sum of all locational marginal prices published for all settlement intervals in a month at a hub times the energy generated from Generating Units installed within the Project;

(b) if the sale of energy occurs at the resource node (i) the sum of all negative locational marginal prices published in any settlement intervals in a month for the applicable resource node by the applicable RTO and paid by Grantee to the applicable RTO for that generated energy times the energy generated from Generating Units installed within the Project;

(c) all amounts received through settlement by Grantee from an Independent System Operator ("ISO") to resolve financial obligations between a market participant and the applicable ISO; and

(d) any out-of-pocket amounts actually paid during the applicable period by Grantee as part of the financial settlement process to the counterparty of a Grantee Hedge Agreement entered into by Grantee to hedge its exposure for the sale of energy from the Project.

"**Term**": The Option Term and (if it becomes effective) the Operations Term.

"**Test Energy**": The energy produced by any Generating Units or Windpower Facilities in order to test the initial performance of the Generating Units or Windpower Facilities before the Generation Commencement Date.

"**Transmission Facilities**": A line or lines of towers or poles, with such wires and cables as from time to time are suspended therefrom, overhead and/or underground wires and cables, for the collection or transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances and fixtures for use in connection with said towers, poles, wires and cables on, along and in the Property; and one or more substations or interconnection or switching facilities, together with all related or appropriate roads, rights of way, on, along, across and in the Property.

"**Windpower Facilities**": Generating Units, Transmission Facilities, electric transformers, telecommunications equipment related to Generating Units, roads, meteorological towers and wind measurement equipment, foundations, pads, footings, communication cables and/or networks, lay-down and staging areas, crane pads, maintenance, administrative, operations and storage buildings, reasonable signage and all related or ancillary improvements and equipment.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The terms "include," "includes" and "including" shall be deemed to be followed by the words "without limitation." The term "year" refers to a calendar year, the term "month" refers to a calendar month, and any period measured by a "year" or a "month" from a reference date refers to the period beginning on such reference date and ending on the same date of the next succeeding calendar year or month, respectively, or, if no such date exists in the next succeeding calendar month, the last day of such next succeeding calendar month. References to a Section or Exhibit shall be references to a Section of, or Exhibit to, this Agreement unless specifically stated otherwise. A reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented and restated through the date as of which such reference is made. The term "or" is not exclusive, the term "shall" is mandatory and the term "may" is permissive. Both Parties acknowledge that each was actively involved in the negotiation and drafting of this Agreement and that no law or rule of construction shall be raised or used in which the provisions of this Agreement shall be construed in favor of or against either party because one is deemed to be the author thereof. Captions or titles used herein are for convenience of reference only and do not affect the meaning or intent hereof.

## ARTICLE 1A. GRANT OF OPTION

Owner hereby grants to Grantee an exclusive option ("**Option**") to acquire the Easements on following the terms and conditions:

Section 1A.1 Easements Not Effective Until Exercise of Option. During the Option Term, Grantee shall have no rights in and to the Easements unless and until Grantee by Notice of Exercise of the Option elects to declare the Easements effective.

Section 1A.2 Grantee's Due Diligence. During the Option Term, Grantee or its representatives shall have the right of access to the Property for the purpose of making those surveys and physical inspections and investigations, including but not limited to soil strength and environmental studies ("Grantee's Due Diligence") considered necessary or appropriate by Grantee in connection with Grantee's determination whether to decide to exercise the Option. Grantee will notify Owner in advance of any entry onto the Property and will use reasonable efforts to minimize any inconvenience to Owner. In furtherance of Grantee's Due Diligence, Grantee shall also have an exclusive option to acquire an easement agreement allowing installation, operation, maintenance and removal of a temporary meteorological tower on the Property for a period of time extending from exercise of this option to the earlier of (i) the date Grantee removes the temporary meteorological tower or (ii) the Generation Commencement Date. Grantee shall repair, or reimburse Owner for the cost of, any damage to crops or property caused by Grantee's Due Diligence using the formula for calculating crop damages in Section 3.6.

Section 1A.3 Payment. Payment for the Option Term shall be made pursuant to Section 3.2(a) of this Agreement.

Section 1A.4 Exercise of Option. If Grantee elects to declare the Easements effective, Grantee shall notify Owner in writing that it declares the Easements effective ("**Exercise of Option**"). The Exercise of Option delivered to Owner shall state the date Grantee declares the Easements to be effective, (the "**Option Exercise Date**"). Grantee may, without Owner's consent, deliver to the recorder in the County in which the Property is situated, a notice of Exercise of Option setting forth such information as deemed desirable or necessary as determined by Grantee in its sole discretion.

## ARTICLE 2. TERM

Section 2.1 Term of Agreement. The Term of this Agreement and the Easements contained herein shall consist of the Option Term plus, if it becomes effective, the Operations Term (as defined below).

(a) The Option Term shall commence on the Effective Date and continue until the earlier of (i) the expiration of a period of seven (7) years from the Effective Date or (ii) if Grantee exercises the Option, the commencement of the Operations Term.

(b) If Grantee exercises the Option, the "Operations Term" shall commence on the date specified in the notice of Exercise of Option and continue until the end of the thirtieth (30th) full calendar year occurring after the Generation Commencement Date.

## ARTICLE 2A. GRANT OF RIGHTS.

Section 2A. Grant of Easements. If Grantee exercises the Option, for and in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed upon by Owner and Grantee, effective as of the Option Date, Owner hereby grants, bargains, sells and conveys to Grantee the Easements. Notwithstanding anything in this Agreement to the contrary or appearing to the contrary, Grantee shall not use any part of the Property to grow crops or for any other agricultural purpose.

Notwithstanding anything in this Agreement to the contrary or appearing to the contrary, Grantee's rights under the Easements shall not commence until the Option Exercise Date.

## ARTICLE 3. CONSTRUCTION PAYMENT, EASEMENT PAYMENT, AND OTHER FEES

Section 3.1 Payment. Except for the Option Term Payment and any applicable Crop Damage payments, no other payment shall be payable with respect to the Option Term. For the Operations Term, Grantee shall pay Owner as specified in the Basic Terms before the Generation Commencement Date and after the Generations Commencement Date Grantee shall pay Owner for each Easement Year (i) the Base Payment, and (ii) if applicable, the Royalty Payment for such Easement Year, but only to the extent that Royalty Payment for the Property exceeds the Base Payment paid to Owner for the Property, and paid pursuant to Article 3. The Option Payment, Base Payment and Royalty Payment shall be prorated based upon the percentage of fee simple interest in the Property owned by each Owner. Base Payment and Royalty Payment for the first and last Easement Years shall be prorated on a per diem basis to the extent the duration of such Easement Year is less than one (1) full year in either case. The number of acres included in the Property and the number of MW of nameplate generating capacity installed on the Property shall be determined as of the last day of the annual period for the payment requiring such determination. Base Payment, if any, shall be payable until this Agreement is terminated or otherwise expires. Owner expressly acknowledges that Grantee may release acres under easement in accordance with Section 10.9, and payments, including Base Payment or Royalty Payment, for any acreage released will no longer be due after such release or partial release.

Section 3.2 Time and Manner of Payment. Payments due hereunder as provided in the Basic Terms shall be payable as follows:

(a) The Signing Bonus shall be paid within thirty (30) days after the Effective Date, in the amount listed in the Basic Terms provided that all parties constituting Owner return an executed version of this Agreement to Grantee by the Bonus Date. For the avoidance of doubt, no Signing Bonus shall be due to Owner if a fully executed original version of this Agreement is not received by Grantee by the Bonus Date;

(b) Option Term Payment for year one of the Option Term shall be paid within thirty (30) days after the Effective Date, in the amount listed in the Basic Terms. For each subsequent Option Term year, the Option Term Payment shall be paid to Owner on the anniversary of the Effective Date, beginning on the first (1st) anniversary of the Effective Date, and in the amounts listed in the Basic Terms. The Option Term Payment for the last year of the Option Term shall be retroactively prorated on a per diem basis to the extent the duration is less than one (1) full year and any surplus previously paid by Grantee to Owner for the last year of the Option Term shall be credited against the next payment under the Agreement. For the avoidance of doubt, no further Option Term Payments shall be due once the Operations Term begins;

(c) Base Payment and/or Royalty Payment due hereunder for each Easement Year shall be payable as follows: the greater of (i) the Base Payment or (ii) the Royalty Payment due shall be paid in arrears on or before sixty (60) days after the end of the applicable Easement Year.

Section 3.3 Statement of Net Revenue. If Royalty Payments are applicable under this Agreement, by the date each payment of Royalty Payment is due, as provided in Section 3.2, Grantee will furnish Owner with a true and accurate statement to Owner by Grantee or its authorized representative, showing the Royalty Payment for the year that is the subject of such statement. Owner acknowledges that while Royalty Payment shall be payable annually hereunder, the amounts required to determine Net Revenues may be adjusted on an annual or other basis pursuant to any power purchase agreement, regulation or applicable law, and that any such adjustments may be reflected in later annual statements, which adjustments may include payment increases or decreases, as appropriate.

Section 3.4 Grantee's Books and Records. For the purpose of determining Royalty Payment and if Royalty Payments are applicable, Grantee shall prepare and maintain, during the Operations Term, adequate records for each Easement Year showing collections for sales of energy or capacity from the Windpower Facilities, and any taxes, credits, refunds, or penalties paid or received by Grantee that are actually used in determining Net Revenues. Owner through an independent certified public accountant (no more than once per year) may examine and audit such records for the current and two (2) preceding Easement Years, at Owner's expense, at the location where Grantee maintains the records, during Grantee's regular business hours. If the audit reveals an understatement of Net Revenues for any Easement Year of more than three percent (3%), Grantee shall reimburse Owner for all reasonable costs of the audit. If the audit reveals an overstatement or understatement of Net Revenues, an appropriate cash adjustment of Royalty Payment shall be made between the parties within thirty (30) days thereafter (Grantee may instead offset any amount owing to it against Payment hereunder next coming due).

Section 3.5 Construction and Easement Payments. Grantee shall pay Owner the Construction Payments described in the Basic Terms within sixty (60) days after the Generation

Commencement Date, if and when it occurs. Any Construction Payments incurred after the Generation Commencement Date are payable within sixty (60) days after the completion of construction of the applicable roads or lines. Construction Payments shall be prorated based upon the percentage of fee simple interest in the Property owned by each Owner.

Easement Payments described in the Basic Terms for the first year of the Operations Term, if any, shall be paid within sixty (60) days after the Generation Commencement Date. Subsequent Easement Payments shall be paid within sixty (60) days after the beginning of each Easement Year. Easement Payments may be prorated on a per diem basis to the extent the duration of such Easement Year is less than one (1) year. Easement Payments shall be prorated based upon the percentage of fee simple interest in the Property owned by each Owner.

Section 3.6. Crop Damages. Grantee hereby acknowledges that Grantee will pay Owner for crop damages on the Property (as herein defined) resulting from construction of the Windpower Facilities as well as crop damages from future operations, maintenance and removal activities from a separate and distinct activity which results in actual damage to installed crops on the Property. The amount of reimbursement owed to Owner for such damages, the "Crop Damages" will be an amount equal to the fair market value for the type of crop actually damaged by the activities of Grantee, to be determined by Grantee using the (a) Chicago Board of Trade daily average closing price for the month of June for the July future most applicable to the damaged crop of the year that the crop damage occurred, multiplied by unit yield for such crop for the previous three (3) years based on the Farm Service Agency records or if such records are not available other commonly used yield information available for the area, multiplied by the number of acres damaged, multiplied by 1.4 (except where the damage is not due to heavy construction activities such as avian monitoring in which case the multiplier is 1.0) or (b) an amount otherwise mutually agreed upon by Grantee and Owner.

The Crop Damage compensation described in this section will be due and payable within ninety (90) days of the Generation Commencement Date of the Project for damages resulting from the construction of the Project, and within ninety (90) days of any separate and subsequent disturbance during the Operations Term, unless otherwise agreed between the parties. Upon Owner's request, Grantee agrees to re-seed with native grass, at no cost to the Owner, any grass areas of the Property or Owner's adjacent land that were disturbed by construction of the Windpower Facilities. Crop Damages shall be prorated based upon the percentage of fee simple interest in the Property owned by each Owner. Nothing in this Agreement shall be construed to require Grantee to pay any damages more than once for the same item or category of damages. Notwithstanding anything herein, no Crop Damages shall be due to Owner due to Grantee's construction and operations of its facilities except for the one-time Crop Damage payments made under this Section 3.6 after the initial construction of such facility or the disturbance that caused the damage. Owner hereby expressly acknowledges that the Construction Payments, Easement Payments and Crop Damage payments shall be deemed compensation for any future loss of yield due to compaction to the area damaged.

If Owner has a crop tenant, Owner shall be responsible for reimbursement of said tenant for any crop loss paid to Owner by Grantee and shall indemnify Grantee for any claims from such tenant farmer for Owner's failure to reimburse such crop tenant. Owner may request Grantee pay

Crop Damages directly to such crop tenant and Grantee agrees to reasonably accommodate such request so long as such request is made prior to the due date of the applicable Crop Damage payment and provided that Grantee has received any necessary information to make such payment.

Section 3.7 Met Tower Payment. Meteorological Tower Payment is set forth in the Basic Terms.

The payments described in this Section 3.7 shall be made within forty-five (45) days of the installation of such tower or unit (if temporary), and within forty-five (45) days of Generation Commencement Date, if permanent. Met Tower Payments may be prorated for partial years during the Option Term if such tower is temporary or for partial Easement Years if such tower is permanent. Each subsequent year the meteorological tower remains installed on the Property, the Met Tower Payment shall be due and payable within sixty (60) days of the anniversary date of the Effective Date if the tower is temporary and within sixty (60) days of the first day of each Easement Year.

Section 3.8 Limited Applicability of Royalty Payments. Notwithstanding anything to the contrary in this Agreement, Pooled Royalty Payments and Royalty Payment provisions do not apply to the Project or any part of the Project that is: (i) owned, leased and/or rate based by a public utility; (ii) owned or leased by an electricity user generating electricity primarily for its own use; or (iii) owned, leased or otherwise used in a manner or business structure that does not generate a readily identifiable stream of Net Revenues that can be used as the basis for calculating the amounts of funds available for the Pooled Royalty Payment.

Section 3.9 Intentionally Omitted

## ARTICLE 4. Intentionally Omitted

## ARTICLE 5. PERMITTED USE; RIGHTS OF PARTIES

Section 5.1 Permitted Use. Grantee shall have the exclusive right to use the Property for wind energy purposes. Wind energy purposes means converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted, together with any and all other activities related thereto, including (i) determining the feasibility of wind energy conversion on the Property, including studies of wind speed, wind direction and other meteorological data and extracting soil samples, and all other testing, studies or sampling desired by Grantee; (ii) constructing, installing, using, replacing, relocating, controlling and removing from time to time, and maintaining and operating Windpower Facilities; (iii) the right to construct or improve roads for reasonable access to the Windpower Facilities and (iv) undertaking any other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing, including the right to erect, construct, reconstruct, replace, relocate, remove, control, maintain and use the Windpower Facilities.

Section 5.2 No Required Construction. Nothing contained in this Agreement shall be construed as requiring Grantee to undertake construction or installation or to alter any Windpower

Facilities on the Property or elsewhere, and the decision if, when and to what extent that such construction will occur shall be solely in Grantee's discretion. Owner acknowledges that Grantee has made no representations or warranties to Owner, including any regarding development of, or the likelihood of power generation from, the Property.

Section 5.3 Owner's Use of the Property. Subject to Section 7.1 and the rights of Grantee under this Agreement, Owner hereby reserves the right to use the Property for any purposes (including agriculture, ranching, mineral development and recreation), and to lease the Property to other persons and entities for such purposes, and any income derived by Owner from such use or leasing shall belong entirely to Owner; however, any such leases or other instruments hereafter executed shall expressly provide that they are subject and subordinate in all respects to this Agreement and the rights of Grantee herein (and such leases or other instruments shall be so subordinate whether or not they so provide).

Section 5.4 Use of Grantee's Roads. Subject to Section 7.1 and the rights of Grantee under this Agreement, Owner and Owner's employees, contractors and farming tenants may use in the normal course of its agricultural operations, any roads, trails or bridges constructed on the Property by Grantee; provided, however Owner and such third parties shall remain liable for any damage to such roads and Grantee reserves the right to recoup repair expenses from the damaging party or Owner under the indemnity provisions herein. No other person who has not already been given such rights prior to the Effective Date (including any oil, gas or mineral lessee or anyone (other than Grantee) holding leasehold or other rights) shall be entitled to use any such roads unless and until they execute road maintenance agreements satisfactory to Grantee. Grantee shall have the right to use all roads existing or hereafter constructed by Owner or third parties, and shall maintain those which it shall determine from time to time are important to the Operations to the same or better condition that existed prior to Grantee's use. Grantee and Owner shall cooperate to ensure that third parties using roads maintained by Grantee (other than Owner, Owner's employees, contractors and farming tenants, and Grantee or Grantee's employees and contractors) reimburse Grantee for a reasonable portion of the expense of such maintenance Grantee may perform on Owner's roads from time to time based upon the relative use thereof.

Section 5.5 Use of Water. Owner hereby grants Grantee the right to drill one or more water wells on the Property and to use water from such wells only for purposes of providing water to any operations and maintenance facility to be constructed by Grantee for the sole benefit of the Project. Grantee agrees to consult with Owner as to the location of any water well and to use commercially reasonable efforts to accommodate Owner's preferences. Upon termination of this Agreement or if Grantee in its discretion is no longer utilizing such well, Grantee shall remove the water well to a depth of no less than forty two inches (42") below ground surface, or upon request by Owner, leave the well in place in which case Owner shall be responsible for the ownership and maintenance of such well.

Section 5.6 Chemical Application / Crop Dusting. Owner agrees to provide at least thirty-six (36) hours' notice to Grantee prior to aerial seeding or spraying (crop dusting) activities on the Property. Starting on the date of Commencement of Construction, Owner agrees not to allow crop dusting to occur on the Property without first obtaining the execution of a "Release and Waiver Agreement" in substantially the form attached as Exhibit C by the pilot and company performing the crop dusting services. The execution of a "Release and Waiver Agreement" shall preclude Grantee from making any claim against Owner for losses, property damage, or injury relating to crop dusting activities on the Property and Grantee agrees to look solely to the pilot and company performing the crop dusting services for any and all losses, property damage, or injuries relating to the crop dusting activities on the Property. Owner, adjacent property owners party to an agreement with Grantee, Grantee and the aerial spraying company shall work together to the extent commercially reasonable to coordinate the timing of any crop dusting. Owner shall also supply Grantee's local office with copies of the Material Safety Data Sheets (MSDS) applicable to the chemical. The MSDS provide information concerning Health Hazards, Personal Protective Equipment, and First Aid. This information will allow Grantee to protect its employees and contractors from exposure to potentially hazardous chemicals to the properly respond to inadvertent exposure. Additionally, the Owner shall store, mix and apply herbicides pesticides and fertilizers in accordance with the manufacturer's instructions and in compliance with applicable environmental laws.

