

MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Texas Land Partners, LP
c/o RES America Developments Inc.
9050 Capital of Texas Highway North
Suite 390
Austin, TX 78759
Attn: William Coats

(Space Above for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("**Memorandum**") is made and entered into as of December **21**, 2006, by and between West Family Trust ("**Landlord**") and Texas Land Partners, LP, a Delaware limited partnership ("**Tenant**").

1. **Lease.** For the term and upon the provisions set forth in that Wind Energy Ground Lease of even date herewith between Landlord and Tenant (the "**Lease**"), all of which provisions are specifically made a part hereof as though fully and completely set forth herein, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that certain real property (the "**Premises**") located in the County of Briscoe, State of Texas, as more particularly described in Exhibit "A" attached hereto, together with all rights of ingress and egress and all other rights appurtenant to the Premises, as more particularly described in the Lease.

2. **Easements.** The Lease also includes Access and Transmission Easements.

3. **Term.** The initial term of the Lease is five (5) years, commencing on December **21**, 2006, which Tenant has the option to extend for two (2) additional periods of one (1) year each. After the initial term and subject to certain conditions, the Lease may be extended for an additional term of thirty (30) years, which Tenant has the additional option to further extend for two (2) additional period of ten (10) years.

4. **Notice.** This Memorandum is prepared for the purpose of giving notice of the Lease and in no way modifies the express provisions of the Lease. This Memorandum shall continue to constitute notice of the Lease, even if the Lease is subsequently amended.

5. **Successors and Assigns.** Landlord and Tenant intend that the covenants, conditions and restrictions contained in the Lease shall be both personal to Landlord and Tenant and binding on their successors and assigns. Each successive owner of the Premises or of any portion thereof, and each person having any interest therein derived through any owner thereof, shall be bound by such covenants, conditions and restrictions for the benefit of the Premises.

WIND ENERGY GROUND LEASE

THIS WIND ENERGY GROUND LEASE ("**Lease**") is dated December 21, 2006 (the "**Effective Date**"), and is made by and between West Family Trust, Ann Bean, Trustee whose address for the purposes hereof is 4621 93rd Street, Lubbock, Texas 79424 ("**Landlord**") and Texas Land Partners, LP, a Delaware limited partnership, whose address for the purposes hereof is 9050 Capital of Texas Highway North, Suite 390, Austin, TX 78759 ("**Tenant**").

Recitals:

A. Landlord owns that certain real property located in Briscoe County, Texas, as more particularly described herein.

B. Tenant desires to lease the Premises (as hereinafter defined) for, among other purposes, the development, construction and operation of Windpower Facilities (as hereinafter defined).

C. Subject to the terms and provisions of this Lease, it is the intent of the parties that Tenant's leasing of the Premises not exclude or prevent the conduct by Landlord of other lawful activities on the Premises so long as the conduct of such activities does not adversely affect the development and operation of the Windpower Facilities, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Lease.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord, on the terms and conditions contained in this Lease.

2. **Premises.** Landlord owns that certain real property located in Briscoe County, Texas, as more particularly described on the legal description attached hereto as Exhibit A comprising approximately one thousand two hundred eighty (1280) acres. During the Initial Term, any Extended Term and any Extension Term (as such terms are hereinafter defined), the "**Premises**" shall mean, for all purposes herein, all of such property described on Exhibit A. If Tenant obtains a survey of the Premises from a surveyor acceptable to Landlord, Tenant, at its option, shall have the right to substitute an amended legal description of the Premises as shown on the survey, in lieu of the legal description of the Premises attached as Exhibit A.