Section 5.7 Construction Consultation. Prior to Commencement of Construction of the Project, Grantee shall determine the location of Generating Units and overhead and underground electric lines and roads. Grantee shall confer with Owner and consider their comments with respect to the location of said facilities; provided however the location of such facilities shall ultimately be within Grantee's sole discretion unless otherwise provided in this Section 5.7. Grantee shall provide Owner a proposed layout of the Generating Units, underground and overhead electric lines and roads to be installed on the Property, at which time the landowner shall have twenty (20) calendar days to request to move any Generating Unit site up to fifty feet (50') in any direction from its original location on the Property. If Owner exercises this right, such request must be delivered in writing to Grantee's notice address, postmarked by the twentieth (20th) day after receiving said proposed layout. If Grantee timely receives such notice, Grantee shall then use commercially reasonable efforts to comply with such request; if such request is not commercially reasonable as determined by Grantee, Grantee shall not be obligated to move such Generating Unit.

Section 5.8 Hunting. It is specifically understood that Owner has the right to hunt upon the Property and to lease the Property for hunting purposes, provided that adequate precautions will be taken by both Grantee and Owner. Starting on the Option Exercise Date, Owner agrees not to allow hunting to occur on the Property without first obtaining the execution of a "Hunting Release" in substantially the form attached as Exhibit D by the hunter. The execution of a "Hunting Release", or a similar version reasonably acceptable to Grantee, prior to entry onto the Property shall preclude Grantee from making any claim against Owner for losses, property damage, or injury relating to hunting activities on the Property and Grantee agrees to look solely to the parties to the hunting agreement for any such losses, property damage, or injuries.

## ARTICLE 6. GRANTEE'S OBLIGATIONS

Section 6.1 Compliance with Law. In conducting its Operations on the Property, Grantee shall comply in all material respects with all Laws; however, Grantee may contest the validity or applicability of any Law (including any property tax) to Grantee, the Project, the Operations, or any other activity or property of Grantee or Grantee's Affiliate, by appropriate legal proceedings brought in the name of Grantee or in the names of both Grantee and Owner where appropriate or required. Any such contest or proceeding, including any maintained in the name of the Owner, shall be controlled and directed by Grantee, at Grantee's sole cost, but in consultation with Owner.

Section 6.2 Care and Appearance. Grantee shall at all times maintain the Windpower Facilities in a neat, clean and presentable condition. Grantee shall keep the Property clean and free of debris created by Grantee, its contractors, or others entering the Property at the request of Grantee. Grantee shall not use the Property for storage except for materials, construction equipment and vehicles directly associated with construction or maintenance of Windpower Facilities on the Property or the Project.

Section 6.3 Fences and Gates. Grantee shall have the right to remove fences, gates and cattle guards, but only as reasonably necessary to accommodate the Project; however, upon Owner's request, Grantee shall repair or replace any fences, gates or cattle guards damaged or removed in connection with Grantee's activities. Fences removed from locations within the Property where Grantee has determined removal is necessary to avoid interference with its Operations, if replaced, shall be rebuilt by Grantee at its expense in other mutually agreeable locations. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Owner. If Grantee makes a new entrance through any existing fence, Grantee shall install a cattle guard. Grantee will reseed areas cleared by Grantee with the same types of grasses found on adjacent tracts. Any fences, fence corners, gates, or cattle guards repaired, replaced or installed shall be in the same size, quality of materials, quality of construction, and method of construction as the fences, fence corners, gates and cattle guards which are typical of those existing elsewhere on the Property.

Section 6.4 Drain Tile Repair. Grantee shall make commercially reasonable repairs and replacements to any tile damage that Grantee's construction or operation activities cause on the Property, and Grantee will pay Crop Damages for any crops damaged by flood due to broken tile directly attributable to Grantee's activities on the Property (payment shall be calculated as outlined in Section 3.6). When commercially reasonable, underground electrical wires and cables shall be installed with a trencher, and to a depth not less than 48 inches below the surface of the ground. All farm drainage tiles which intersect Grantee's underground electrical wires and cable shall be identified and repaired and/or replaced by Grantee if damaged by Grantee, by a contractor qualified in farm drainage. Grantee will notify Owner of the contractor selected for the work and shall reasonably accommodate any objections by Owner as to the contractor's qualifications or work history. All farm drainage tiles which run under Grantee's permanent access roads will be either repaired with sufficiently strong material as to prevent future crushing, or will be re-routed around said road in a commercially economical manner which sufficiently restores the drainage of the Property, which decision shall be based both on the drainage characteristics of the repair and the cost of performing such repair. Grantee agrees to consult, in good faith, with Owner regarding the repair and/or replacement of said drainage tile. Owner shall have the right to inspect all tile repairs and connections prior to backfill, provided Owner is immediately available to do so. If Owner is not available, Grantee's contractor shall provide Owner with digital photographs of the repair. Owner may alternatively replace tile damaged by Grantee if Owner has obtained prior written consent from Grantee as to the scope of work and cost of the work agreed upon by Grantee to be reimbursed to Owner. Upon completion of construction of the Project, if Grantee has conducted the repair, Grantee shall upon request provide Owner with: (i) a GPS coordinate reading of the location of such repaired or replaced tile and (ii) an illustration depicting the location of all Grantee installed underground electrical wires and cables, on the Property, as well as the intersection of all such underground improvements with the drainage tile system on the Property. In the event that Grantee or Owner's activities on the Property following the installation of the Windpower Facilities requires a physical location of wires and cables, Grantee agrees to do so, at no expense to Owner, within five (5) days of receiving the locate request.

Section 6.5 Certain Restrictions. Grantee and all Grantee personnel, and all personnel of third parties authorized to enter the Property by Grantee, shall follow the following rules while on the Property.

(a) All access gates shall remain padlocked at all times (when not required to be open for construction or maintenance), with keys to each lock provided to Owner for each gate; all access gates, as well as all interior gates, shall remain closed at all times.

(b) All personnel shall minimize, to the extent reasonably possible, the creation of dust and the introduction of noxious plants or vegetation to the Property.

(c) At no time shall any employees of Grantee, or any third parties authorized to enter the Property by Grantee bring any of the following onto the Property:

(i) Weapons of any type, including but not limited to: guns, bows and arrows or sling shots.

(ii) Animal calling devices.

(iii) Fishing equipment or nets.

(iv) Alcoholic beverages.

(v) Illegal drugs or related paraphernalia.

(vi) No cameras or video recorders shall be allowed on the Property, except those used to photograph the Project or the operations of Grantee.

(d) Smoking is prohibited except in designated construction areas and in vehicles. Grantee will employ prudent precautions to prevent fires, including avoiding the build-up of plant material under vehicles.

(e) Grantee shall keep the Property clean and free of all trash and litter which may emanate from Grantee or its employees, agents, contractors or invitees operations on the Property, and if Grantee does not do so within ten (10) days' notice from Owner, Grantee agrees to pay Owner's costs of picking up such litter and trash either on the Property or adjacent lands. Under no circumstances will Grantee bury or burn any trash, debris or foreign material of any nature on the Property.

(f) Grantee, its employees, contractors, agents and any individual allowed onto the Property by Grantee shall not bury, dump, spill or discharge any Hazardous Materials (as defined in Section 10.2), gasoline, oil, hydraulic fluid, fuel, paint or other foreign, toxic, or other waste substances on the Property.

(g) Grantee, its employees, contractors, agents and any individual allowed onto the Property by Grantee will confine their activities on the Property to the designated access routes and to the areas upon which Operations are then being conducted.

(h) No wood, plants, artifact or any other item that was not originally brought onto the Property by Grantee's personnel or representatives will be removed from the Property without Owner's consent.

(i) This Agreement does not cover or include any right or privilege of hunting or fishing on the Property, all such rights being expressly reserved to Owner.

(j) The following speed limits shall be strictly observed while on the Property: 45 miles per hour during daylight; 35 miles per hour after dark.

(k) Grantee will use commercially reasonable methods to preserve existing topsoil layers, and will not remove topsoil from the Property without Owner's consent.

(l) Grantee will not place Generating Units within 1,000 feet of any residence occupied as of the Option Exercise Date, unless expressly permitted to do so by Owner in writing.

Section 6.6 Restrictions Regarding Roads. With respect to the use and installation of roads:

(a) No permanent road constructed by Grantee shall be wider than thirty (30) feet without Owner's prior written consent.

(b) Grantee will use public roads and existing private roads and "turnrows" (collectively, "Existing Roads") where commercially reasonable for Grantee's use and access for the construction, operation and maintenance of the Project. If Grantee upgrades an Existing Road (e.g. puts gravel or caliche on it) to make it usable as a road for the Project, such upgrade will be at Grantee's cost, subject to the other provisions of this Agreement.

(c) Where new roads are necessary, to the extent commercially reasonable or otherwise agreed to by Owner and Grantee, Grantee will construct such roads at least sixteen (16) feet wide and parallel or perpendicular with the county roads. Grantee will consult with Owner as to the location of such roads and consider Owner's requests regarding the location of such roads to the extent such request is commercially reasonable, but the location of the roads shall remain in the Grantee's sole discretion and subject to change during construction of the Windpower Facilities. Any new roads will be constructed in such a manner to allow farm equipment crossing and minimal disturbance to land contour features. Any roads constructed by Grantee that shall remain on the Property following the completion of construction of the Project shall be "permanent roads."

(d) During operation of the Project, Grantee shall use commercially reasonable efforts to control the growth of weeds and erosion on and along the roads that Grantee constructs or improves pursuant to this Agreement. Grantee agrees to cooperate reasonably with local agricultural representatives to develop methods to control such weed growth and erosion, and the implementation of any plan agreed upon by Grantee and such agricultural representatives to control such weed growth and/or erosion shall be deemed to be a commercially reasonable effort.

(e) Grantee shall remove any non-permanent ("temporary road") promptly following the time by which Grantee determines that such road is no longer needed, in Grantee's sole discretion. Upon removal Grantee shall remove all materials used to construct the road, including caliche or such other materials used for the road.

Section 6.7 Payment of Claims. Grantee shall pay, when due, all claims for labor or materials furnished to or for Grantee at the Property, which claims are secured by any mechanic's or materialmen's lien against the Property; however, Grantee may contest such claims by appropriate legal proceedings brought in the name of Grantee or in the names of both Grantee and Owner where appropriate or required, so long as Grantee pays and satisfies any adverse judgment that may be rendered thereon before the enforcement thereof. Any such contest or proceeding, including any maintained in the name of Owner, shall be controlled and directed by Grantee.

Section 6.8 Decommissioning Plan / Restoration Security. Grantee shall enter into and comply with a decommissioning plan including any security obligations with the County in which the Project is situated, as and to the extent required by the ordinances of such County, as the same may be amended from time to time. In addition to any local decommissioning plans, subject to the rights of Lenders upon termination of this Agreement as provided herein, and on or before the date that is twelve (12) months after the expiration or earlier termination of this Agreement, Grantee agrees to (i) remove from the Property any Windpower Facilities owned, installed or constructed by Grantee thereon, (ii) fill in and compact all trenches or other borings or excavations made by Grantee on the Property (excepting borrow pits and quarries), (iii) perform deep tillage or other decompaction remedies and (iv) leave the surface of the Property free from debris caused by Grantee or the Project; however, Grantee shall only be required to remove any Windpower Facilities located beneath the surface of the land (such as, without limitation, footings and foundations) to a depth of thirty-six (36) inches below the surface of the land or in the case of the foundation of a Generating Unit forty-eight (48) inches below the surface of the land. Following termination, roads shall be left in place except for any roads constructed by Grantee as part of the Project unless Owner has requested in writing for such Project roads not to be removed. Such written request shall be provided not later than thirty (30) days after Owner receives written notice of expiration or termination of this Agreement. Nothing contained in this Section shall be construed as precluding Grantee from taking any of the foregoing actions at any time during the Term. Commencing at any time after the tenth (10th) Easement Year, Grantee shall, if so requested in writing by Owner, provide security for the benefit of the Property in the amount of the difference between the reasonable salvage value of the Windpower Facilities and the reasonable cost of removal of the Windpower Facilities under this Section 6.8, as determined by a neutral third party selected by Grantee ("Restoration Security"). The Restoration Security shall (i) be provided not more than ninety (90) days after the determination of value is made, (ii) remain in place through the date by which Grantee has satisfied all of Grantee's requirements under this Section 6.8, (iii) be accessible solely in the event, and only to the extent, that Grantee defaults under its obligations under this Section 6.8, and (iv) be provided in a form reasonably determined by Grantee, including letter of credit, bond, guarantee from a creditworthy entity or other like manner. Notwithstanding anything herein, if any applicable federal, state or local law requires restoration or decommissioning security be posted by Grantee to a municipality or other governmental authority as consideration for any decommissioning or restorations costs for the Project, Grantee shall comply with such laws in place of the Restoration Security provisions provided for herein.

Section 6.9 Conservation Programs. If Owner is a party to a Conservation Program contract, including but not limited to the Conservation Reserve Program and Conservation Security Program with the U.S. Department of Agriculture (a "Conservation Contract"), Owner shall provide Grantee with a true and complete copy of such Conservation Contract, together with all amendments and modifications. At the time of the Construction Consultation (as described in Section 5.7) Owner shall identify areas where the Conservation Contract will need to be modified. Grantee shall reimburse Owner for the penalties, interest and past payments that must be repaid to the U.S. Department of Agriculture as a result of the construction of the Windpower Facilities on the Property, if Owner immediately will take the appropriate steps to (a) remove the necessary land for the Project from the Conservation Contract and thus minimize these amounts due, and to (b) amend and conform the Conservation Contract to accommodate for the Grantee's proposed construction activity plan. Owner shall cooperate with Grantee by completing and submitting documents to obtain any exemptions allowed under the Conservation Reserve Program for the use of Windpower Facilities on the Property.

Section 6.10 Taxes. Grantee shall pay prior to delinquency any property taxes levied and assessed by any governmental authority upon any of the Windpower Facilities placed on the Property by Grantee. Owner shall pay when due any taxes attributable to (a) improvements or facilities installed by Owner or others (excluding Grantee) on the Property and (b) the underlying value of the Property; provided, however, that if the taxes against the underlying value of the Property are increased by reason of a change of use determination by a taxing entity (including roll-back taxes assessed up to five (5) years after termination or expiration of this Agreement, provided Owner uses good faith efforts to obtain agricultural exemptions, if applicable, during such time) or increased assessment of the Property resulting from Grantee's Operations or Windpower Facilities thereon, then Grantee shall pay the entire amount of such increase. Owner shall submit any real property tax bill regarding the Property and/or the Windpower Facilities (and any other communication from any government authority regarding the same) to Grantee within sixty (60) days after Owner's receipt thereof from the taxing authority. If any taxes payable by Grantee hereunder are levied or assessed in the name of Owner as part of the real property taxes payable by Owner, then, promptly after Owner submits the real property tax bill to Grantee, Grantee shall reimburse Owner for all such taxes payable by Grantee hereunder. Grantee shall undertake commercially reasonable efforts to cause the relevant taxing authorities to assign a separate tax parcel identification number or numbers (each, a "Separate PIN") to those portions of the Property that are permanently and exclusively dedicated to the Windpower Facilities, establishing the Grantee (or permitted assignee hereunder) as the taxpayer, and Owner shall reasonably cooperate in such efforts. Grantee shall commence its effort to create Separate PINs prior to the Commencement of Construction. After the assignment of any Separate PIN, Grantee shall pay taxes associated with such Separate PINs as and when due. Grantee's obligations hereunder are subject to Grantee's right to contest pursuant to Section 6.1. Grantee shall have the right, in its sole discretion, to contest by legal proceedings (which may be brought in the name(s) of Owner and/or Grantee where appropriate or required), the validity or amount of any assessments or taxes for which Grantee is responsible hereunder. Owner shall in all respects cooperate with Grantee in any such contest.

## ARTICLE 7. OWNER'S OBLIGATIONS

Section 7.1 No Interference. Neither Owner's activities nor the exercise of any rights hereafter given or granted by Owner to any other person or entity (whether exercised on the Property or elsewhere), shall materially interfere with Grantee's then-existing easement or other rights relating to (i) access by Grantee or its Affiliates or contractors to the Property or any lands in the vicinity of the Property used by Grantee in the Operations, (ii) Operations of Grantee or its Affiliates or contractors on the Property or on any lands owned by Owner in the vicinity of the Property, (iii) the exercise of Grantee's or its Affiliates or contractor's rights under this Agreement, or (iv) the undertaking of any other activities permitted Grantee hereunder.

Without limiting the generality of the foregoing, for so long as this Agreement is in effect, neither Owner nor any other person or entity that has obtained rights either from Owner or any party claiming, directly or indirectly, under Owner, shall interfere with the wind speed or wind direction over the Property or any lands owned by Owner in the vicinity of the Property on which Grantee or any Affiliate thereof owns, leases, operates or maintains Generating Units. Owner shall not plant trees or construct buildings or other improvements on the Property that exceed a height of forty (40) feet from the surface of the Property, or engage in any other activity on the Property or elsewhere, that might cause a decrease in the output or efficiency of any Generating Units (and Grantee shall have the right to remove any obstructions to the wind that adversely affect its Operations if this covenant is violated) except as expressly permitted through prior written approval of Grantee, such approval not to be unreasonably withheld; provided, however, that Owner may allow drilling rigs, workover rigs or other similar temporary devices on the Property related to development of the mineral estate so long as such devices are (i) not higher than seventy (70) feet in height, (ii) not present on the Property for more than ninety (90) consecutive days and (iii) not closer than 500 feet from any Generating Unit tower base or substation.

Neither Owner nor anyone on Owner's behalf may place or plant any trees, structures or improvements taller than forty (40) feet on any part of the Property (the "Non-Obstruction Premises") (except drilling rigs, if permitted pursuant to other portions of this Agreement) after the Effective Date of this Agreement which may, in Grantee's sole judgment, impede or interfere with the flow of wind to any Generating Unit located anywhere within the Project, unless Owner has received prior written approval from Grantee for any such trees, structure or improvement. Grantee shall have the right to record a memorandum specifying the Non-Obstruction Premises and Owner shall execute any such memorandum upon written request of Grantee. The provisions of this Section 7.1 and the Non-Obstruction Easement shall survive any partial termination or release. The rights of Grantee and the obligation and restrictions against Owner and the Property described in this Section 7.1 are sometimes collectively referred to in this Agreement as the "Non-Obstruction Easement".

Section 7.2 Compliance with Obligations. Owner shall comply on a timely basis with all of its legal and contractual obligations with respect to the Property, including, subject to the provisions of Section 6.10 above, the payment before delinquency of property taxes that are attributable to the underlying value of the Property or improvements thereon not owned by Grantee. If Owner fails to do so, then, without limitation upon any other rights or remedies that Grantee may have at law or in equity, Grantee may (but shall not be obligated to) pay or otherwise satisfy any unpaid property taxes or other obligations or Owner which, if left unsatisfied, could delay, interfere with, impair or prevent Operations or the exercise of any of Grantee's other rights under this Agreement, or the financing of the Project; and Grantee shall thereupon be subrogated to the rights of the obligee of such obligations. Without limitation on any other rights or remedies available to Grantee, any sums so expended by Grantee shall, at Grantee's election, either be (i) immediately reimbursed to Grantee by Owner or (ii) offset against any Payment or other amounts then or thereafter due and payable to Owner under this Agreement.

Section 7.3 Rights of Third Parties.

(a) Any right, title or interest created by Owner from and after the Effective Date in favor of or granted to any third party shall be subject to (i) this Agreement and all of Grantee's rights, title and interests created hereby, (ii) any Lender's Lien then in existence on the easement estate created by this Agreement, (iii) Grantee's right to create a Lender's Lien and (iv) any and all documents executed or to be executed by Grantee in connection with this Agreement.

(b) If at any time during the Term any Encumbrance to Owner's title to the Property which was created prior to the Effective Date is found, exists or is claimed to exist against the Property or any portion thereof, creates rights superior to those of Grantee, and Grantee in its sole discretion determines that the existence, use, operation, implementation or exercise of such Encumbrance could delay, interfere with, impair or prevent Operations or the exercise of any of Grantee's other rights under this Agreement or the financing of the Project, Grantee shall be entitled to seek to obtain a subordination, non-disturbance agreement, consent or other agreement (in a form and containing provisions reasonably acceptable to Grantee and any Lender) from the holder of such Encumbrance that will eliminate such risks for the benefit of Grantee and any Lender, and Owner shall reasonably cooperate with and assist Grantee in connection therewith.

Section 7.4 No Ownership Rights. Owner shall have no ownership or other interest in any Windpower Facilities installed by Grantee on the Property, and Grantee may remove any or all Windpower Facilities at any time or from time to time. Without limiting the generality of the foregoing, Owner hereby waives any statutory or common law lien that it might otherwise have in or to the Windpower Facilities or any part thereof.

Section 7.5 Cooperation.

(a) Owner shall fully support and cooperate (and shall use reasonable efforts to cause any other person or entity with any other right, title or interest in the Property to cooperate) with Grantee in the conduct of its Operations and in otherwise giving effect to the purpose and intent of this Agreement, including in Grantee's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights necessary or convenient in connection with Operations; and Owner shall (and shall use reasonable efforts to cause any such other person or entity to) promptly upon request, without demanding additional consideration therefor (but at no unreimbursed cost or expense to Owner), execute, and, if appropriate, cause to be acknowledged and recorded, any map, application, permit or document that is reasonably requested by Grantee in connection therewith (as well as any amendment to this Agreement or any recordable memorandum executed in connection herewith for purposes of correcting or replacing property descriptions based on surveys or other relevant information obtained after the Effective Date, or making other non-substantive corrections, additions or substitutions). Without limiting the generality of the foregoing, in connection with any application by Grantee for a governmental permit, approval, authorization, entitlement or other consent, Owner agrees (and shall use reasonable efforts to cause any such other person or entity to agree, but at no unreimbursed cost or expense to Owner) (i) if requested by Grantee, to support such application, (ii) to support Grantee's position in regard to any requirement or condition of such permit, approval, authorization, entitlement or consent, including, in regard to bonding or security requirements or amount, mitigation, environmental impacts or monitoring, and (iii) not to oppose, in any way, whether directly or indirectly, any such application or approval at any administrative, judicial or legislative level.

(b) Owner shall not obstruct passage along, into or from any road or area within the Property that is accessed in connection with the Operations, except that Owner may fence and gate such areas and gate roads if it provides the keys or combinations to Grantee for any gate locks.

Section 7.6 Setback Waiver. Owner hereby waives any and all setbacks and setback requirements, whether imposed by law or by any person or entity, including any setback requirements described in any applicable zoning ordinance or in any governmental entitlement or permit heretofore or hereafter issued to Grantee or such Affiliate which may apply to the installation of Windpower Facilities on the Property. If so requested by Grantee or any such Affiliate, Owner shall promptly, without demanding additional consideration thereof, execute, and if appropriate cause to be acknowledged and recorded, any setback waiver, setback elimination or other document or instrument required by any governmental authority or that Grantee or such Affiliate deems necessary or convenient to the obtaining of any entitlement or permit.

Section 7.7 Confidentiality. Subject to any duties imposed by law by reason of recordation of a Memorandum of Option and Easement Agreement regarding this Agreement during the Term, Owner shall hold in confidence, and shall require its principals, officers, employees, representatives and agents to hold in confidence, for the sole benefit of Grantee (i) any accountings, (ii) all information pertaining to the Payment and to calculation of Payments (including the sale price of power), (iii) any other financial information provided by or on behalf of Grantee, (iv) any books, records, computer printouts, product designs or information regarding Grantee or an Affiliate thereof and (v) any information regarding energy output or availability from Operations on the Property or in the Project (collectively, "Confidential Information"), whether disclosed by Grantee or an Affiliate thereof or discovered by Owner, unless such Confidential Information either (i) is in the public domain by reason of prior publication through no act or omission of Owner or its principals, officers, employees, representatives or agents, or (ii) was already known to Owner at the time of disclosure and which Owner is free to use or disclose without breach of any obligation to any person or entity. Owner shall not use any such Confidential Information for its own benefit, publish or otherwise disclose such Confidential Information to others, or permit the use of such Confidential Information by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Owner may disclose such information to (1) Owner's lenders, attorneys, accountants and other personal financial advisors, or (2) any prospective purchaser of the Property; provided that in making such disclosure Owner advises the party receiving the information of the confidentiality thereof and obtains the agreement of said party to abide by the confidentiality provisions above, and Owner shall be responsible to Grantee for any failure of any such third party to do so. Owner may also disclose such information pursuant to any lawful subpoena or court order, in which case Owner shall give Grantee sufficient advance notice of such proceedings to allow Grantee to oppose the issuance of the same (or, if this is not possible, as much notice as is practicable).

Section 7.8 Division of Agreement. If Grantee from time to time so requests, Owner shall, within twenty (20) days after written request from Grantee, and without demanding any additional consideration, bifurcate this Agreement, divide the Agreement into two (2) or more separate, independent agreements for separate and distinct windpower projects by entering into two or more new agreements that provide Grantee with separate leasehold and/or easement rights to different portions of the Property, as designated by Grantee. Each of such new agreements shall (i) contain the same terms and conditions as this Agreement (except for any requirements that have been fulfilled by Grantee prior to the execution of such new agreements), (ii) be for a term equal to the remaining Term, (iii) contain a grant to Grantee of easements similar to the Easements, covering such portion or portions of the overall Property as Grantee may designate, (iv) require payment to Owner of Payment, calculated using only the portion of the Property covered by the new agreement, as provided in Section 3.2 and (v) enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Owner. Further, in the event of an uncured Event of Default (as defined below) by the Grantee under any such new agreement, such default shall not affect, or cause a termination of, any other such new agreement or any rights or interests granted to the Grantee under such other new agreement.

Section 7.9 Estoppel Certificates. Owner shall, within ten (10) days after request by Grantee or any Lender, execute and deliver an estoppel certificate (i) certifying (if true) that this Agreement is in full force and effect and has not been modified, (ii) certifying (if true) that to the best of Owner's knowledge there are no uncured Events of default hereunder, and no condition or event exists which, with the passage of time, would become an Event of Default (or, if any uncured Events of Default or any such conditions or events exist, stating with particularity the nature thereof), (iii) certifying the status of any conditions subsequent provided in this Agreement and (iv) containing any other certifications as may reasonably be requested. Any such statements may be conclusively relied upon by Grantee and any existing or proposed Lender. The failure of Owner to deliver such statement within such time shall be conclusive upon Owner that (i) this Agreement is in full force and effect and has not been modified, (ii) there are no uncured Events of Default by Grantee hereunder, and no conditions or events exist which, with the passage of time, would become an Event of Default, (iii) any conditions subsequent set forth in this Agreement have been satisfied (except to the extent that such satisfaction, by the terms of this Agreement, is not due to occur until a future date), and (iv) the other certifications so requested are in fact true and correct.

Section 7.10 Representations and Warranties of Owner. Owner hereby represents and warrants to Grantee, that, as of the Effective Date:

(a) Owner is the sole fee simple owner of the surface of the Property in the percentages as reflected in Exhibit A, Section 2, (i) subject to no encumbrances or any agreements that could affect Grantee's use, possession or occupancy of the Property except those filed in the Real Property Records and the unrecorded leases and other agreements listed in Exhibit B hereto ("Permitted Encumbrances"), true and correct copies of which have been provided to Grantee, (ii) each person or entity signing this Agreement on behalf of Owner is authorized to do so, (iii) Owner has the full and unrestricted legal power, right and authority to enter into this Agreement, to grant the Easements to Grantee and to perform its obligations hereunder, (iv) no other person or entity (including any spouse) is required to join in this Agreement in order for the same to be fully enforceable by Grantee and for Grantee to enjoy all the rights and benefits accorded to it hereunder, (v) this Agreement and the Easements are and will be in full force and effect as to Owner, without the necessity of any consent of or joinder herein by any other person or entity, (vi) this Agreement constitutes the valid and binding obligation of Owner, and is enforceable in accordance with its terms, and (vii) Owner is not the subject of any bankruptcy, insolvency or probate proceeding.

(b) To the best of Owner's knowledge, neither this Agreement nor the Property or any portion thereof is in violation of any Law. Each parcel of the Property is a separate legal parcel which may be leased and financed in compliance with applicable subdivision laws and all local ordinances adopted pursuant thereto.

(c) To the best of Owner's knowledge, there are no pending or threatened actions, suits, claims, legal proceedings or any other proceedings affecting or that could affect the Property or any portion thereof, at law or in equity, before any court or governmental agency.

(d) To the best of Owner's knowledge, there are no commitments or agreements with any governmental agency or utility affecting the Property or any portion thereof that have not been disclosed by Owner to Grantee and listed on Exhibit B hereto.

(e) To the best of Owner's knowledge, there are no other material adverse facts or conditions relating to the Property or any portion thereof that could delay, interfere with, impair or prevent Operations or the exercise of any of Grantee's other rights under this Agreement, the Easements, or the financing of any proposed Project.

(f) Grantee shall have the quiet use and enjoyment of the Property in accordance with the terms of this Agreement without any interference of any kind by Owner or any person claiming through Owner. Owner and its activities on the Property and any grant of rights Owner makes to any other person shall not interfere with any of Grantee's activities pursuant to this Agreement. Owner shall not interfere or allow interference with the wind speed or wind direction over the Property or otherwise engage in activities which might impede or decrease the output or efficiency of the Windpower Facilities.

(g) Owner shall not sell, transfer, assign or encumber the Property or grant any license, easement, lease or other right with respect to the Property which could interfere with Grantee's operations. Owner shall give prompt written notice to Grantee of any lease, grant or conveyance of any interest that affects the rights conveyed to Grantee herein involving the Property.

Section 7.11 Representations and Warranties of Grantee. Grantee hereby represents and warrants to Owner that, as of the Effective Date: (i) Each person or entity signing this Agreement on behalf of Grantee is authorized to do so, (ii) Grantee has the full and unrestricted legal power, right and authority to enter into this Agreement, and to perform its obligations hereunder, (iii) no other person or entity is required to join in this Agreement in order for the same to be fully enforceable by Owner, (iv) this Agreement and the Easements are and will be in full force and effect as to Grantee, without the necessity of any consent of or joinder herein by any other person or entity, (v) this Agreement constitutes the valid and binding obligation of Grantee, and is enforceable in accordance with its terms and (vi) Grantee is not the subject of any bankruptcy, insolvency or probate proceeding. To the best of Grantee's knowledge, neither this Agreement nor the Property or any portion thereof is in violation of any Law.

## ARTICLE 8. DEFAULT; REMEDIES; PROTECTION OF LENDERS

Section 8.1 Default. If Grantee fails to perform its obligations hereunder (an "Event of Default"), then Grantee shall not be in default hereunder unless the default is material (in the case of a Non-Monetary Default only, any Monetary Default being deemed material regardless of the amount involved) and Grantee shall have failed to cure such Event of Default, within thirty (30) days in the case of a Monetary Default or within sixty (60) days in the case of a Non-Monetary Default, after Grantee has received written notice from Owner stating with particularity the nature and extent of such Event of Default (a "Notice of Default"); provided, however, that, in the case of a Non-Monetary Default, if the nature or extent of the obligation or obligations is such that more than sixty (60) days are required in the exercise of commercially reasonable diligence for performance of such obligation(s), then Grantee shall not be in default if Grantee commences such performance within such sixty (60)-day period and thereafter pursues the same to completion with commercially reasonable diligence. For purposes of this Agreement, a "Monetary Default" means an Event of Default consisting of the failure to pay when due any Payment or other monetary obligation of Grantee to Owner under this Agreement. Any other Event of Default is sometimes referred to herein as a "Non-Monetary Default."

Section 8.2 Owner's Right to Terminate for Monetary Default.

(a) If a Monetary Default shall occur, and such Monetary Default is not disputed in good faith by Grantee or a Lender through implementation of the escrow described in (b) below, then notwithstanding anything to the contrary contained in this Agreement, Owner may terminate this Agreement while such Monetary Default is still continuing if both of the following occur:

(i) Grantee fails to cure the Monetary Default within thirty (30) days after receipt of a second notice from Owner advising Grantee of Owner's intent to terminate this Agreement, and

(ii) all Lenders fail to cure the Monetary Default within the forty-five (45) day period permitted them after receipt of their duplicate Notice of Default, all pursuant to Section 8.4.

(b) If Owner alleges that a Monetary Default has occurred but Grantee or any Lender, in good faith, disputes Owner's contention, Grantee or such Lender may deposit the amount in controversy in escrow with any reputable third party escrow agent, or may interplead the same, which amount shall remain undistributed until final, nonappealable decision by a court of competent jurisdiction or agreement of the parties.

Section 8.3 Limitation on Remedies. Notwithstanding any other provision of this Agreement or any rights or remedies which Owner might otherwise have at law or in equity, at all times while there are Windpower Facilities being constructed or located on the Property, except as set forth in Section 8.2, Owner shall not (and hereby waives the right to) commence any action or proceeding in which termination, cancellation, rescission or reformation of this Agreement is sought as a remedy and Owner shall be limited to seeking damages in the event of any failure by Grantee to perform its obligations hereunder; provided, however, that if Grantee fails to pay to Owner, within thirty (30) days after the date of such award, any damages awarded Owner by a court of last resort with jurisdiction, then Owner may, subject to Lender's rights to limited additional time to cure set forth in Section 8.4 (e), terminate this Agreement.

Section 8.4 Protection of Lenders:

(a) If Grantee has assigned, hypothecated, mortgaged or pledged all or any portion of its right, title or interest under this Agreement, in the Easements and/or in any Windpower Facilities, it shall promptly give notice of the same (including the address of the Lender) to Owner, together with a general description of the interest transferred; provided, however that the failure to give such notice shall not constitute a default or Event of Default under this Agreement but rather shall only have the effect that Owner shall not be required to recognize or be bound by such assignment, hypothecation, mortgage or pledge (and all notice and other requirements in this Article 8 benefiting such Lender shall accordingly be inapplicable) until such notice shall have been given.

(b) Every Lender shall have the right, but not the obligation, (i) to make any payments due under this Agreement, and (ii) to do any other act or thing that may be necessary or appropriate to be done in the performance and observance of the terms hereof. All payments so made and all things so done and performed by any Lender shall be as effective to prevent or cure any Event of Default under this Agreement as they would have been made, done and performed by Grantee, and Owner agrees to accept such performance, payment and cure. Owner agrees to accept such payment and performance, and authorizes the performing Lender (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of Grantee hereunder.

(c) Owner agrees for the benefit of each Lender that it will not, without the prior consent of such Lender (which consent shall be given or withheld on the basis of the documents governing the relationship between such Lender and Grantee): (i) amend or modify, or take any action causing, consenting to or accepting the amendment or modification of this Agreement, if such amendment or modification would reduce the rights or remedies of such Lender hereunder or impair or reduce the security for any Lender's Lien, (ii) by agreement with Grantee, cancel, terminate or suspend this Agreement or the Easements, or (iii) take any action causing, consenting to or accepting the cancellation, termination or suspension of this Agreement or the Easements.

(d) Owner shall deliver to each Lender a duplicate copy of any and all Notices of Default that Owner may from time to time deliver to Grantee, and such copies shall be delivered to each such Lender at the same time such Notices of Default are delivered to Grantee.

(e) Upon Grantee's failure to cure any Event of Default within the time provided in Section 8.1, then as provided in Section 8.2(a)(ii) with respect to Monetary Defaults, the Lenders shall have an additional forty-five (45) days (running concurrently for each Lender) after the expiration of the time provided in Section 8.1 to cure such Event of Default; subject only to Section 8.2(b), if any Monetary Default, or any Non-Monetary Default which can, in the exercise of commercially reasonable due diligence, be cured within such additional forty-five (45) day period is not cured within such time, Owner may terminate this Agreement. However, if such Event of Default is a Non-Monetary Default and cannot, in the exercise of commercially reasonable diligence, be cured within such additional forty-five (45) day period, then such Lenders shall have such additional time (running concurrently for each Lender) to cure such Event of Default as may be reasonably necessary using commercially reasonable diligence. Any Non-Monetary Default that cannot be cured by such Lenders shall nevertheless be deemed to have been cured and remedied if (i) on or before forty-five (45) days after receiving the Notice of Default from Owner, any such Lender shall have acquired Grantee's then-remaining right, title and interest in the Property, or shall have commenced foreclosure or other appropriate proceedings for such purposes and shall be prosecuting such proceedings to completion with commercially reasonable diligence, (ii) any such Lender shall have fully cured within such forty-five (45) day period any failure to perform any monetary obligations of Grantee hereunder and shall thereafter continue to perform such monetary obligations, and (iii) after obtaining Grantee's then-remaining right, title and interest in the Property, any such Lender commences performance of the non-monetary obligations of Grantee hereunder and thereafter pursues the same to completion with commercially reasonable diligence. All rights of Owner to terminate this Agreement as a result of the occurrence of an Event of Default hereunder shall be expressly conditioned upon (y) each such Lender having first received a copy of the Notice of Default as and when provided in Section 8.4(a) and (z) such Lenders having together failed to cure the Event of Default (or, in the case of a Non-Monetary Default, acquire possession of the Property or commence foreclosure or other appropriate proceedings) as set forth, and within the time specified, in this Section 8.4(e).

(f) If any such Lender is prohibited by any process or injunction issued by, or by reason of any action of, any court having jurisdiction over any bankruptcy, reorganization, insolvency or other debtor-relief proceeding from commencing or prosecuting foreclosure or other appropriate proceedings, then the times specified in Section 8.4(e) for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided, however, that such Lender (or another Lender) shall have fully cured, within the time specified in Section 8.4 (e), any failure to perform any monetary obligations of Grantee hereunder, and shall thereafter continue to perform such monetary obligations when and as due hereunder.

(g) The transfer of Grantee's interest under this Agreement to any Lender and/or to one or more purchasers (i) at a foreclosure sale by judicial or nonjudicial foreclosure and sale, (ii) by a conveyance by Grantee in lieu of foreclosure or (iii) by any other assignment or conveyance, including by a Lender following foreclosure and sale, or as a result of any other legal proceeding, shall not require the consent of Owner, and Owner agrees that upon such foreclosure, sale, conveyance, assignment or other proceeding, Owner shall recognize such Lender or such other purchaser(s) or Grantee(s) as the successor to Grantee under this Agreement; provided, however, that, subject to Section 8.4(i), such Lender or such purchaser or Grantee assumes the obligations of Grantee under this Agreement and pays all amounts in arrears due from Grantee to Owner hereunder.