3. **Termination of Lease.**

The occurrence of any of the following events shall terminate this Lease:

- (a) The expiration of the term of this Lease as set forth in Section 5; or
- (b) The written agreement of the parties to terminate this Lease; or
- (c) Upon written notice from Landlord if, after the Operations Commencement Date, and subject to the rights of Leasehold Mortgagees set forth in Section 11, Tenant fails to operate all of the Turbines on the Premises for a continuous period of at least three (3) years *for reasons other than* a Force Majeure event or mechanical/electrical/structural problems with the

Turbines (in such event Landlord shall have the option of terminating this Lease at the end of such three-year period by written notice to Tenant and thereafter filing an affidavit of termination in recordable form with the proper recording agency in the county where the Premises is located); or

- (d) The written notice by Tenant as provided in Section 5.3;
- (e) Landlord exercises its right to terminate this Lease for an uncured Payment Default in accordance with the provisions of Section 15.1; or
- (f) Tenant exercises its rights to terminate this Lease in accordance with the provisions of Section 15.2.

Following any termination or expiration of this Lease, except a termination by Tenant in accordance with Section 15.2, Tenant will continue to pay all rent and other charges and amounts due pursuant to the terms hereof until Tenant has completed Decommissioning of the Windpower Facilities as contemplated by Section 8.6.

4. **Use of Premises.** Tenant shall have the right to use the Premises to determine the feasibility of wind energy conversion on the Premises (including conducting studies of wind speed and wind direction and other meteorological data) and for the development, construction, and operation of a wind-powered electrical generating facility for the conversion of wind energy into electrical energy and the collection, conditioning and transmission of electrical energy, whether or not generated on the Premises. Tenant shall have the right to construct, install, erect, improve and place (and thereafter remove, replace and relocate) on the Premises, and to operate, any and all Tenant installed or leased buildings, improvements, fixtures, machinery or equipment that Tenant deems necessary or desirable in connection with the uses described above, the following (collectively, the **"Windpower Facilities"**): one or more wind turbine generators (each, a **"Turbine"**), above-ground and/or underground electrical transmission and communication lines and related equipment, footings, towers, poles, cross-arms, guy lines, anchors and wires, collection and transmission grids, power conditioning equipment, substations, interconnections and/or switching facilities and transformers, energy storage facilities, telecommunications equipment, laydown areas, radio relays, roads and gates, signs and fences, meteorological towers, wind measurement equipment, control buildings, maintenance yards and other related facilities, machinery, equipment and improvements. Tenant shall have the right to undertake any other activities that Tenant determines are necessary and appropriate in connection with, incidental to or to accomplish any of the foregoing purposes or for the benefit of one or more Projects, including conducting surveys and environmental, biological, cultural, geotechnical and other tests, including geotechnical drilling and studies. For purposes of this Lease, the term **"Project"** means one or more Turbines and associated Windpower Facilities that are constructed, installed and/or operated on the Premises and/or on other lands in the general vicinity of the Premises, by or on behalf of Tenant or its affiliate as an integrated energy generating and delivery system. Tenant shall at all times retain title to the Windpower Facilities and shall have the right to remove them from the Premises at any time. Landlord shall have no ownership or other interest in any Windpower Facilities installed on the Premises nor any lien thereon. Without limiting the generality of the foregoing, Landlord and Tenant recognize that windpower technologies are advancing rapidly and that Tenant may (but shall not be obligated to) replace from time to time existing Windpower Facilities on the Premises with newer equipment. Notwithstanding the foregoing, nothing in this paragraph will construed to grant Tenant the right to use any land owned by Landlord other than the Premises described in Exhibit A hereto.