(h) Neither the bankruptcy nor the insolvency of Grantee shall be grounds for terminating this Agreement as long as the Payment and all other monetary obligations of Grantee hereunder are paid by a Lender in accordance with the terms of this Agreement. If this Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if this Agreement is terminated for any reason other than an Event of Default which could have been but was not cured by a Lender as provided in this Section 8.4, and if, within sixty (60) days after receiving notice of such rejection or termination, any Lender shall so request, then, so long as such Lender has cured any Monetary Default or interplead any disputed amount in accordance with Section 8.2(b) and is making commercially reasonable efforts to cure any Non-Monetary Default as provided herein, Owner shall execute and deliver to such Lender or its designee a new agreement, which new agreement shall (i) be on the same terms and conditions as this Agreement (except for any requirements that have been fulfilled by Grantee prior to rejection or termination of this Agreement, (ii) be for a term equal to the remaining Term before giving effect to such rejection or termination, (iii) contain a grant to the Lender of easements similar to the Easements, covering such portion or portions of the overall Property as such Lender may designate, (iv) require payment to Owner of the amount of Payment calculated using only the portion of the Property covered by the new agreement, (v) enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Owner, and (vi) be executed within thirty (30) days after receipt by Owner of notice of the Lender's election to enter into a new agreement.

(i) No Lender shall have any duty, obligation or liability under this Agreement prior to the time of its entry into physical possession of the Property or its commencement of performance of Grantee's obligations under this Agreement or under a new agreement entered into as provided in Section 8.4(h). If a Lender elects to perform Grantee's obligations under this Agreement or to enter into a new agreement as provided in Section 8.4(h), then such Lender shall not have any personal liability to Owner for the performance of such obligations, and the sole recourse of Owner in seeking the enforcement of such obligations shall be to such Lender's interest in the Windpower Facilities and under this Agreement. If a Lender assigns its interest in this Agreement or in a new agreement entered into pursuant to Section 8.4(h) to any person or entity, then, provided that such assignee assumes the obligations of Grantee (or such Lender, as the case may be) under this Agreement, such Lender shall be released from any further liability hereunder.

(j) Owner agrees that it will, promptly after request therefore given from time to time, enter into an amendment to this Agreement or enter into a separate agreement, for purposes of incorporating or memorializing any provisions which any existing or proposed Lender reasonably requests for the purpose of implementing the provisions of this Section 8.4 or affording such existing or proposed Lender reasonable and customary protections in the event of a default by Grantee. The Parties each agree to execute and deliver (and to acknowledge, if necessary for recording purposes) any document or instrument reasonably required to give effect to any such provisions.

(k) There shall be no merger of the Easements, or of the easement interest created thereby, with the fee estate in the Property by reason of the fact that the Easements or said easement interest may be held, directly or indirectly, by or for the account of any person or persons who own such fee estate or any interest therein, and no such merger shall occur unless and until all persons then having an interest in such fee estate and all persons (including any Lender) then having an interest in or under the Easements, shall join in a written instrument effecting such merger and duly record the same.

## ARTICLE 9. ASSIGNMENT AND SUBLETTING

Section 9.1 Right to Assign or Sublet. Owner hereby provides its consent to Grantee and provides Grantee with the right, without any additional consent from Owner required, on an exclusive or non-exclusive basis, to grant, sell, lease, convey, or assign (including without limitation changing the ownership of Grantee) to any one or more entities (each, an "Assignee"), all or a portion of Grantee's interest in the Agreement, the Easements or the Windpower Facilities as to all or a portion of the Property, or to grant co-leases or co-easements (including, without limitation, co-tenancy interests), separate leases, subleases, easements, licenses or similar rights to Grantee's interest in the Agreement, the Easements or the Windpower Facilities (each, an "Assignment"). Upon Grantee's Assignment of any interest or rights under this Agreement as to all or any portion of the Property, or as may otherwise be provided in the applicable grant, sale, lease, conveyance or assignment document, Owner shall recognize the Assignee as Grantee's proper successor as to such property or rights assigned (the "Assigned Interests"), the Assignee shall have all of the assigned rights, benefits and obligations of Grantee under and pursuant to this Agreement with respect to the Assigned Interests, and Grantee shall be relieved of all of its obligations relating to the Assigned Interests under this Agreement that relate to acts or omissions which occur or accrue following the effective date of the transfer of Grantee's rights pursuant to such Assignment. Upon such Assignment, the terms and conditions of this Agreement will apply to the Assigned Interests as a separate, stand-alone agreement between Owner and Assignee (except for any requirements that have been fulfilled by Grantee prior to the Assignment), without creating the potential for a cross-default between this Agreement (with respect to the any rights and interests herein not assigned) and the Assigned Interests or between the Assigned Interests of any Assignees. In connection with the foregoing, Owner hereby acknowledges and agrees that upon any Assignment, (i) the amounts payable pursuant to this Agreement will only be payable by the Grantee or applicable Assignee (and not payable twice), and (ii) in the event of an uncured Event of Default (as defined below) (A) by the Assignee under any Assigned Interests, such default shall not affect, create a default under, or cause a termination of, this Agreement (with respect to any interests not assigned) or with respect to the Assigned Interests of another Assignee, and (B) by the Grantee under this Agreement, such default shall not affect, create a default under, or cause a termination of, the Assigned Interests of an Assignee.

Section 9.2 Right to Encumber. Grantee may, at any time and from time to time, conditionally or unconditionally, without obtaining the consent of Owner, hypothecate, mortgage, grant, collaterally assign or pledge all or any portion of Grantee's right, title or interest under this Agreement, in the Lease, in the Easements and/or in any Windpower Facilities to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation relating in whole or in part to Windpower Facilities or Operations (a "Lender's Lien").

Section 9.3 Conveyances / Assignments by Owner. Owner shall have the right to devise, convey, gift, assign, transfer and/or sell Owner's interest in all or a portion of the fee title to the Property (along with any rights associated with the fee title) to any person or entity. Owner shall notify Grantee in writing of any sale, assignment or transfer of any of Owner's interest in all or a portion of the fee title to the Property, or any part thereof along with any evidence of such sale, assignment or transfer (including but not limited to, probate records, deed transfers, etc.) that is required by Grantee. Until Grantee receives such notice and the supporting documentation that Grantee requires, including, but not limited to, a W-9 executed by the new owner and/or a stipulation regarding payments and fees, Grantee shall have no duty to any successor Owner, and Grantee shall not be in default under this Agreement if it continues to make all payments to the original Owner before Grantee receives such notice of sale, assignment or transfer and any evidence of such transfer required by Grantee. Any future owner of all or a portion of the Owner's interest in the fee title to the Property by virtue of such transfer assumes the Owner's obligations under this Agreement as to the portion of Owner's interest in the fee title so purchased or transferred.

Section 9.4 Effect on Property Transfer or Property Division

(a) In the event that ownership of the Property is divided after the Effective Date of this Agreement as a result of the action of Owner or its successors or assigns, such that different parties comprising the Owner hereunder own different portions of the Property (as opposed to undivided interests in the Property), the payments and fees described herein shall be payable to the owner of the portion of the Property on which the particular Windpower Facilities or affected property for which the payments and fees are calculated are physically located (including but not limited to Owner Generating Unit Royalty Rent and Owner Generating Unit Base Rent), and/or any acreage based payments shall be calculated based on the amount of acreage owned by the then owner provided that Grantee may at its election determine how to allocate said acres of the Property as stated in Exhibit A on a reasonable pro rata basis. Further, any Event of Default under this Agreement shall only apply to the portion of the Property in which the Event of Default occurs as to the party that comprises the Owner of that portion of the Property and such Event of Default shall not be deemed a cross-default as to the other portions of the Property or as to the other party that comprises the Owner.

(b) In the event that the Owner's percentage of ownership (as an undivided interest in the Property) changes after the Effective Date of this Agreement, the payments and fees will be payable to the Owner based on the Owner's legal ownership interest percentages.

(c) In the event that the Property is divided after the Effective Date of this Agreement as a result of the actions of Grantee or its successors or assigns, including as a result of an Additional Easement, a division pursuant to Section 7.8, or an Assignment pursuant to Section 9.1, such that the lease is divided by Grantee in a manner whereby different portions of the Property are divided, split and/or assigned to a different and separate agreement, the payments and fees described herein shall be payable by the applicable grantee or tenant under said separate agreement to the owner of the portion of the

Property on which the particular Windpower Facilities or affected property for which the payments and fees are calculated are physically located and/or any acreage based payments shall be calculated based on the amount of acreage owned by the then owner for that portion of the Property covered under the applicable lease agreement. To the extent not already addressed herein, if there is a division of the Agreement as described in this Section 9.4(c) such that different portions of the Property are under a separate agreement, any Event of Default under the applicable separate agreement shall only apply to said agreement and the applicable portion of the Property thereunder and such Event of Default shall not be deemed a cross-default as to any other separated agreement and vice versa.

(d) If the Property is divided such that there is a new owner as described under Section 9.4(a) or if such undivided interest ownership percentages shall change as described in Section 9.4(b), Grantee shall not be liable or obligated to a new owner or a change in ownership percentages until Grantee is notified in accordance with Section 9.3.

## ARTICLE 10. GENERAL PROVISIONS

Section 10.1 Insurance. Grantee shall obtain, and keep in effect during the Term a broad form comprehensive general liability insurance policy with a limit of no less than Five Million Dollars ($5,000,000.00), of combined single limit liability coverage per occurrence, accident or incident, with a commercially reasonable deductible. Grantee shall cause Owner to be named as an additional insured in such policy and upon Owner's request shall deliver to Owner a certificate of insurance evidencing said policy, which certificate shall provide that (i) Owner shall be given at least thirty (30) days' prior notice of any modification, cancellation or termination of such insurance and (ii) the insurer waives all rights of subrogation against Owner in connection with any loss or damage covered by such policy.

Section 10.2 Environmental Matters. Owner represents and warrants that, to the best of Owner's knowledge (i) the Property is in compliance with Environmental Laws (defined below); and (ii) there are no Hazardous Materials (defined below) in, on, or under the Property, other than herbicides, pesticides and fertilizers that have been stored, mixed and applied on the Property in compliance with normal agricultural practices and in compliance with Environmental Laws.

(a) Grantee assumes responsibility for and agrees to comply with (i) all Environmental Laws applicable to Grantee's use of the Property and (ii) all remediation and other requirements (as well as all consequences of the existence of) Hazardous Materials located on or released on, from or onto, the Property by Grantee or its contractors. Owner assumes responsibility for and agrees to comply with all Environmental Laws applicable to Owner's use of the Property and all remediation and other requirements (as well as all consequences of the existence of) Hazardous Materials located on or released on, from or onto, the Property other than by Grantee or its contractors.

(b) **"Environmental Laws"** means any and all federal, state, local, ordinances, codes, and regulations relating to protection of the environment, health and safety, and natural resources. Environmental Laws includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“**CERCLA**”), and the common law.

(c) “**Hazardous Materials**” means (i) any and all substances, materials, chemicals, and wastes regulated by Environmental Laws; and (ii) “hazardous substance”, “pollutant or contaminant,” “petroleum,” and “natural gas liquids” as such terms are defined or used in Section 9601 of CERCLA.

Section 10.3 Indemnity. Each party, on behalf of itself and its principals, members, officers, employees, agents, representatives, contractors, successors and assigns (the “**Indemnifying Party**”), shall indemnify, defend and hold harmless the other party and its principals, members, officers, employees, agents, representatives, contractors, successors and assigns (collectively, the “**Indemnified Party**”) from and against any losses, damages, expenses and liabilities arising from (i) physical damage to property (including the personal property of the Indemnified Party) or physical injury to or death of any person, in each case to the extent caused by the Indemnifying Party, (ii) any violation by the Indemnifying Party of any Law, or (iii) any material failure by the Indemnifying Party to perform its obligations, or any failure to be true of any representation or warranty made by the Indemnifying Party, under this Agreement. The reference to property damage in the preceding sentence does not include losses of rent, business opportunities, profits and similar damages. Notwithstanding any other provision of this Agreement, in no case shall Owner be deemed liable to Grantee for actions of trespassers on the Property. **EACH PARTY WAIVES THE RIGHT TO COLLECT PUNITIVE DAMAGES FOR ANY MATTER UNDER THIS AGREEMENT. IF OWNER OWES GRANTEE ANY AMOUNT AS AN INDEMNIFYING PARTY UNDER THIS PARAGRAPH, OR IF OWNER IS IN DEFAULT ON ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, GRANTEE MAY ELECT TO OFFSET SUCH INDEMNIFIED AMOUNT OR ANY DAMAGES INCURRED BY GRANTEE AS A RESULT OF SUCH DEFAULT, AGAINST THE NEXT DUE INSTALLMENT(S) OF PAYMENT. ELECTION BY GRANTEE TO OFFSET AGAINST PAYMENT SHALL NOT BE CONSTRUED AS AN ELECTION OF REMEDIES AND GRANTEE MAY PURSUE ALL OTHER LEGAL AND EQUITABLE REMEDIES AVAILABLE TO IT ARISING OUT OF OWNER'S DEFAULT OR FAILURE PAY INDEMNIFIED AMOUNTS.**

Section 10.4 Safety Measures; Waiver and Recognition

(a) Grantee acknowledges that livestock may roam the entire Property freely. Owner shall not be responsible for any damage that Owner's livestock may cause to the Windpower Facilities. Owner authorizes Grantee to take reasonable safety measures to reduce the risk of damage to the Windpower Facilities or the risk that the Windpower Facilities will cause damage, injury or death to people, livestock, other animals or property, and Grantee may construct fencing around one or more of the Generating Units and take other security precautions if Grantee determines, in its sole discretion, that such fencing and/or security measures will reduce such risks of damage, death or injury. The cost of any fencing constructed by Grantee, or of any other such security measures taken by Grantee, shall be borne solely by Grantee.

(b) **OWNER IS AWARE OF THE POTENTIAL RISKS ASSOCIATED WITH WIND ENERGY GENERATION, INCLUDING BUT NOT LIMITED TO ELECTROMAGNETIC FIELDS, SHADOW, STRAY VOLTAGE, ICE THROW, FLICKER, NOISE, AIR TURBULENCE RESULTING FROM THE PRODUCTION AND TRANSMISSION OF ELECTRICITY, AND OWNER SHALL HAVE NO RIGHT TO INDEMNITY PURSUANT TO SECTION 10.3 FOR ANY SUCH CLAIMS AND KNOWINGLY WAIVES ALL CLAIMS RESULTING FROM THESE CAUSES AND CLAIMS. OWNER ADDITIONALLY RECOGNIZES THE NEED TO EXERCISE EXTREME CAUTION WHEN IN PROXIMITY TO ANY OF THE WINDPOWER FACILITIES OR TRANSMISSION FACILITIES AND THE IMPORTANCE OF RESPECTING GATES, FENCES, SIGNAGE, RULES AND OTHER SAFETY MEASURES UTILIZED BY GRANTEE, AND OWNER AGREES TO EXERCISE SUCH CAUTION AND RESPECT SUCH MEASURES AT ALL TIMES AND TO CAUSE ITS PRINCIPALS, MEMBERS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND CONTRACTORS TO DO THE SAME, WITH FAILURE TO DO SO CONSTITUTING A MATERIAL DEFAULT AND SUBJECTING OWNER TO AN OBLIGATION OF INDEMNITY FOR THE CONSEQUENCES THEREOF AS SET FORTH IN SECTION 10.3; PROVIDED HOWEVER, IN NO CASE SHALL OWNER BE DEEMED TO BE LIABLE TO GRANTEE FOR ACTIONS OF TRESPASSERS.**

Section 10.5 Condemnation.

(a) If all or part of the Property is proposed to be taken as a result of any action or proceeding in eminent domain, or is proposed to be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (collectively, a "Taking"), Owner shall provide Grantee with reasonable advance notice of any impending proceeding or meeting related to such Taking and shall not in the absence of Grantee settle with the Taking authority or agree on compensation for such Taking.

(b) Any award or other compensation ("Award") payable as a consequence of such Taking shall be allocated and paid as follows:

(i) Grantee shall be entitled to receive out of the Award (A) the value of the easement estate pursuant to the Easements in the portions of the Property subject to the Taking that would have existed but for the Taking; (B) the value of the Windpower Facilities; and (C) any other compensation or benefits payable by law as a consequence of the interruption of Grantee's business and the other costs and expenses incurred by Grantee as consequence of the Taking; thereafter

(ii) Owner shall be entitled to receipt from the Award of the value of its fee interest in the Property; and thereafter,

(iii) Owner shall be entitled to any remainder of the Award.

(c) The Easements shall terminate as to any portion of the Property so condemned or taken (except in the case of a temporary Taking after the duration of which Grantee desires to continue the Easements, and the Term shall be extended, in such event, by the duration of such temporary Taking).

Section 10.6 Notices. Any notices, statements, requests, demands, consents, correspondence or other communications required or permitted to be given hereunder shall be in writing and shall be given personally, by certified or registered mail, postage prepaid, return receipt requested, or by overnight or other courier or delivery service, freight prepaid, to the address of the party to be notified indicated in the Basic Terms (and if to a Lender, the address indicated in any notice to Owner provided under Section 8.4(a)).

Notices delivered by hand shall be deemed delivered when actually received, and notices sent by certified or registered mail or by overnight or other courier or delivery service shall be deemed delivered and received on the first to occur of (i) three (3) days after deposit in the United States mail or with such overnight or other courier or delivery service, addressed to such address or (ii) written acceptance of delivery by the recipient. Each party and any Lender may change its address for receipt of notices by sending notice hereunder of such change to the other party (in the case of a Lender, both Parties) in the manner specified in this Section. Notwithstanding the foregoing, any amounts payable to Owner under this Agreement shall be deemed tendered three (3) days after a check for the same, addressed to Owner's address above, is deposited in the United States mail, first-class postage prepaid.

Section 10.7 Force Majeure. Notwithstanding any other provision of this Agreement, each party's obligations under this Agreement (other than monetary obligations, including the Base Payment, none of which shall be excused or delayed by reason of this Section) shall be suspended and excused, and the term, and any other time periods set forth herein shall continue and be extended for a like period of time, while such party is hindered or prevented, in whole or in part, from complying with any term, covenant, condition or provision of this Agreement, by any Event of Force Majeure.

Section 10.8 Meetings with Third Persons. During the Term, Grantee and its representatives, agents and contractors shall have the right to meet with governmental agencies and with any other persons with whom Owner has contractual arrangements in connection with or relating to the Property or any portion thereof, and discuss with any such persons the terms of this Agreement, the terms of any contractual arrangements between Owner and any such person, and any other matters relating to the Property or Grantee's intended use of the Property.

Section 10.9 Release.

(a) Upon request of Owner, within sixty (60) days after the expiration or earlier termination of this Agreement, Grantee shall execute and cause to be acknowledged and recorded in the Real Property Records a release of all of Grantee's right, title and interest in the Property.

(b) Grantee may, for any reason and at any time and from time to time during the Term hereof, release all or any portion of its right, title and interest in the Property, the Easements or this Agreement (as to all or any portion or portions of the Property) by executing and causing to be acknowledged and recorded in the Real Property Records, a release describing with particularity the portion of such right, title or interest so released and the part of the Property to which it applies. Such release shall become effective and shall be deemed delivered to and accepted by Owner upon such recordation. Upon any such release by Grantee, the parties' respective rights and obligations hereunder shall cease as to the portion of the Property or the right, title or interest herein as to which such release applies, but the Easements and the parties' respective rights and obligations hereunder shall remain in full force and effect as to any portions of the Property and any right, title and interest of Grantee not so released. Notwithstanding anything in this Agreement to the contrary or appearing to the contrary, unless Grantee terminates this Agreement in its entirety or unless Grantee specifically releases in writing all or a portion of its easement rights under (d) of the "Easements" definition in Section 1.1 or specifically releases in writing all or a portion of the Non-Obstruction Easement, Grantee retains all rights in such easements even if Grantee releases any other portion of its right, title and interest in the Property, the Easements or this Agreement.

(c) No act or failure to act on the part of Grantee shall be deemed to constitute an abandonment or surrender of the Agreement, the Easements or any portion thereof other than Grantee's releases given pursuant to Section 10.9.

Section 10.10 Third Party Beneficiaries. Except with respect to the rights of Lenders (which Lenders are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the agreements and covenants contained herein are made solely for the benefit of the Parties, and shall not be construed as benefiting any person or entity who is not a Party to this Agreement.

Section 10.11 Attorneys' Fees. In the event of any litigation related to the interpretation or enforcement hereof, or which in any other manner relates to the Easements, this Agreement or the Property, the prevailing Party shall be entitled to recover from the other Party all of its attorneys' fees and court and other costs.

Section 10.12 Covenants Running With the Land. The Property shall be held, conveyed, assigned, hypothecated, encumbered, leased, used and occupied subject to the provisions of this Agreement, which provisions shall run with the Property, and shall be binding upon and inure to the benefit of the Parties and each other Person having any interest therein during their ownership thereof, and their respective tenants, heirs, executors, administrators, successors and assigns.

Section 10.13 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is situated.

Section 10.14 Memorandum. Concurrently with execution hereof, the Parties shall execute a Memorandum of Option and Easement Agreement and cause it to be acknowledged and recorded in the Real Property Records.

Section 10.15 Binding on Partial Interests. If this Agreement is not executed by one or more of the persons or entities comprising the Owner herein, or by one or more persons or entities holding an interest in the Property, then this Agreement shall nonetheless be effective, and shall bind all those persons and entities who have signed this Agreement.

Section 10.16 Savings Clause. If any term or provision hereof is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, then the same shall not affect the validity or enforceability of any other term or provision hereof, the terms and provisions hereof being severable.

Section 10.17 No Waiver. The waiver of any covenant, condition or agreement contained herein shall not constitute a waiver of any other covenant, condition or agreement herein or of the future performance thereof.

Section 10.18 Entire Agreement; Modifications. This Agreement, including any Exhibits attached hereto, contains the entire agreement between the parties in connection with any matter mentioned or contemplated herein, and all prior or contemporaneous proposals, agreements, understandings and representations, whether oral or written, are merged herein and superseded hereby. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against whom the enforcement thereof is sought.

Section 10.19 Multiple Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

Section 10.20 Cooperation on Owner's Interest. It is the intent of the parties hereto that all of Owner's undivided interest in the Property be granted to Grantee for the Easements and other rights hereunder. Owner agrees that in the event Owner's undivided ownership interest in the Property is more or less than that specified in the Basic Terms and Exhibit A-2, Owner shall, at no additional cost to Grantee, execute any and all amendments to this Agreement, the memorandum (such amendment in recordable format) and such other documents as reasonably required to reflect Owner's proper undivided ownership interest. Owner agrees to reasonably cooperate with Grantee in completing any such amendments and in facilitating associated corrections with any title company working with Grantee. Payments due under this Agreement shall be made in accordance with each Owners' proportionate ownership interest in the Property.

Section 10.21 Most Favorable Payment Terms. If Grantee signs an Option and Easement Agreement during the Restricted Period with any owner of land that is a part of the Project with more favorable Payment terms, Grantee shall execute an amendment to this Agreement giving Owner the same more favorable Payment. For purposes of this section, "Payment" shall apply only to Option Payment, Base Payment, and Royalty Payment (if applicable) rates. "Restricted Period" means the time period starting with the Effective Date and ending upon the date of Commencement of Construction on the Project. Owner's sole remedy for any breach of this Section 10.21 shall be specific performance requiring (i) execution of an amendment incorporating the more favorable Payment terms and (ii) Grantee to perform the obligations under such amendment.

**[SIGNATURES ON NEXT PAGE]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

**OWNER:**
**PEDERSON TRUST I**

By: Robert D Pederson
Name: Robert D. Pederson
Title: Trustee of the Pederson Trust I

Address: 526 E. Center Ave.
Badger, IA 50516

***OPTIONAL:***

Phone: ______________

Email: ______________

**OWNER:**
**PEDERSON TRUST I**

By: Janet E. Pederson
Name: Janet E. Pederson
Title: Trustee of the Pederson Trust I

Address: 526 E. Center Ave.
Badger, IA 50516

***OPTIONAL*:**

Phone: ______________

Email: ______________

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

**GRANTEE: RWE Renewables Development, LLC**

By: ______________________
Name: Sean Logsdon
Title: Vice President

Address: 701 Brazos Street, Suite 1400
Austin, Texas 78701

Attachments:

Exhibit A – Description of Property
Exhibit B – Permitted Encumbrances
Exhibit C – Crop Dusting Release
Exhibit D – Hunting Release

## EXHIBIT A

### Section 1 - Description of Property

The following real property located in Webster County, Iowa:

The West Half (W1/2) of the Southwest Quarter (SW1/4) and the West Half (W1/2) of the East Half (E1/2) of the Southwest Quarter (SW1/4) of Section Two (2), Township Ninety (90) North, Range Twenty-eight (28), West of the 5th P.M., Webster County, Iowa, EXCEPT a parcel of land located in the SW1/4 of Section 2, Township 90 North, Range 28 West of the 5th P.M., Webster County, Iowa, described as follows: Commencing at the Southeast corner of the SW1/4 of said Section 2; thence North 90°00'00" West 646.91 feet along the South line of the said SW1/4; to the point of beginning; thence continuing North 90°00'00" West 26.00 feet along the said South line; thence North 01°48'17" East 1030.00 feet; thence North 29°43'21" West 79.00 feet; thence South 88°08'54" West 298.00 feet; thence North 00°54'14" East 198.92 feet; thence North 90°00'00" East 368.00 feet; thence South 01°48'17" West 1288.00 feet to the point of beginning, containing 2.31 acres. Said parcel contains 114.71 acres, more or less.

PIN: 0302300001, 0302300002, 0302300004, 0302300007.
Deed Reference: 2017-05220, 2016-04300, 2016-04299, 2016-00926, 2015-05128, 2014-05675, 2014-05674, 2014-00734, 2014-00731, 2008-05494, 241-618.

Being all of Owner's real property in said section(s).

Total Acreage: **114.71** acres, more or less.

## EXHIBIT A

### Section 2 – Ownership Percentage of Property

| Owner Name: | Percent Interest Owned in Property: |
|---|---|
| Pederson Trust I | 100% |

## EXHIBIT B

### Permitted Encumbrances

All of record in the Official Real Property Records of Webster County, Iowa.

Unrecorded leases and other agreements are listed below (if nothing appears below, there are no unrecorded leases and other agreements):

## EXHIBIT C

### Crop Dusting Release & Waiver (the "Release and Waiver")

The undersigned entities (collectively, "Chemical Applicators") desire to perform the application of chemicals and pesticides on that real property in __________ County, Iowa, described in Exhibit A hereof (the "Property") owned by_________________("Owner"). RWE Renewables Development, LLC, its successors and assigns (collectively, "Grantee") has an agreement granting certain rights, including the right to operate large wind turbines, covering part or all of the Property.

1. Risks of Chemical Application on Property. Chemical Applicators are aware that Grantee may develop, construct and operate equipment on all or parts of the Property related to the generation, transmission, distribution and delivery of electricity. Grantee is required by the Occupational Safety & Health Administration to comply with the Federal Regulations specified in OSHA 29 CFR 1910.1200 to have a Hazard Communication Program for its employees and contractors, which includes communication regarding chemical hazards to which they may be exposed during their work.

2. Notice. Upon the Commencement of Construction and for as long as the Project is operational, at least thirty-six (36) hours prior to any scheduled application of agrochemicals on the Property ("Chemical Application"), Chemical Applicators shall notify Grantee of the planned location and timing of the application. In the event it is not possible to provide thirty-six hours' notice, due to an emergency infestation of crops, unpredictable weather conditions, or a similar event, Chemical Applicator shall supply notice as soon as the need for the application is known. Chemical Applicator shall also supply Grantee's local office with copies of the Material Safety Data Sheets (MSDS) applicable to the chemical. The MSDS provide information concerning Health Hazards, Personal Protective Equipment, and First Aid. This information will allow Grantee to protect its employees and contractors from exposure to potentially hazardous chemicals to the properly respond to inadvertent exposure.

3. Waiver of Liability.

   a. Chemical applicators shall INDEMNIFY and HOLD HARMLESS Owner, its officers, agents, affiliates, shareholders and employees, and Grantee, its officers, agents, affiliates, shareholders and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, attorneys' fees, and actual, punitive or other damages for injury to or death of any person, or for damage to any property, whether it be property of Owner or property of Grantee or both, arising out of or in connection with any act, action or presence on, above, or near the Property of Grantee or any person on the Property. THE RELEASES, WAIVERS AND INDEMNITIES CONTAINED IN THIS RELEASE & WAIVER SHALL EXPRESSLY APPLY, TO THE MAXIMUM EXTENT PERMITTED BY LAW,

TO CLAIMS OF OWNER'S AND GRANTEE'S NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT) AND STRICT LIABILITY, but not gross negligence or willful conduct, arising out of or in connection with the Chemical Application, including without limitation actual or punitive damages for personal injury, dismemberment or death sustained in the Chemical Applicators' activities near the Property.

b. The releases, waivers and indemnities contained in this Release and Waiver specifically include, but are not limited to, any claims for medical bills, doctors' bills, hospitalization, nurses' bills, drugs, therapy, administration, and other expenses, including judgment liens, hospitalization liens, attorneys' fees, and any other form of intervention or lien, or any other expenses incurred by Owner and Grantee which are in any way related to Chemical Application.

4. Compliance With Laws. Chemical Applicators shall at all times comply with all applicable federal, state and local laws, including those applicable to the storage, mixing, and application of herbicides, pesticides, and fertilizers.

5. Joint and Several Liability. If more than one person executes this Release & Waiver as a pilot or crop duster entity, their obligations under this Release & Waiver are joint and several, and any act of or notice to, or refund to, or the signature of, any one or more of them, under or with respect to any of the terms of this Release & Waiver, shall be fully binding of all of the persons executing this Release & Waiver.

6. Parties Bound. This Release & Waiver shall be binding upon, and inure to the benefit of, the parties to this Release & Waiver and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Release & Waiver.

7. Governing Law. This Release & Waiver shall be construed under, and in accordance with, the laws of the State of Iowa.

8. Modifications. No amendment, modification or alteration of the terms of this Release & Waiver shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Release & Waiver

[Signature Page to Follow]

APPROVED AND AGREED TO:

Chemical Applicator

________________________________________

Print Name:
Title:
Date:
Address:

Owner

________________________________________

Print Name
Title:
Date:
Address:

Grantee

________________________________________

Print Name:
Title:
Date:
Address:

**Exhibit D**

Form of Hunting Release

**HUNTING RELEASE**

_______(and assignees, all of whom being "Hunting Tenant" hereunder), has a lease (the "Hunting Lease") granting Hunting Tenant the right to hunt and other certain rights (collectively, the "Hunting Rights") on that real property in ____________ County, Iowa described in Exhibit A hereof (the "Property"). RWE Renewables Development, LLC ("Wind Grantee"), has an agreement (the "Wind Easement") granting certain rights to develop and operate a wind generation project covering part or all of the Property. The owner of the Property, _________________________ ("Owner"), is the counterparty to the Hunting Lease and the Wind Easement. Hunting Tenant hereby agrees, as a condition of obtaining the Hunting Easement and as a requirement of the Wind Easement, and for other good and sufficient consideration, the receipt and sufficiency of which are acknowledged by Hunting Tenant, to all the terms and provisions of this agreement ("Agreement").

1. Exercise of Caution. Hunting Tenant is aware that Wind Grantee may develop, construct and operate equipment on all or parts of the Property related to the generation, transmission, distribution and delivery of electricity. HUNTING TENANT RECOGNIZES THE NEED OF HUNTING TENANT OR ANY PERSON ON THE PROPERTY WITH PERMISSION OF HUNTING TENANT (COLLECTIVELY, "HUNTING TENANT PARTIES") TO EXERCISE EXTREME CAUTION WHEN IN PROXIMITY TO ANY OF THE WINDPOWER FACILITIES OR TRANSMISSION FACILITIES AND THE IMPORTANCE OF RESPECTING GATES, FENCES, SIGNAGE, RULES AND OTHER SAFETY MEASURES UTILIZED BY WIND TENANT, AND HUNTING TENANT AGREES TO EXERCISE SUCH CAUTION AND RESPECT SUCH MEASURES AT ALL TIMES, WITH FAILURE TO DO SO CONSTITUTING A MATERIAL DEFAULT OF THE HUNTING RIGHTS AND SUBJECTING HUNTING TENANT PARTIES TO ALL LIABILITY FOR THE CONSEQUENCES THEREOF.

2. Release of Liability, Waiver and Indemnity.

   a. Hunting Tenant hereunder shall INDEMNIFY and HOLD HARMLESS Owner, its officers, agents, affiliates, shareholders and employees (collectively, the "Owner Parties"), and Wind Grantee, its officers, agents, affiliates, shareholders and employees (collectively, the "Wind Grantee Parties"), from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, attorneys' fees, and actual, punitive or other damages for injury to or death of any person, or for damage to any property, whether it be property of Owner Parties or property of Wind Grantee Parties or both, arising out of or in connection with any negligent or malicious act, action, or failure to act of Hunting Tenant or the Hunting Tenant Parties.

   b. Hunting Tenant Parties RELEASE, ACQUIT AND FOREVER DISCHARGE, and WAIVE any and all claims against Owner Parties and Wind Grantee Parties that arise from or relate to Hunting Tenant Parties' entry onto the Property or the Owner Parties' or Wind Grantee Parties' use of and operations on the Property, and agree not to sue Owner Parties or Wind Grantee Parties for any such claims, unless such claims arise from the gross negligence or willful misconduct of Owner Parties or Wind Grantee Parties.

c. In the event any action or proceeding is brought against Owner Parties or Grantee Parties by reason of any such claim, Hunting Tenant Parties, upon notice from Owner Parties or Wind Grantee Parties, shall defend the action or proceeding by counsel acceptable to Owner Parties or Wind Grantee Parties, as the case may be.

3. Insurance. Hunting Tenant agrees and covenants to maintain, at all times and at its expense, adequate liability insurance covering the hunting activities described hereunder and its responsibilities to indemnify Owner Parties and Wind Grantee Parties.

4. No Interference. Hunting Tenant agrees not to interfere with the construction activities or operations of the Wind Grantee on the Property or to prevent the Wind Grantee from obtaining access to the facilities of the Wind Grantee on the Property.

5. Joint and Several Liability. If more than one person executes this Agreement as Hunting Tenant, their obligations under this Agreement are joint and several, and any act or notice of or to, or refund to, or the signature of, any one or more of them, under or with respect to any of the terms of this Agreement shall be fully binding of all of the persons executing this Agreement as Hunting Tenant.

6. Parties Bound. This Agreement shall be binding upon, and inure to the benefit of, the persons or entities named in this Agreement and their related parties and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Agreement.

7. Governing Law. This Agreement shall be construed under, and in accordance with, the laws of the State of Iowa.

8. Modifications. No amendment, modification or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by Hunting Tenant and approved by Owner and Wind Grantee.

[Signature Page to Follow]

APPROVED AND AGREED TO:

| | | |
|---|---|---|
| Hunting Tenant | Print Name(s) | Date |
| Address | | |

| | | |
|---|---|---|
| Wind Grantee | Print Name(s) | Date |
| Address | | |

| | | |
|---|---|---|
| Owner | Print Name(s) | Date |
| Address | | |

# AGREEMENT REGARDING EASEMENTS

The "**Parties**" to this Agreement Regarding Easements (this "**Agreement**") dated as of June 14th, 2022 ("**Effective Date**") are **Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008** and their successors in interest (collectively "**Owner**") and **INVENERGY WIND DEVELOPMENT LLC**, a Delaware limited liability company, and its successors and assigns (collectively, "**Invenergy**" or "**Grantee**"). Owner and Grantee are sometimes referred to in this Agreement as a "**Party**" or collectively as the "**Parties**".

**WITNESSETH:**

**WHEREAS,** Owner owns the real estate described on **<u>Exhibit A</u>** (the "**Property**"); and

**WHEREAS,** Grantee desires to obtain certain easements and rights over the Property in connection with Grantee's planned construction of a wind energy generation project in Webster County (the "**Project**"), and Owner desires to grant such easement and rights, on the terms and conditions set forth herein.

**AGREEMENT:**

**NOW, THEREFORE,** in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. **<u>Grant of Easement and Profits</u>.** Owner hereby grants, bargains, sells, conveys and warrants to Grantee an exclusive easement for the purposes described below upon, over, across, through and under the Property, together with the right to all rents, royalties, credits and profits derived from wind energy purposes upon, over and across the Property upon the terms and conditions set forth herein.

2. **<u>Easement</u>.**

2.1 <u>Purpose of Easement</u>. The easements and grant of rents, royalties, credits and profits created by this Agreement (collectively, the "**Easement**") are solely and exclusively for wind energy purposes, and not for any other purpose, and Grantee shall have the exclusive right to use the Property for wind energy purposes and to derive all profits therefrom. For purposes of this Agreement, wind energy purposes means converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted, together with any and all activities related thereto ("**Development Activities**"), including, without limitation, (a) determining the feasibility of wind energy conversion and other power generation on the Property, including studies of wind speed, wind direction and other meteorological data, and extracting soil samples; (b) constructing, laying down, installing, using, replacing, relocating and removing from time to time, and maintaining and operating, wind turbines, overhead and underground electrical and communications lines ("**Collection/Transmission Facilities**"), electric transformers, energy storage facilities, telecommunications equipment, power generation facilities to be operated in conjunction with large wind turbine installations, roads, meteorological towers and wind measurement equipment, and related facilities and equipment (collectively "**Windpower**

**Facilities**") on the Property; (c) overhanging rotors of wind turbines installed on adjacent land; (d) capturing, using, and converting unobstructed wind resources over and across the Property; (e) wind turbine operations, including electromagnetic, audio, flicker, visual, view, light, noise, vibration, air turbulence, wake, electrical, radio interference, shadow and other effects attributable to wind turbines; and (f) undertaking any other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing, including without limitation, exercising the right of ingress to and egress from Windpower Facilities (whether located on the Property, on adjacent property or elsewhere) over and across the Property by means of roads and lanes thereon if existing, or otherwise by such route or routes as Grantee may construct from time to time ("**Access Rights**").

2.2 Additional Appurtenances. The Parties acknowledge that this Agreement does not authorize the use of any land on the Property for the installation and operation of: (a) substation facilities, (b) permanent buildings for service, maintenance, operation and other related purposes, or (c) construction headquarters and trailers. To the extent that Owner and Grantee desire to locate any such facilities on the Property, the Parties acknowledge that such agreement will be negotiated in good faith and memorialized in a separate written agreement.