5. Lease Term.

5.1 **Initial Term; Extended Term.** This Lease shall commence on the Effective Date and shall end on the day preceding the fifth (5th) anniversary of the Effective Date (the "**Initial Term**"); provided that upon written notice to Landlord and the payment in each instance of the amounts set forth in Section 6.1, Tenant may extend the Initial Term for up to two (2) one (1) year periods. During the Initial Term, Tenant shall have the right to determine the feasibility of developing the Windpower Facilities on the Premises and to otherwise use the Premises for the purposes permitted by this Lease. If, prior to the end of the Initial Term, Tenant installs on the Premises one or more Turbines which can generate electricity (the actual date of electrical generation from such Turbine(s) being hereinafter referred to as the "**Operations Commencement Date**"), then without any further action by the parties, the Initial Term of this Lease shall automatically terminate and the term of this Lease shall be automatically extended for an additional term (the "**Extended Term**") of thirty (30) years expiring on the day preceding the thirtieth (30th) anniversary of the last day of the Initial Term. With respect to such extension of the term of this Lease or any further extension as provided in Section 5.2, at Tenant's request, Landlord and Tenant shall execute in recordable form a memorandum evidencing the extension, satisfactory in form and substance to Tenant, and Tenant may thereafter record such memorandum.

5.2 **Options to Extend.** In addition to the Extended Term, Tenant shall have the option to extend the Term of this Lease for two (2) additional, consecutive ten (10) year terms (each an "**Extension Term**") upon written notice given to Landlord not less than four (4) months prior to the expiration of the Extended Term or the first Extension Term, as the case may be; provided, however, that if Tenant fails to give notice of the exercise of any option to extend, such option shall not lapse unless Landlord gives Tenant a written notice requesting that Tenant either exercise or forfeit such option and Tenant, in writing, elects to forfeit such option. The same terms and conditions contained in this Lease, including the Base Amount and the Percentage Rate (as hereinafter defined), shall govern the Extension Term.

5.3 **Tenant's Right to Terminate.** Tenant shall have the right to terminate this Lease as to all or any part of the Premises, at any time and from time to time, upon sixty (60) days' prior written notice to Landlord.

6. Rent. Tenant shall pay to Landlord the following amounts:

6.1 **Initial Rent.** As rent for Tenant's use of the Premises during the Initial Term (the "**Initial Rent**"), Tenant shall pay to Landlord (a) an amount equal to seventy-six thousand eight hundred (\$76,800), which shall be due within ten (10) days of the execution of this Lease by Landlord and Tenant and (b) for each extension year of the Initial Term pursuant to Section 5.1, an amount equal to nineteen thousand two hundred (\$19,200) which shall be due within thirty (30) days of Tenant's exercise of each such option to extend. The Initial Rent shall be fully earned by Landlord upon payment thereof and shall not be prorated should Tenant elect to terminate this Lease prior to the expiration of the Initial Term. For purposes of this Lease, the term "**Commencement of Construction**" shall mean the earlier of the following events: (i) the entry into the Premises of major construction equipment to build roads or staging areas for the Windpower Facilities; or (ii) the delivery onto the Premises of Turbines, tower sections or other materials to be used for the Windpower Facilities.

6.2 **Percentage Rent.** Upon the Operations Commencement Date and until the expiration of the Extended Term, Tenant shall pay to Landlord the following percentages (the "**Percentage Rent**") of Gross Revenues (as hereinafter defined) which Tenant receives

from the sale of the electricity and renewable energy credits (as defined in the rules of the Public Utilities Commission of Texas, TAC, Title 16, Part 2, Chapter 25, Subchapter H, Division 1 as in effect on the date of this Lease) generated by the Turbines located on the Premises in each Project of which the Premises or a portion thereof is a part.

Years	Percentage Rent
For any partial calendar year following the Operations Commencement Date and full calendar years one (1) through five (5)	Six and one quarter percent (6.25%) of Gross Revenues
Six (6) through ten (10)	Six and three quarters percent (6.75%) of Gross Revenues
Eleven (11) through fifteen (15)	Seven and one quarter percent (7.25%) of Gross Revenues
Sixteen (16) through twenty (20)	Seven and three quarters percent (7.75%) of Gross Revenues
Twenty-one (21) through twenty-five (25)	Eight and one quarter percent (8.25%) of Gross Revenues
Twenty-six (26) through forty (30)	Nine percent (9%) of Gross Revenues
Any Extension Term	Ten percent (10%) of Gross Revenues