2.3 Nature of Easement. The Easement and related rights granted by Owner in this Agreement to Grantee are an easement in gross for the benefit of Grantee, its successors and assigns, as owner of the rights created by the Easement. The Easement and other rights granted by Owner herein are independent of any lands or estates or interest in lands, there is no other real property benefiting from the Easement granted in this Agreement and, as between the Property and other tracts of property on which Grantee may locate Windpower Facilities, no tract is considered dominant or servient as to the other.

2.4 Easement Runs with the Land. The burdens of the Easement and all other rights granted to Grantee in this Agreement shall run with and against the Property and shall be a charge and burden on the Property and shall be binding upon and against Owner and its successors, assigns, permittees, grantees, licensees, employees and agents. The Easement shall inure to the benefit of Grantee and its successors, assigns, permittees, licensees and grantees. Owner expressly grants to Grantee the right to assign the Easement and this Agreement.

2.5 Project. The Parties acknowledge and agree that the Property, together with the other property included in the Project, will be interrelated and integrated in the operation of one or more larger wind energy conversion projects. The easements and other rights granted herein are an integral part of each Project. So long as any Windpower Facilities in a Project are in commercial operation, the Property shall be deemed to be in commercial operation, notwithstanding whether Windpower Facilities are actually installed upon the Property. Grantee may determine whether any particular group of Windpower Facilities constitutes a single Project or multiple Projects for purposes of this Agreement, and in the case of multiple Projects, which portion of the Property shall be included within each Project.

3. **Term.** The ("**Term**") is comprised of the Development Term, Operations Term and Extended Term as follows:

3.1 Development Term. The initial term of the Easement ("**Development Term**") commenced on the Effective Date and, unless sooner terminated in accordance with this Agreement, shall continue without interruption until the Operations Date, or the date seven (7) years from the Effective Date.

3.2 Operations Term. If Grantee constructs any Windpower Facilities on the Property, the "**Operations Term**" shall begin on the Operations Date and end on the twenty-fifth ($25^{th}$) anniversary of the Operations Date.

3.3 Operations Date. The "**Operations Date**" shall mean the earlier of: (1) the first date a wind turbine generator or other Windpower Facilities installed on the Property begin delivering electricity to the transmission grid or (2) the date Grantee notifies Owner in writing that Grantee has elected to declare that the Operations Date has occurred (whether or not wind turbine generators or other Windpower Facilities have been installed on the Property). Grantee shall notify Owner of the Operations Date within forty-five (45) days after the Operations Date occurs. Owner grants Grantee permission to record in the Webster County records a notice specifying the Operations Date.

3.4 Extended Term. Grantee shall have the preferential right upon written notice to Owner before expiration of the Operations Term to extend the term of the Agreement for an additional period of fifteen (15) years ("**Extended Term**") expiring on the fortieth ($40^{th}$) anniversary of the Operations Date. Owner grants Grantee permission to record in the Webster County records a notice of such extension.

4. **Payments.**

4.1 Financial Terms. In consideration of the rights granted hereunder, Grantee shall pay Owner the amounts set forth on **Exhibit B**.

4.2 Crop Compensation. Grantee shall reimburse Owner for all damage to Owner's cultivated crops, specialty crops, pasture or hay on the Property directly caused by Grantee's activities on the Property where no permanent Windpower Facilities are constructed ("**Crop Compensation**"). Crop Compensation shall be equal to the fair market value of the crops but a minimum of the following amounts determined by multiplying the total acreage of damaged cultivated crops, specialty crops, pasture or hay on the Property for which Grantee is responsible pursuant to this Agreement by the following amounts: (i) hay at Two Hundred Sixty and no/100 Dollars ($260.00) per acre, (ii) corn at Six Hundred and no/100 Dollars ($600.00) per acre, (iii) oats at One Hundred Seventy Five and no/100 Dollars ($175.00) per acre, (iv) pasture at Fifty Five and no/100 Dollars ($55.00) per acre, (v) soybeans at Six Hundred and no/100 Dollars ($600.00) per acre, and (vi) wheat at Six Hundred and no/100 Dollars ($600.00) per acre. The above minimum amounts shall be adjusted by the GDPIPD (as hereinafter defined in **Exhibit B**) on an annual basis after the Operations Date. If less than one acre of Owner's cultivated crops, pasture or hay on the Property is damaged by Grantee's activities on the Property, the applicable dollar amount per acre shall be reduced proportionally. If the Parties cannot agree, the Parties shall have the area measured and the extent of damage assessed by an impartial party chosen by mutual agreement of the Parties, such as a crop insurance adjuster.

4.3 Compaction Compensation. In addition to payments owed pursuant to Section 4.2, Grantee shall pay Owner for areas determined to have significant soil compaction directly caused by Grantee's activities on the Property ("**Compaction Compensation**"). Compaction Compensation shall be equal to an amount that is quadruple the value calculated under Section 4.2 for the area compacted. In consideration of this payment, no additional damages shall be paid in future years for that incident of soil compaction. The Parties shall try in good faith to agree to the extent of damage and acreage affected. If the Parties cannot agree, the Parties shall have the area measured and the extent of damage assessed by an impartial party chosen by mutual agreement of the Parties, such as a crop insurance adjuster.

4.4 Conservation Reserve Program. If Owner is a party to a Conservation Reserve Program contract ("**CRP Contract**") with the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 1410, Owner shall provide Grantee with a true and complete copy of such CRP Contract, together with all amendments and modifications, and if applicable, Grantee shall reimburse Owner for (a) any rental payments, or portion thereof, Owner would have received from the U.S. Department of Agriculture but for the construction or occupation of the Windpower Facilities on the Property and (b) the penalties and interest, if any (including for any past payments received by Owner that must be repaid by Owner), assessed by, the U.S. Department of Agriculture as a result of the construction or occupation of the Windpower Facilities on the Property. Owner shall cooperate with Grantee in completing and submitting documents to obtain any exemptions allowed under the Conservation Reserve Program for the use of Windpower Facilities on Property covered by a CRP Contract.

4.5 Late Payment Penalty. If Grantee fails to make any payment to Owner required of it hereunder when due, interest shall accrue on the overdue amount, from the date overdue until the date paid, at a rate equal to the sum of two percent (2%) per annum and the prime lending rate as from time to time may be published by The Wall Street Journal under the "Money Rates" section; provided, that in no event shall such interest exceed the maximum rate permitted by law.

4.6 IRS Form W-9. Notwithstanding anything in this Agreement to the contrary, Grantee shall have no obligation to make any payment to Owner otherwise required under this Agreement until Owner has returned to Grantee a completed Internal Revenue Service Form W-9, such W-9 form to either (i) have been provided by Grantee to Owner prior to execution of this Agreement or (ii) be provided by Grantee to Owner promptly upon execution of this Agreement.

5. **Ownership of Windpower Facilities.** Owner shall have no ownership, lien, security or other interest in any Windpower Facilities installed on the Property and expressly waives, relinquishes and quitclaims any lien or security interest in and to the Windpower Facilities or any other real or personal property of Grantee in law or equity, or any profits derived therefrom, and Grantee may remove any or all Windpower Facilities at any time. Except for the payments described in Section 4 above, Owner shall not be entitled to any other payments or benefits accrued by or from the Project, including renewable energy credits, environmental credits or tax credits.

6. **Taxes.** Owner shall pay all taxes, assessments, or other governmental charges that shall or may during the Term be imposed on, or arise in connection with, the Property

itself; provided that during the Term Grantee shall be responsible for any incremental increase in such taxes, assessments, or other governmental charges directly resulting from the presence of the Windpower Facilities on the Property ("**Windpower Facilities Incremental Property Tax**"). To the extent the applicable taxing authority can provide a separate tax bill for the Windpower Facilities Incremental Property Tax, Grantee shall pay such Windpower Facilities Incremental Property Tax directly to the applicable taxing authorities prior to the date such Windpower Facilities Incremental Property Tax becomes delinquent. If a separate tax bill for the Windpower Facilities Incremental Property Tax is not available, Grantee shall pay the Windpower Facilities Incremental Property Tax within thirty (30) days following receipt of written demand from Owner of the amount of the Windpower Facilities Incremental Property Tax with a copy of the applicable tax bill. At Grantee's election, Grantee shall either pay the applicable taxing authority directly, in which case it will promptly provide Owner evidence of such payment, or Grantee shall make such payment directly to Owner.

7. **Grantee's Representations, Warranties, and Covenants (shall be binding upon Grantee, Heirs, Successors and Assigns).** Grantee hereby represents, warrants, and covenants to Owner that:

7.1 Minimal Impacts. Grantee agrees to conduct its Development Activities and to locate and operate its Windpower Facilities in such a way as to reasonably minimize impacts to the Property and to Owner's activities on the Property, to the extent practical, without negatively impacting the Windpower Facilities. Prior to the construction of the Windpower Facilities on the Property, Grantee shall provide Owner with a site plan indicating the approximate proposed location of such wind turbines and access roads. Grantee shall consider in good faith any suggestions or concerns Owner may have with the siting of such wind turbines and access roads. Grantee shall take commercially reasonable steps to minimize dust generated by its construction traffic. Grantee shall operate and maintain the Windpower Facilities in good order and repair throughout the term of this Agreement. Grantee shall not store materials, vehicles or equipment on the Property, except to the extent that such materials, vehicles and equipment are directly connected with the construction, operation or maintenance of the Windpower Facilities. If Owner's Property is fenced, all newly constructed access roads located on the Property shall be gated by Grantee at Grantee's expense, and Owner shall be furnished with keys or other ability to open and close such gates. Grantee shall maintain such gates as part of the Windpower Facilities.

7.2 Agricultural Activities. Subject to Section 8.2 below, Grantee's operation of Windpower Facilities shall not unreasonably disturb Owner's current agricultural use of the Property. Upon completion of construction, all Property disturbed by Grantee and not required for continuing operations of the Windpower Facilities, shall be restored to a condition reasonably similar to its original condition, consistent with the continued use of the Property pursuant to this Agreement. Reclamation shall include, as reasonably required, leveling, terracing, mulching and other reasonably necessary steps to prevent soil erosion. Included in the scope of reclamation activities shall be the repair, and when reasonably determined to be necessary, the replacement of underground drainage tile that was disturbed during the construction process. Grantee shall use commercially reasonable efforts to substantially replace removed topsoil to its general original location, with the exception of the access roads and wind turbine foundations. Except for de minimus amounts that are removed as a consequence of construction, topsoil shall not be removed from the Property without the consent of Owner.

7.3 Insurance. Grantee shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Grantee and Owner against loss or liability caused by Grantee's occupation and use of the Property under the Easement, in an amount not less than Five Million Dollars ($5,000,000) of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible. Such insurance may be procured on a commercial general liability policy with a single occurrence limit or in combination with an umbrella liability policy. Certificates of such insurance shall be provided to Owner upon written request. Such insurance policy shall have a provision prohibiting cancellation without endeavoring to provide at least 30 days' notice to Owner.

7.4 Requirements of Governmental Agencies. Grantee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders, and regulations of any governmental agency applicable to the Windpower Facilities. Grantee shall have the right, in its sole discretion, to contest by appropriate legal proceedings, the validity or applicability to the Property or Windpower Facilities of any law, ordinance, statute, order, regulation, property assessment, or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Any such contest or proceeding shall be controlled and directed by Grantee.

7.5 Construction Liens. Grantee shall keep the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies, or equipment furnished to, the Property in connection with Grantee's use of the Property pursuant to the Easement; provided, however, that if Grantee wishes to contest any such lien, Grantee shall, within sixty (60) days after it receives notice of the filing of such lien, remove or bond over such lien from the Property pursuant to applicable law or provide Owner with title insurance insuring Owner's interest in the Property against such lien claim.

7.6 Hazardous Materials. Grantee shall not violate any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under any Environmental Law (collectively, "**Hazardous Materials**"), on or under the Property. Any current and future federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any Hazardous Materials are referred to herein as an "**Environmental Law**". Grantee shall indemnify Owner against any such violation that is caused by Grantee or Grantee's agents or contractors and occurs after the commencement of construction of the Windpower Facilities. Grantee shall promptly notify Owner of any such violation.

7.7 GPS Coordinates. Grantee shall provide Owner with approximate GPS coordinates and, if available, as-built drawings of all underground improvements constructed on the Property within one (1) year of such construction.

7.8 Grantee's Authority. Grantee has the unrestricted right and authority to execute this Agreement. Each person signing this Agreement on behalf of Grantee is authorized to do so. When signed by Grantee, this Agreement constitutes a valid and binding agreement enforceable against Grantee in accordance with its terms.

8. **Owner's Representations, Warranties, and Covenants.** Owner hereby represents, warrants, and covenants as follows:

8.1 Owner's Authority. Owner is the sole owner of the Property and has the unrestricted right and authority to execute this Agreement and to grant to Grantee the rights granted hereunder. Each person signing this Agreement on behalf of Owner is authorized to do so. When signed by Owner, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms. Each person/entity comprising Owner, as listed in the preamble to this Agreement, owns the fractional interest in the Property set forth below:

| | |
|---|---|
| **Owner:** | ***Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008*** |
| Fractional Ownership: | *100%* |

8.2 No Interference. Owner's activities and any grant of rights Owner makes to any person or entity, whether located on the Property or elsewhere, shall not, currently or prospectively, interfere with: the construction, installation, maintenance, or operation of the Windpower Facilities, whether located on the Property or elsewhere; access over the Property to such Windpower Facilities; any Development Activities; or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Owner's activities or any rights granted by Owner to a third party shall not disturb or interfere with the wind speed or wind direction over the Property, whether by placing wind turbines, telecommunication towers or antennas, planting trees or constructing buildings or other structures, or by engaging in any other activity on the Property or elsewhere that might (i) cause a decrease in the output or efficiency of the Windpower Facilities or (ii) disturb the subsurface such that it could be reasonably expected to damage or interfere with the structural integrity of the Windpower Facilities. Owner may not use, or otherwise grant the right to use, the Property for the development of Windpower Facilities.

8.3 Liens and Tenants. Owner represents that there are no recorded or unrecorded liens, encumbrances, leases (including leases for tenant farmers), mortgages, deeds of trust (except as disclosed to Grantee in writing), or other exceptions (collectively, "**Liens**") to Owner's fee title ownership of the Property or to Owner's right, title or interest in the Property. Except as disclosed by Owner in writing to Grantee, Owner represents that there are no mortgages, deeds of trust, or similar liens or security interests encumbering all or any portion of the Property. Owner shall fully cooperate and assist Grantee, at no out-of-pocket expense to Owner, in obtaining a consent to the granting of the Easement, if necessary, and a non-disturbance agreement from each party that holds rights (recorded or unrecorded) that might interfere with Grantee's rights under this Agreement, including tenant farmers. A non-disturbance agreement is an agreement between Grantee and a third party which provides that the third party shall not disturb Grantee's possession or rights under the Easement or terminate the Easement so long as Owner is not entitled to terminate this Agreement under the provisions hereof. Grantee shall promptly reimburse Owner for any actual reasonable expenses incurred by Owner in connection with such cooperation and assistance. Owner shall provide written notice of this Agreement to any such third parties that

Owner contracts with after the Effective Date, whether a new agreement, amendment or extension of a previous agreement, or otherwise.

8.4 Requirements of Governmental Agencies. Owner shall assist and fully cooperate with Grantee, at no out-of-pocket expense to Owner, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews or any other approvals (collectively the "**Approvals**") required for the financing, construction, installation, monitoring, replacement, relocation, maintenance, operation or removal of Windpower Facilities, including execution, if necessary, of applications for such Approvals, and including participating in any appeals or regulatory proceedings respecting the Windpower Facilities. Owner hereby appoints Grantee as its agent for the purpose of preparing, executing, applying for, submitting and prosecuting, in Owner's name, any and all such Approvals on behalf of Owner, provided, however, that all costs incurred in connection with such Approvals shall be borne solely by Grantee. To the extent permitted by law, Owner hereby waives enforcement of any applicable setback requirements respecting the Windpower Facilities to be placed on the Property or any such facilities to be placed upon property adjacent to the Property.

8.5 Access. Upon the request of Grantee during the term of the Easement, Owner shall grant, for the term of the Easement, for no additional consideration, an easement for Access Rights over and across designated portions of Owner's property that are not part of the Property ("**Access Easement**"). Any Access Easement shall include the right to improve existing roads and lanes, shall be appurtenant to the Property, and shall inure to the benefit of Grantee and be binding upon Owner and their respective transferees, successors, and assigns, and all persons claiming under them. In the event Grantee wishes to designate any such Access Easement after the construction of the Windpower Facilities, Grantee shall do so only if reasonably required for the operation of the Windpower Facilities, there is no other reasonable access on the Property and only in locations and to the extent it does not materially interfere with Owner's use of such property.

8.6 Hazardous Materials. Owner shall not violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any Hazardous Materials on or under the Property. Owner shall indemnify Grantee against any such violation that is caused by: (i) any person and exists as of the Effective Date or occurs on or before the commencement of construction of the Windpower Facilities; or (ii) Owner or Owner's agents and occurs after the commencement of construction of the Windpower Facilities. Owner shall promptly notify Grantee of any such violation.

8.7 Title Insurance. Owner agrees that within ten (10) business days of receipt, Owner shall execute and deliver to Grantee any documents reasonably required by the title insurance company selected by Grantee necessary to allow Grantee and an Easement Mortgagee to obtain policies of title insurance insuring their respective interests in the Property.

8.8 Litigation. No litigation is pending, and, to the best of Owner's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or which could affect, the Property. If Owner learns that any such litigation, action, claim or proceeding is threatened or has been instituted, Owner shall promptly deliver notice thereof to Grantee.

9. **Assignment.**

9.1 Assignments. Grantee shall have the right, without obtaining the consent of Owner, to do any of the following with respect to all or any portion of the Property: (i) finance Windpower Facilities; (ii) grant co-easements, separate easements, subeasements, licenses or similar rights (however denominated) to one or more persons (an "**Assignee**"); or (iii) sell, convey, lease, assign, mortgage, encumber or transfer to one or more Assignees the Easement, or any or all right or interest in the Easement or in this Agreement, or any or all right or interest of Grantee in the Property or in any or all of the Windpower Facilities that Grantee or any Assignee party may now or hereafter install on the Property. Grantee shall notify Owner in writing of any such assignment, and any such Assignee shall assume in writing the obligations of Grantee under this Agreement which Grantee will no longer be fulfilling pursuant to the terms and conditions of such assignment with respect to the Property assigned. To the extent provided for in each conveyance document, an Assignee shall have all of the rights and benefits of Grantee under and pursuant to this Agreement. Grantee shall be relieved of all of its obligations under this Agreement upon the sale, conveyance, lease, assignment or transfer ("**Transfer**") of its entire interest hereunder or, if only a partial interest is Transferred and such Transfer is to an affiliate of Grantee, Grantee shall be relieved of only those obligations under this Agreement relating to the partial interest Transferred to its affiliate.

9.2 Acquisition of Interest. The acquisition of all or any portion of Grantee's interest in the Property or the Windpower Facilities or the Easement by another person shall not require the advance consent of Owner or constitute a breach of any provision or a default under this Agreement, and Owner shall recognize the person as Grantee's proper successor.

9.3 Assignment by Owner. This Agreement shall not be construed to limit Owner's right to sell, transfer or convey, lease, mortgage, grant easements, licenses or similar rights or otherwise encumber the Property (each, a "**Owner Transfer**"); provided, however, in each case, any such Owner Transfer shall be subject and subordinate to the rights of Grantee hereunder and under the Easement.