6.3 **Base Amount** Commencing with the first full calendar year following the Operations Commencement Date, and regardless of the amount of electricity generated on the Premises, Tenant's aggregate annual payments to Landlord of Percentage Rent shall be subject to an annual minimum (the "**Base Amount**") equal to the following amounts:

Base Rent Amount:	During calendar years 1-5, Nine Thousand Five Hundred Dollars (\$9,500.00) per Turbine installed on the Premises. During calendar years 6-10, Ten Thousand Two Hundred and Fifty Dollars (\$10,250.00) per Turbine installed on the Premises. During calendar years 11-15, Eleven Thousand Dollars (\$11,250.00) per Turbine installed on the Premises. During calendar years 16-20, Twelve Thousand Dollars (\$12,000.00) per Turbine installed on the Premises. During calendar years 21-25, Thirteen Thousand Two Hundred and Fifty Dollars (\$13,250) During calendar years 26-30, Fourteen Thousand Five Hundred Dollars (\$14,500.00) per Turbine installed on the Premises. During any Extension Term, Sixteen Thousand Dollars (\$16,000.00) per Turbine installed on the Premises.
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6.4 **Capacity Commitment** In the event that, within one (1) year following the Operations Commencement Date, Tenant has not installed Operational Turbines having an aggregate nameplate capacity of at least Six (6) megawatts on the Premises (the "**Capacity**")

Commitment”), then the Base Amount shall be calculated as if Tenant had Operational Turbines having an aggregate nameplate capacity of Six (6) megawatts on the premises.

6.5 Payments. Upon execution of this Lease by Landlord and Tenant, Tenant shall pay Landlord the Initial Rent as described in Section 6.1. After the Commencement of Construction, Tenant shall pay any applicable Surface Damages, as described in Section 6.6, incurred during the previous quarter no later than forty-five (45) days after the end of the calendar quarter in which such Surface Damages were incurred. Any annual payments for Surface Damages will be paid annually within thirty (30) days of each calendar year, beginning with the calendar year in which such Surface Damages were first incurred. During the Extended Term (and the Extension Term, if any), Tenant shall pay Landlord the Percentage Rent quarterly, within thirty (30) days following the end of each calendar quarter. Within thirty (30) days of the end of each calendar quarter during the Extended Term (and the Extension Term, if any), Tenant shall pay Landlord the positive difference, in any, by which (i) the pro rata portion of Base Amount applicable to such calendar quarter exceeds (ii) the Percentage Rent paid to Landlord for such quarter. For the avoidance of doubt, the parties hereto agree that, notwithstanding Tenant’s obligation to the positive difference between the rata portion of Base Amount and the Percentage Rent for any calendar quarter, Tenant will only be obligated to pay the greater of the Percentage Rent or Base Amount on an annual basis for any given calendar year during the term of this Lease. In connection with the foregoing, for any calendar quarter in which the Percentage Rent for such calendar quarter is less than the Base Amount previously paid by Tenant with respect to such calendar quarter, Tenant will be entitled to offset the amount by which the portion of the Base Amount so previously paid exceeds the Percentage Rent for such calendar quarter against any subsequent payment of Percentage Rent applicable to the corresponding calendar year. The Percentage Rent will be based on the production figures for the Turbines located on the Premises as derived from the third-party meter used to measure electricity delivered to the electrical grid. In the event that the Project is comprised of more than one landowner, the total production as measured at the third-party meter shall be attributed to Landlord *pro rata* considering the ratio of the sum total amount of all installed megawatt nameplate capacity upon the Premises (numerator) to the total installed megawatt nameplate capacity of all wind turbine generators installed upon all lands of the Project (denominator) served by the said common third-party meter. The formula found in Section 6.4(b) is intended to accomplish this *pro rata* division between landowners. Any payment of any monetary amount due from the Tenant to the Landlord, if unpaid for fourteen (14) days following the date due, shall bear interest from the date the said payment was due, at a rate that is the lesser of (i) the prime rate as published in the Wall Street Journal as of the date the said payment first became due plus three percent (3%), or (ii) the maximum lawful rate of interest beginning on the day after such payment was due. Interest shall continue to accrue on any unpaid amounts in like fashion until the payment is made in full. Interest provided for in this provision shall not exceed the maximum rate or amount of non-usurious interest that may be contracted for, taken, reserved, charged or received under law. Any interest actually received in excess of the maximum legal amount will be credited to the next Rental amount due Landlord, or if the rental amount has been fully paid, refunded.