10. **Collection/Transmission Facilities.**

10.1 Grant of Collection/Transmission Facilities Easement. Upon the request of Grantee during the term of the Easement, Owner shall grant to Grantee one or more easements for the construction, laying down, installation, use, replacement, relocation, removal, operation and maintenance of underground and aboveground electric collection and transmission facilities including electric transmission and distribution lines, communication lines, interconnections and switching stations on, under, over and across designated portions of the Property ("**Collection/Transmission Facilities Easement**"). Any such Collection/Transmission Facilities Easement shall contain all of the rights and privileges for Windpower Facilities as are set forth in this Agreement.

10.2 Access. Any Collection/Transmission Facilities Easement shall also include the right of ingress to and egress from the Collection/Transmission Facilities (whether located on the Property, on adjacent property or elsewhere) over and along the Property by means of roads and lanes thereon if existing, or otherwise by such route or routes as Grantee may construct from time to time.

10.3 Assignment in Connection with Collection/Transmission Facilities Lines. In connection with the exercise of the rights of Grantee hereunder and to facilitate Development Activities, Grantee shall have the right to grant to any utility or other duly authorized entity the right to construct, operate and maintain electric transmission and distribution, interconnection and switching facilities on the Property.

10.4 Term; Assignment. The term of any Collection/Transmission Facilities Easement shall be the same as the term of the Easement unless termination by Grantee of the Collection/Transmission Facilities Easement by written notice to Owner as set forth herein, and shall not expire or be terminable by Owner under any circumstances, notwithstanding Section 12.2. During the term of the Easement, Grantee shall have the right to assign or convey all or any portion of any Collection/Transmission Facilities Easement to any person on an exclusive or nonexclusive basis. Any Collection/Transmission Facilities Easement shall run with the Property and inure to the benefit of and be binding upon Owner and Grantee and their respective transferees, successors and assigns, and all persons claiming under them. At Grantee's option, any Collection/Transmission Facilities Easement shall survive the termination of the Easement pursuant to Section 12.2 of this Agreement.

11. **Mortgagee Protection.** In the event that any mortgage, deed of trust or other security interest in the Easement or in any Windpower Facilities is entered into by Grantee or any Assignee (an "**Easement Mortgage**"), then any person who is the mortgagee of an Easement Mortgage (an "**Easement Mortgagee**") shall, for so long as its Easement Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Section 11. Grantee shall send written notice to Owner of the name and address of any such Easement Mortgagee; provided that failure of Grantee to give notice of any such Easement Mortgagee shall not constitute a default under this Agreement and shall not invalidate such Mortgage.

11.1 Easement Mortgagee's Right to Possession, Right to Acquire and Right to Assign. An Easement Mortgagee shall have the absolute right: (a) to assign its security interest and mortgage lien; (b) to enforce its lien and acquire title to the easement estate by any lawful means; (c) to take possession of and operate the Windpower Facilities or any portion thereof and to perform all obligations to be performed by Grantee hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the easement estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the easement estate to a third party. Owner's consent shall not be required for the acquisition of the encumbered easement or subeasement estate by a third party who acquires the same by foreclosure or assignment in lieu of foreclosure.

11.2 Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any alleged default by Grantee, Owner shall give written notice of the default to each Easement Mortgagee concurrently with delivery of such notice to Grantee, specifying in detail the alleged event of default and the required remedy. In the event Owner gives such a written notice of default, the following provisions shall apply:

(a) A "**monetary default**" means failure to pay when due any fee, payment, real property taxes, insurance premiums or other monetary obligation of Grantee under the Easement. Any other event of default is a "**non-monetary default**."

(b) The Easement Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Grantee after Grantee's receipt of notice of default, plus, in each instance, the following additional time periods: (1) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any monetary default; and (ii) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any non-monetary default, provided that such 120-day period shall be extended for the time reasonably required to complete such cure, including the time required for the Easement Mortgagee to perfect its right to cure such non-monetary default by obtaining possession of the Property (including possession by a receiver) or by instituting foreclosure proceedings, provided the Easement Mortgagee acts with reasonable and continuous diligence. The Easement Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing such defaults. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Easement Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of the original Grantee hereunder. Owner shall not take any action to terminate the Easement in law or equity prior to expiration of the cure periods available to an Easement Mortgagee as set forth above.

(c) During any period of possession of the Property by an Easement Mortgagee (or a receiver requested by such Easement Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by an Easement Mortgagee, the Easement Mortgagee shall pay or cause to be paid the Operating Fees and all other monetary charges payable by Grantee hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Grantee's easement estate by the Easement Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, the Easement shall continue in full force and effect and the Easement Mortgagee or party acquiring title to Grantee's easement estate shall, as promptly as reasonably possible, commence the cure of all defaults of Grantee's defaults which are reasonably susceptible of being cured by the Easement Mortgagee or party acquiring title, hereunder and thereafter diligently process such cure to completion, whereupon such defaults shall be deemed cured without incurring any default hereunder.

(d) Any Easement Mortgagee or other party who acquires Grantee's easement interest pursuant to foreclosure or assignment in lieu of foreclosure shall be liable to perform the obligations imposed on Grantee by the Easement so long as such Easement Mortgagee or other party has ownership of the easement estate or possession of the Property.

(e) Neither the bankruptcy nor the insolvency of Grantee shall be grounds for terminating the Easement as long as all material obligations of Grantee under the terms of the Easement and this Agreement are performed by the Easement Mortgagee in accordance with the terms of the Easement and this Agreement.

(f) Nothing herein shall be construed to extend the Easement beyond the Term or to require an Easement Mortgagee to continue foreclosure proceedings after the default has been cured. If the default is cured and the Easement Mortgagee discontinues foreclosure proceedings, the Easement shall continue in full force and effect.

11.3 New Easement to Mortgagee. If the Easement or this Agreement terminates because of Grantee's default or if the Easement is foreclosed, or if the Easement or this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, Owner shall, upon written request from any Easement Mortgagee within ninety (90) days after such event, enter into a new easement for the Property, on the following terms and conditions:

(a) The terms of the new easement shall commence on the date of termination, foreclosure, rejection or disaffirmance and shall continue for the remainder of the terms of the Easement, at the same rent and subject to the same terms and conditions set forth in this Agreement.

(b) The new easement shall be executed within thirty (30) days after receipt by Owner of written notice of the Easement Mortgagee's election to enter a new easement, provided said Easement Mortgagee: (i) pays to Owner all rent and other monetary charges payable by Grantee under the terms of the Easement and this Agreement up to the date of execution of the new easement, as if the Easement had not been terminated, foreclosed, rejected or disaffirmed; (ii) performs all other obligations of Grantee under the terms of the Easement and this Agreement, to the extent performance is then due and susceptible of being cured and performed by the Easement Mortgagee; and (iii) agrees in writing to perform, or cause to be performed, all non-monetary obligations which have not been performed by Grantee and would have accrued under the Easement and this Agreement up to the date of commencement of the new easement, except those obligations which constitute non-curable defaults as defined above. Any new easement granted to the mortgagee shall enjoy the same priority as the Easement over any lien, encumbrances or other interest created by Owner.

(c) At the option of the Easement Mortgagee, the new easement may be executed by a designee of such Easement Mortgagee without the Easement Mortgagee assuming the burdens and obligations of Grantee thereunder.

(d) If more than one Easement Mortgagee makes a written request for a new easement pursuant hereto, the new easement shall be delivered to the Easement Mortgagee requesting such new easement whose Mortgage is prior in lien, and the written request of any other Mortgagee whose lien is subordinate shall be void and of no further force or effect.

(e) The provisions of this Section 11 shall survive the termination, rejection or disaffirmance of the Easement or this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section were a separate and independent contract made by Owner, Grantee and such Easement Mortgagee, and, from the effective date of such termination, rejection or disaffirmation of the Easement to the date of execution and delivery of such new easement, such Easement Mortgagee may use and enjoy said Property without hindrance by Owner or any person claiming by, through or under Owner, provided that all of the conditions for a new easement as set forth herein are complied with.

11.4 Easement Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the parties agree that so long as there exists an unpaid Easement Mortgage, the Easement and this Agreement shall not be modified or amended and Owner shall not accept a surrender of the Property or any part thereof or a cancellation, termination or release of the Easement or this Agreement from Grantee prior to expiration of the term without the prior written consent of the Easement Mortgagee. This provision is for the express benefit of and shall be enforceable by such Easement Mortgagee.

11.5 No Waiver. No payment made to Owner by an Easement Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of the Easement; and an Easement Mortgagee, having made any payment to Owner pursuant to Owner's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.

11.6 No Merger. The parties intend that there shall be no merger of the Easement, or of the easement estate created by the Easement, with the fee estate in the Property if the Easement or the easement estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property and all persons (including Easement Mortgagee) having an interest in the Easement or in the estate of Owner and Grantee shall join in a written instrument effecting such merger and shall duly record the same.

11.7 Estoppel Certificates, Etc. Owner shall execute such estoppel certificates (certifying as to such matters as Grantee may reasonably request, including without limitation that no default then exists under this Agreement, if such be the case) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Grantee, any Assignee or Easement Mortgagee may reasonably request from time to time.

## 12. **Termination, Default, and Remedies.**

12.1 Grantee's Right to Terminate. Grantee shall have the right to terminate the Easement and this Agreement as to all or any part of the Property at any time and without cause, effective upon 30 days' written notice to Owner from Grantee. In the event any such notice is delivered to Owner by Grantee after wind turbines have been installed on the Property, such notice shall be accompanied by a statement by Grantee setting forth how Grantee shall comply with the provisions of Section 12.3.

12.2 Owner's Right to Terminate. Except as qualified by Section 11, Section 12.4, and Section 12.5 below, Owner shall have the right to terminate the Easement (including all or any portion of its rights in this Agreement and the easements granted hereunder) if (a) Grantee has not commenced construction of Windpower Facilities for the Project on the Property by the date which is seven (7) years from the Effective Date or (b) a material default in the performance of Grantee's obligations under this Agreement shall have occurred and remains uncured following the applicable notice and cure periods provided herein.

12.3 Effect of Termination. Upon termination of the Easement, Grantee shall, as soon as practicable thereafter, remove above-ground and below-ground (to a depth of four (4) feet below grade) Windpower Facilities from the Property. All Property disturbed by Grantee shall be restored to a condition reasonably similar to its original condition. Reclamation shall include, as reasonably required, leveling, terracing, mulching and other reasonably necessary steps to prevent soil erosion. If Grantee fails to remove such Windpower Facilities within twelve (12) months of termination of the Easement, or such longer period as Owner may provide by extension, Owner may do so, in which case Grantee shall reimburse Owner for reasonable and documented costs of removal and restoration incurred by Owner.

12.4 Default. If a Party (the "**Defaulting Party**") fails to perform an obligation under this Agreement the other Party (the "**Non-Defaulting Party**") shall not have the right to exercise any remedies hereunder if the default is cured within sixty (60) days of the Defaulting Party receiving written notice of such default specifying in detail the default and the required remedy from the Non-Defaulting Party; provided, that if the nature of the default requires, in the exercise of commercially reasonable diligence, more than sixty (60) days to cure, then the Defaulting Party shall not be in default as long as it commences performance of the cure within sixty (60) days and thereafter completes such cure with commercially reasonable diligence. Further, if the Parties have a good faith dispute as to whether a payment is due hereunder, the alleged Defaulting Party may deposit the amount in controversy (not including claimed consequential, special, exemplary or punitive damages) in escrow with any reputable third party escrow, or by interpleading the same, which amount shall remain undistributed and shall not accrue interest penalties, and no default shall be deemed to have occurred, until final decision by a court of competent jurisdiction or upon agreement by the Parties. No such deposit shall constitute a waiver of the Non-Defaulting Party's right to institute legal action for recovery of such amounts.

12.5 Remedies. Except as qualified by Section 11 regarding Mortgagee Protections, should a default remain uncured by the Defaulting Party beyond the applicable cure periods, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative, including the right to enforce this Agreement by injunction, specific performance or other equitable relief. Notwithstanding anything in this Agreement to the contrary or any rights or remedies Owner might have at law or in equity, if any of Grantee's Windpower Facilities are then located on the Property and Grantee fails to perform any of its non-monetary obligations hereunder, then Owner shall be limited to pursuing damages and Owner shall not commence any action to terminate or cancel this Agreement.

13. **Miscellaneous.**

13.1 Force Majeure. If performance of the Easement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (defined below), the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected Party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. "**Force Majeure**" means fire, earthquake, flood, or other casualty, condemnation or accident; strikes or labor disputes; war, civil strife or other violence; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility; or any other act or condition beyond the reasonable control of a Party hereto.

13.2 Confidentiality. To the fullest extent allowed by law, Owner shall maintain, and shall cause its Related Persons to maintain, in the strictest confidence, for the sole benefit of Grantee, all information pertaining to the financial terms of or payments under this Agreement, Grantee's site or product design, methods of operation, methods of construction, power production or availability of the Windpower Facilities, and the like, whether disclosed by Grantee or discovered by Owner, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Owner or its employees or agents, or (ii) was already known to Owner, at the time of disclosure and which Owner is free to use or disclose without breach of any obligation to any person or entity. To the full extent permitted by law, Owner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee.

13.3 Successors and Assigns. The Easement and the terms of this Agreement shall inure to the benefit of and be binding upon Owner and Grantee and, to the extent provided in any assignment or other transfer under Section 9 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them. References to Grantee in this Agreement shall be deemed to include Assignees that hold a direct ownership interest in the Easement or this Agreement and actually are exercising rights under the Easement or this Agreement to the extent consistent with such interest.

13.4 Memorandum. Owner and Grantee agree to record, at Grantee's expense, a Memorandum of Agreement Regarding Easements that incorporates the terms of this Agreement for purposes of constructive notice to third parties, which such Memorandum shall be substantially in the form of **Exhibit C** hereof. The Memorandum has been executed concurrently herewith in recordable form. Owner hereby consents to the recordation of the interest of an Assignee in the Property and no further action by Owner shall be required to affect such recordation.

13.5 Notices. All notices or other communications required or permitted by this Agreement, including payments to Owner, shall be in writing and shall be deemed given when personally delivered to Owner or Grantee, or in lieu of such personal delivery services, five (5) days after deposit in the United States mail, first class, postage prepaid, addressed as follows:

| If to Owner: | If to Grantee: |
|---|---|
| The Pederson Trust I<br>Attn: Robert D. Pederson<br>526 E. Center Avenue<br>Badger, IA 50516<br>Home Ph: 515-545-4221<br>Cell Ph: 515-570-5089 | INVENERGY WIND DEVELOPMENT LLC<br>c/o Invenergy LLC<br>One South Wacker Drive, Suite 1800<br>Chicago, Illinois 60606<br>Attn: General Counsel |

Any Party may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph.

13.6 Entire Agreement; Amendments. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between Owner and Grantee respecting its subject matter, and supersedes any and all oral or written agreements. Any agreement, understanding or representation respecting the Property, the Easement, or any other matter referenced herein not expressly set forth in this Agreement or a subsequent writing signed by both Parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. No purported modifications or amendments, including without limitation any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either Party. Provided that no material default in the performance of Grantee's obligations under this Agreement shall have occurred and remain uncured, Owner shall cooperate with Grantee in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of any Assignee or Easement Mortgagee.

13.7 Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Iowa. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state courts located in the county in which the Property is situated. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is hereby waived.

13.8 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this Agreement, the Parties agree that in no event shall the term of this Agreement, the Easement, any Collection/Transmission Facilities Easement or any Access Easement be longer than, respectively, the longest period permitted by applicable law.

13.9 Tax and Renewable Energy Credits. If under applicable law, the holder of an easement becomes ineligible for any tax credit, renewable energy credit, environmental credit or any other benefit or incentive for renewable energy established by any local, state or federal government, then, at Grantee's option, Owner and Grantee shall exercise good faith and negotiate an amendment to this Agreement or replace it with a different instrument so as to convert Grantee's interest in the Property to a substantially similar interest that makes Grantee eligible for such credit, benefit or incentive.

13.10 Right to Record. Owner and Grantee agree that Grantee has the ongoing and continuous right to record this Agreement (which recordation may exclude payment terms set forth herein), at Grantee's sole discretion, in the public records of Webster County, Iowa. No further action by Owner shall be required to affect such recordation.

13.11 Succession. This Agreement supersedes and replaces any prior agreement related to the Easement between Owner and Grantee.

13.12 Exceptions and Special Conditions. Any exceptions or special conditions to this Agreement are set forth in **Exhibit D** attached hereto and incorporated herein.

13.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

13.14 Waiver of Right to Trial by Jury. EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. EACH OF THE PARTIES TO THIS AGREEMENT WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH OF THE PARTIES FOR ENTERING INTO THIS AGREEMENT.

13.15 Public Officials. Owner acknowledges that its receipt of monetary and other good and valuable consideration hereunder may represent a conflict of interest if Owner is a government employee or otherwise serves on a governmental entity with decision-making authority (a "**Public Official**") as to any rights Grantee may seek, or as to any obligations that may be imposed upon Grantee in order to develop and/or operate the Project ("**Development Rights**"), and Owner hereby agrees to (1) recuse him/herself from all such decisions related to Grantee's Development Rights unless such recusal is prohibited by law or is not reasonably practicable considering the obligations of such Public Official's position and (2) recuse him/herself from all such decisions related to Grantee's Development Rights if such recusal is required by law. If Owner is not required pursuant to (1) and (2) above to recuse him/herself from a decision related to Grantee's Development Rights, Owner shall, in advance of any vote or other official action on the Development Rights, disclose the existence of this Agreement (but not the financial terms therein) at an open meeting of the relevant governmental entity Owner serves on as a Public Official. Additionally, if Owner is a Public Official and any of Owner's spouse, child or other dependent has a financial interest in the Project, Owner shall disclose such relationship (but not the financial terms thereof) at an open meeting of the relevant governmental entity Owner serves on as a Public Official, prior to participation in any decision related to Grantee's Development Rights.

13.16 Condemnation. If eminent domain proceedings are commenced against all or any portion of the Property and the taking and proposed use of such property would prevent or adversely affect Grantee's construction, installation or operation of Windpower Facilities on the Property, the Parties shall either amend this Agreement to relocate the Windpower Facilities, or, at Grantee's option, this Agreement shall terminate in which event neither party shall have any further obligations hereunder. Grantee shall be entitled to any award or amount paid for the reasonable costs of removing or relocating any of the Windpower Facilities, the loss of any such Windpower Facilities, or the loss of Grantee's use of the Easement Premises.

13.17 Indemnity.

(a) Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and such other Party's Related Persons (as defined below)(each, an "**Indemnified Party**") from and against any and all claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including reasonable attorneys', investigators' and consulting fees, court costs and litigation expenses (collectively, "**Claims**") suffered or incurred by such Indemnified Party, arising from:

(i) physical damage to the Indemnified Party's property to the extent caused by the Indemnifying Party or any Related Person thereof (which (i) in Grantee's case, shall include damage to any Windpower Facilities and (ii) in Owner's case, shall include damage to crops and livestock),

(ii) physical injuries or death to or of the Indemnified Party or the public, to the extent caused by the Indemnifying Party or any Related Person thereof (including by reason of any hunting on the Property),

(iii) any Default of any covenant which remains uncured beyond applicable cure periods, and any failure to be true of any representation or warranty, made by the Indemnifying Party under this Agreement,

(iv) the presence or release of Hazardous Materials in, under, on or about the Property, which are or were brought or permitted to be brought onto the Property by the Indemnifying Party or any Related Person thereof,

(v) the violation of any Environmental Law by the Indemnifying Party or any Related Person thereof, or

(vi) for Owner's protection and benefit only, Claims by neighboring or area landowners arising from Grantee's use of the Property;

(b) Notwithstanding, the foregoing, in no event shall the Indemnifying Party be responsible for defending, indemnifying or holding harmless any Indemnified Party to the extent of any Claim caused by, arising from or contributed to by the negligence or willful misconduct of such Indemnified Party or any Related Person thereof.

(c) The reference to property damage in this Section 13.17 does not include the loss of:

(i) rent;

(ii) business opportunities;

(iii) profits and the like; or

(iv) crops or other damages specifically addressed in this Agreement, that may result from Grantee's exercising its rights granted pursuant to this Agreement (any such losses shall be compensated solely through the provisions of **Exhibits B** and/or **Exhibit C**, as applicable).

(d) The foregoing indemnity shall not extend to (i) property damage or personal injuries to Owner attributable to risks of known and unknown dangers associated with electrical generating facilities, such as flickering and electromagnetic fields or (ii) a Party's lawful enforcement of its rights under this Agreement.

(e) As used herein the term "**Related Person**" shall mean any affiliates, contractors, lessees, and sublessees of a Party, and each of their respective, principals, officers, employees, servants, agents, representatives, subcontractors, licensees, invitees, guests, successors and/or assigns, but explicitly excluding the other Party and its Related Persons.

(f) This indemnity shall survive expiration or earlier termination of this Agreement.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, Owner and Grantee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

"Owner"

**Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008**

By: Robert D. Pederson

Name: Robert D. Pederson

Title: Trustee

"Grantee"

**INVENERGY WIND DEVELOPMENT LLC**

By: ______________________

Name: Jonathan Saxon

Vice President

Title: ______________________

## EXHIBIT A

## Legal Description

**Schedule of Locations:**

| Parcel Number | County | Township/ Range | Section | Acreage |
|---|---|---|---|---|
| 0302300001 | Webster | 90N / 28W | 2 | 39.00 |
| 0302300002 | Webster | 90N / 28W | 2 | 20.00 |
| 0302300004 | Webster | 90N / 28W | 2 | 38.00 |
| 0302300007 | Webster | 90N / 28W | 2 | 17.71 |
| | | | **Total** | **114.71** |

**Legal Description:**

The West Half (W ½) of the Southwest Quarter (SW ¼) and the West Half (W ½) of the East Half (E ½) of the Southwest Quarter (SW ¼) of Section Two (2), Township Ninety (90) North, Range Twenty-eight (28), West of the 5th P.M., Webster County, Iowa, EXCEPT a parcel of land located in the SW ¼ of Section 2, Township 90 North, Range 28 West of the 5th P.M., Webster County, Iowa, described as follows: Commencing at the Southeast corner of the SW1/4 of said Section 2; thence North 90°00'00" West 646.91 feet along the South line of the said SW ¼ ; to the point of beginning; thence continuing North 90°00'00" West 26.00 feet along the said South line; thence North 01°48'17" East 1030.00 feet; thence North 29°43'21" West 79.00 feet; thence South 88°08'54" West 298.00 feet; thence North 00°54'14" East 198.92 feet; thence North 90°00'00" East 368.00 feet; thence South 01°48'17" West 1288.00 feet to the point of beginning, containing 2.31 acres.

## EXHIBIT B

## Financial Terms

1. **Annual Rent.** Grantee shall pay Owner an annual rental payment ("**Annual Rent**") of Ten and no/100 Dollars ($10.00) per acre of Property subject to the Easement per year beginning on the Effective Date of this Agreement and continuing until the earlier of the Operations Date, the end of the Development Term or the termination date of this Agreement. The first payment of Annual Rent shall be made within forty-five (45) calendar days of the Effective Date of this Agreement and Annual Rent payments thereafter shall be paid within forty-five (45) calendar days of each annual anniversary of the Effective Date of this Agreement.

2. **Installation Fee.** Grantee agrees to pay the following amount (the "**Installation Fee**"):

(a) For Properties Where Grantee Intends to Construct Wind Turbines – within forty-five (45) days after the commencement of construction of a wind turbine foundation on the Property, Grantee shall make a one-time payment to Owner of Two Thousand and no/100 Dollars ($2,000.00) per wind turbine that will be installed on the Property, or

(b) For Properties Where Grantee Does Not Intend to Construct Wind Turbines But Intends to Construct Other Windpower Facilities – within forty-five (45) days after the commencement of construction of Windpower Facilities on the Property (where Grantee does not intend to construct a wind turbine), Grantee shall make a one-time payment to Owner of One Thousand and no/100 Dollars ($1,000.00).

In addition, Grantee shall make another payment of the applicable Installation Fee to Owner in the event that the Operations Date has not occurred within one (1) year after the date of the initial payment by Grantee to Owner of the Installation Fee.

3. **Operating Fees.** Grantee shall pay to Owner the amounts set forth in this Section 3 of Exhibit B (collectively, the "**Operating Fees**") which such Operating Fees shall be payable prospectively on an annual basis as follows: the initial annual payment of the Operating Fees shall be made by Grantee to Owner within forty-five (45) days after the Operations Date and subsequent annual payments of the Operating Fees shall be paid by Grantee to Owner within 45 days after each anniversary of the Operations Date for and during the Operations Term and the Extended Term (if applicable), unless the Agreement is terminated earlier by either Party in accordance with the terms of this Agreement. After the end of the term of this Agreement, Grantee shall pay to Owner the Operating Fee for the applicable Windpower Facility (i.e., wind turbine generator, turbine access road, Collection/Transmission Facilities, or permanent meteorological tower) until the applicable Windpower Facility is physically removed from the Property in accordance with the terms of this Agreement.

3.1 **Wind Turbine Payment.** Four Thousand and no/100 Dollars ($4,000.00) per megawatt of installed nameplate capacity for each wind turbine generator installed on the Property.

3.2 **Turbine Access Road Payment.** One and no/100 Dollars ($1.00) per lineal foot of turbine access road installed on the Property.

3.3 **Collection/Transmission Facilities Payment.** Twenty Five Cents ($0.25) per lineal trench foot of underground Collection/Transmission Facilities installed on the Property and Two Dollars ($2.00) per lineal foot of the Property corridor traversed by overhead Collection/Transmission Facilities installed on the Property.

3.4 **Acreage Payment.** Ten and no/100 Dollars ($10.00) per acre of Property subject to the Easement.

3.5 **Permanent Meteorological Tower Payment.** Two Thousand and no/100 Dollars ($2,000.00) for each permanent meteorological tower installed on the Property.

Grantee shall receive a credit for any Annual Rent prepaid for the year in which the Operations Term begins for Annual Rent paid and applicable to the Operations Date and any time periods thereafter. Commencing on the first anniversary of the Operations Date, such Operating Fees shall be adjusted upwards by the greater of two percent (2%) per year on a compounded basis or by the percentage change, if any, in the GDPIPD for the preceding available four quarters. "**GDPIPD**" means the gross domestic product implicit price deflator, as computed and published quarterly by the U.S. Department of Commerce (Index 2000=100), as presented and revised from time to time in the "Gross Domestic Product: [applicable quarter] Quarter 'Final' Press Release" released periodically by the Bureau of Economic Analysis. In the event that Operating Fees are increased for any other owner involved with the Project in excess of those described herein at any time, Owner shall also receive the benefit of such increase.

4. **Payment Instructions.** All payments issued hereunder will be paid to Owner, as set forth in this Agreement, or its permitted successors and assigns. If Owner is comprised of more than one person or entity, then all payments will be issued by a single check payable to all such persons or entities, unless otherwise indicated below. Each person or entity holding record title to the Property hereby acknowledges and agrees that all payments are legally permitted to be made as set forth below and that no other party shall have any right to such payments or to contest the payments and allocations as set forth below. Each person receiving payment hereunder agrees to fully indemnify and hold harmless Grantee against claims by any third party in connection with its payments hereunder to the person/entities set forth herein. ***Check one below:***

X A single check should be issued payable to all persons/entities comprising Owner.

□ Separate checks should be issued to each person/entity comprising Owner as set forth below:

| **Owner:** | **Robert D. Pederson, Trustee of the Pederson Trust I dated September 9, 2008** |
|---|---|
| Payment Allocation: | **100%** |

## EXHIBIT C

## Form of Memorandum

[MAKE SURE 3" MARGIN AT TOP OF ACTUAL MEMO FORM]
Prepared by and after recording return to: *[Name of preparer appears in the recordable copy of this Memorandum]*, INVENERGY WIND DEVELOPMENT LLC, c/o Invenergy LLC, One South Wacker Drive, Suite 1800, Chicago, Illinois 60606, ATTN: Land Administration, (312) 224-1400

### MEMORANDUM OF AGREEMENT REGARDING EASEMENTS

THIS MEMORANDUM OF AGREEMENT REGARDING EASEMENTS (this "**Memorandum**"), is made, dated and effective as of *[Date appears in recordable copy of this Memorandum]* (the "**Effective Date**"), between *[Full name of titleholder(s) from title report and marital status of each appears in the recordable copy of this Memorandum]* (together with its successors, assigns and heirs, "**Owner**"), whose address is *[Address appears in the recordable copy of this Memorandum]*, and INVENERGY WIND DEVELOPMENT LLC, a Delaware limited liability company (together with its transferees, successors and assigns, "**Grantee**"), whose address is One South Wacker Drive, Suite 1800, Chicago, IL 60606, with regard to the following:

1. Owner and Grantee did enter into that certain Agreement Regarding Easements dated of even date herewith (the "**Agreement**") which affects the real property located in Webster County, Iowa, as more particularly described in **Exhibit A** attached hereto as **Page** *#[# in recordable copy]* (the "**Property**"). Capitalized terms used and not defined herein have the meaning given the same in the Agreement.

2. The Agreement grants Grantee, among other things, the right to install Windpower Facilities (and related infrastructure and appurtenances) on Owner's Property and certain other access rights and rights to use the Property in connection with the wind energy generation project. Owner also irrevocably waived, to the extent permitted by law, enforcement of any applicable setback requirements.

3. Term. The "**Term**" is comprised of the Development Term, Operations Term and Extended Term as follows:

(i) The initial term of the Easement ("**Development Term**") commences on the Effective Date and, unless sooner terminated in accordance with the Agreement, shall continue without interruption until the earlier of the Operations Date or the date seven (7) years from the Effective Date.

(ii) If Grantee constructs any Windpower Facilities on the Property, the "**Operations Term**" shall begin on the Operations Date and end on the twenty-fifth ($25^{th}$) anniversary of the Operations Date.

(iii) The "**Operations Date**" shall mean the earlier of: (1) the first date Windpower Facilities installed on the Property begin delivering electricity to the transmission grid or (2) the date Grantee notifies Owner in writing that Grantee has elected to declare that the Operations Date has occurred (whether or not Windpower Facilities have been installed on the Property). Grantee shall notify Owner of the Operations Date within forty-five (45) days after the Operations Date occurs. Owner grants Grantee permission to record in the Webster County records a notice specifying the Operations Date.

(iv) Grantee shall have the preferential right upon written notice to Owner before expiration of the Operations Term to extend the term of the Agreement for an additional period of fifteen (15) years ("**Extended Term**") expiring on the fortieth ($40^{th}$) anniversary of the Operations Date. Owner grants Grantee permission to record in the Webster County records a notice of such extension.

4. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Owner and Grantee executed and are recording this Memorandum solely for the purpose of providing constructive notice of the Agreement and Grantee's rights thereunder. The terms, conditions and covenants of the Agreement are incorporated herein by reference as though fully set forth herein. This Memorandum shall not, in any manner or form whatsoever, alter, modify or vary the terms, covenants and conditions of the Agreement.

5. Except as otherwise set forth in the Agreement, Owner shall have no ownership, lien, security or other interest in any Windpower Facilities (and related infrastructure and appurtenances) installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Windpower Facilities (and related infrastructure and appurtenances) at any time.

6. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

7. This Memorandum shall also bind and benefit, as the case may be, the heirs, legal representatives, assigns and successors of the respective parties hereto, and all covenants, conditions and agreements contained herein shall be construed as covenants running with the land.

IN WITNESS WHEREOF, the Parties have executed this Memorandum to be effective as of the date first written above.

**[SIGNATURE LINES AND ACKNOWLEDGMENTS FOR OWNER AND INVENERGY WIND DEVELOPMENT LLC AS WELL AS EXHIBIT A PROVIDING THE LEGAL DESCRIPTION OF THE PROPERTY APPEAR IN THE RECORDABLE COPY OF THIS MEMORANDUM]**

## EXHIBIT D

**Exceptions and Special Conditions**

Number: 2022-03733
Recorded: 7/28/2022 at 2:53:11.0 PM
County Recording Fee: $27.00
Iowa E-Filing Fee: $3.00
Combined Fee: $30.00
Revenue Tax:
Lindsay Laufersweiler RECORDER
Webster County, Iowa

Prepared by and after recording return to: Invenergy Wind Development LLC, c/o Invenergy LLC, One South Wacker Drive, Suite 1800, Chicago, Illinois 60606, ATTN: Land Administration, (312) 224-1400, Erika Arias

# MEMORANDUM OF AGREEMENT REGARDING EASEMENTS

THIS MEMORANDUM OF AGREEMENT REGARDING EASEMENTS (this "**Memorandum**"), is made, dated and effective as of June 14th, 2022 (the "**Effective Date**"), between **Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008** (together with its successors, assigns and heirs, "**Owner**"), whose address is 526 E. Center Avenue, Badger, IA 50516, and **Invenergy Wind Development LLC**, a Delaware limited liability company (together with its transferees, successors and assigns, "**Grantee**"), whose address is One South Wacker Drive, Suite 1800, Chicago, IL 60606, with regard to the following:

1. Owner and Grantee did enter into that certain Agreement Regarding Easements dated of even date herewith (the "**Agreement**") which affects the real property located in Webster County, Iowa, as more particularly described in **Exhibit A** attached hereto as **Page #5** (the "**Property**"). Capitalized terms used and not defined herein have the meaning given the same in the Agreement.

2. The Agreement grants Grantee, among other things, the right to install Windpower Facilities (and related infrastructure and appurtenances) on Owner's Property and certain other access rights and rights to use the Property in connection with the wind energy generation project. Owner also irrevocably waived, to the extent permitted by law, enforcement of any applicable setback requirements.

3. Term. The "**Term**" is comprised of the Development Term, Operations Term and Extended Term as follows:

(i) The initial term of the Easement ("**Development Term**") commences on the Effective Date and, unless sooner terminated in accordance with the Agreement, shall continue without interruption until the earlier of the Operations Date or the date seven (7) years from the Effective Date.

(ii) If Grantee constructs any Windpower Facilities on the Property, the "**Operations Term**" shall begin on the Operations Date and end on the twenty-fifth ($25^{th}$) anniversary of the Operations Date.

(iii) The "**Operations Date**" shall mean the earlier of: (1) the first date Windpower Facilities installed on the Property begin delivering electricity to the transmission grid or (2) the date Grantee notifies Owner in writing that Grantee has elected to declare that the Operations Date has occurred (whether or not Windpower Facilities have been installed on the Property). Grantee shall notify Owner of the Operations Date within forty-five (45) days after the Operations Date occurs. Owner grants Grantee permission to record in the Webster County records a notice specifying the Operations Date.

(iv) Grantee shall have the preferential right upon written notice to Owner before expiration of the Operations Term to extend the term of the Agreement for an additional period of fifteen (15) years ("**Extended Term**") expiring on the fortieth ($40^{th}$) anniversary of the Operations Date. Owner grants Grantee permission to record in the Webster County records a notice of such extension.

4. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Owner and Grantee executed and are recording this Memorandum solely for the purpose of providing constructive notice of the Agreement and Grantee's rights thereunder. The terms, conditions and covenants of the Agreement are incorporated herein by reference as though fully set forth herein. This Memorandum shall not, in any manner or form whatsoever, alter, modify or vary the terms, covenants and conditions of the Agreement.

5. Except as otherwise set forth in the Agreement, Owner shall have no ownership, lien, security or other interest in any Windpower Facilities (and related infrastructure and appurtenances) installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Windpower Facilities (and related infrastructure and appurtenances) at any time.

6. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

7. This Memorandum shall also bind and benefit, as the case may be, the heirs, legal representatives, assigns and successors of the respective parties hereto, and all covenants, conditions and agreements contained herein shall be construed as covenants running with the land.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

**GRANTEE**:

**Invenergy Wind Development LLC**
a Delaware limited liability company

By:______________________

Name: **Jonathan Saxon**

Title: **Vice President**

STATE OF ILLINOIS )
)
COUNTY OF COOK )

This instrument was acknowledged before me by Jonathan Saxon, Vice President of Invenergy Wind Development LLC, a Delaware limited liability company, on behalf of said company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 14th day of June, 2022.

OFFICIAL SEAL
MELANIE FRANK
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:06/03/23

Melanie Frank

Notary's Name (Printed): Melanie Frank

My commission expires: 6/3/2023

**OWNER:**

**Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008**

By: Robert D. Pederson

Name: Robert D. Pederson

Title: Trustee

STATE OF Iowa, Webster COUNTY, ss:

This record was acknowledged before me on May 18, 2022 by Robert D. Pederson, as Trustee of the Pederson Trust I dated September 9, 2008.

Douglas M. Woods
Signature of Notary Public

My commission expires: November 10, 2022

Stamp or Seal

DOUGLAS M. WOODS
Commission Number 786990
MY COMMISSION EXPIRES
11/10/2022

## EXHIBIT A TO MEMORANDUM

**Legal Description of the Property**

**Schedule of Locations:**

| Parcel Number | County | Township/ Range | Section | Acreage |
|---|---|---|---|---|
| 0302300001 | Webster | 90N / 28W | 2 | 39.00 |
| 0302300002 | Webster | 90N / 28W | 2 | 20.00 |
| 0302300004 | Webster | 90N / 28W | 2 | 38.00 |
| 0302300007 | Webster | 90N / 28W | 2 | 17.71 |
| | | | **Total** | **114.71** |

**Legal Description:**

The West Half (W ½) of the Southwest Quarter (SW ¼) and the West Half (W ½) of the East Half (E ½) of the Southwest Quarter (SW ¼) of Section Two (2), Township Ninety (90) North, Range Twenty-eight (28), West of the 5th P.M., Webster County, Iowa, EXCEPT a parcel of land located in the SW ¼ of Section 2, Township 90 North, Range 28 West of the 5th P.M., Webster County, Iowa, described as follows: Commencing at the Southeast corner of the SW1/4 of said Section 2; thence North 90°00'00" West 646.91 feet along the South line of the said SW ¼ ; to the point of beginning; thence continuing North 90°00'00" West 26.00 feet along the said South line; thence North 01°48'17" East 1030.00 feet; thence North 29°43'21" West 79.00 feet; thence South 88°08'54" West 298.00 feet; thence North 00°54'14" East 198.92 feet; thence North 90°00'00" East 368.00 feet; thence South 01°48'17" West 1288.00 feet to the point of beginning, containing 2.31 acres.