(a) For the purposes of this Lease, “**Gross Revenues**” means the aggregate total revenues actually received by Tenant (i.e., the per unit dollar amount actually received for each unit contemplated in the immediately following clauses (A), (B) and (C)) for sales to the first purchaser, which shall include, but not be limited to: (A) the sale to the first purchaser of electricity generated by Tenant on the Premises, (B) the sale of any state-based renewable energy credits, and (C) the proceeds in connection with, under or derived from any agreement, compromise settlement, judgment, or arrangement, relating to the sale, use or other disposition

of electricity generated or capable of being generated upon the Premises (and/or any other related attribute included in the definition of Gross Revenues). All Gross Revenues from the sale of energy, electricity or capacity related to the Turbines located on the Premises shall be calculated without offset or deduction for any cost of producing, gathering, storing, transporting, marketing or otherwise making electricity, energy, or capacity ready for sale or use and delivering it at a transmission circuit, or without offset or deduction for any type of adversarial costs of collection incurred from any of Tenant's power purchasers. For the avoidance of doubt, the definition of "Gross Revenues" shall include and capture any inflation adjustment mechanism that Tenant's power purchase arrangement(s) may contain. Gross Revenues shall not include any federal tax, production or other credits received by, or paid to, Tenant by any governmental entity or quasi-governmental entity, including without limitation any subsequently created federal renewable energy credits, carbon dioxide credits, emissions credits or any other federal income tax credits, or any state or local property tax credits or abatements, but it is specifically understood by the Parties hereto that any existing or future state-based renewable energy credits *shall be included* in the definition of Gross Revenues. In addition, Gross Revenues shall not include amounts obtained by Tenant from financing activities, sales, leases, subleases or other dispositions of the Windpower Facilities, or this Lease or other leases; any amounts recovered from third parties arising out of the construction, repowering or repair of the Windpower Facilities (such as damages for breach of contract or liquidated damages for delays in completion or equipment performance), amounts received as reimbursements or compensation for wheeling costs or other electricity transmission or delivery costs; or any proceeds received by Tenant as a result of damage or casualty to the Windpower Facilities.

(b) For purposes of determining apportionment of payments in accordance with this Section 6.5, when electricity from the Project includes both the Premises and other properties, and the electricity generated therefrom is delivered to a common meter, the number of kilowatt hours of electricity generated on the Premises shall be determined for each period in accordance with the following formula:

$$(CM)(\frac{PT}{WFT})=TKW$$

where (i) **CM** is the total number of kilowatt hours available for sale at such common meter, (ii) **PT** is the total number of wind turbine generator nameplate capacity of all the Turbines installed on the Premises; (iii) **WFT** is the sum total of the wind generator nameplate capacity for all wind generators installed in the Project that deliver electricity to such common meter and (iv) **TKW** is the total number of kilowatt hours generated by Tenant on the Premises for use in determining the payments due to Landlord in accordance with this Section 6.5.

(c) In conjunction with each payment of Percentage Rent made to Landlord, Tenant shall furnish to Landlord a statement setting forth the amount of total Gross Revenues received by Tenant during the applicable payment period and the total dollar value of the Base Amount for the applicable payment period.

6.6 Surfaces Damages Associated with Construction. Following Commencement of Construction as defined in Section 6.1 herein, Tenant and its contractors, subcontractors, agents, employees and consultants shall, from that date forward, pursue any construction and erection activities of the Windpower Facilities in a safe, professional and diligent manner (collectively, the "**Construction Activities**").

Nonetheless, the parties hereto recognize that surface damages shall occur to the Premises and that Landlord shall be precluded by the construction of the Windpower Facilities upon the Premises from undertaking various lucrative pursuits regarding the Premises, and therefore the Parties hereto agree to the following liquidated surface damage payments (the "**Surface Damages**") to account for the actual damage caused by the Construction Activities.

For the installation of each Turbine (and its associated pad mount transformer), Tenant shall pay to Landlord a one-time amount of Ten Thousand Dollars (\$10,000.00) per Turbine and associated pad mount transformer installed.

For Substations, Storage Yards and Operations and Maintenance Buildings, Landlord shall be compensated for each such Substation site, Operations and Maintenance Building and Storage Yard the sum of Ten Thousand Dollars (\$10,000.00) per year.

For any new roads and above ground and below ground gathering and transmission lines constructed pursuant to this Lease or the easements granted hereunder, the sum of Fifteen and No/100 Dollars (\$15.00) multiplied by the number of rods from the beginning point to the ending point of each such road or gathering and transmission line. In the event Tenant utilizes the same sixty (60) foot wide corridor for construction of both a new road and gathering and transmission lines, then the amount paid to Landlord shall be Twenty and No/100 Dollars (\$20.00) per rod from the beginning point of such corridor to end point of such corridor, rather than Fifteen and No/100 Dollars (\$15.00) per rod, for the construction of both the new road and gathering and transmission lines within such sixty (60) foot corridor. For purposes of determining the amount Tenant owes to Landlord pursuant to this paragraph, Tenant will provide Landowner with a site plan diagram showing, in reasonable detail, the location of all new roads and gathering and transmission lines constructed by the Tenant on the Premises, and shall update such site plan diagram as necessary (but not more frequently than annually) to reflect any additional new roads or transmission and gathering lines constructed by Tenant.

All above-mentioned Surface Damages shall be paid as provided in Section 6.5; provided that all obligations of Landlord are performed, specifically including (without limitation) the obligation of Landlord to accept the first offer of the permanent easement from the applicable grid operator for purposes of substation construction.

Landlord agrees that Tenant may use at the then fair market value, commercially reasonable amounts of caliche, rock and gravel, from existing mines upon the Premises (or such other locations as Landlord may designate), for the sole purpose of constructing the Windpower Facilities on the Premises.

Landlord agrees to negotiate the sale of fresh or salt water to Tenant upon commercially reasonable terms for the sole purpose of constructing the Windpower Facilities.

6.7 Inspection Rights. Landlord or its designated representative(s) shall have the right to schedule an appointment no more often than once a year, upon five (5) days' notice, during normal business hours, to inspect Tenant's records and documents related to the determination of Gross Revenues for the preceding calendar year prior to the date of such inspection. If Gross Revenues are correctly found by such inspection to have been understated by more than three percent (3%), then Tenant shall pay the reasonable cost of such inspection as well as the additional Percentage Rent shown to be payable by Tenant to Landlord plus interest at ten percent (10%) per annum; otherwise the cost of such inspection shall be paid by Landlord. Tenant promptly shall pay Landlord any unpaid amounts, and Landlord promptly shall refund any overpaid amounts, revealed by such inspection.

6.8 Loss of Hunting Income. If Tenant intends to conduct construction activities on the Premises during any time between November 1 of a year and January 3 of the following year, Tenant may request in writing, not less than ninety (90) days in advance, that

Landlord cause hunting to cease on parts or all of the Premises. Landlord agrees that following receipt of Tenant's request, Landlord shall cause hunting activities to cease on parts or all of the Premises, as and for the time periods requested by Tenant. Tenant shall compensate Landlord for Landlord's loss of income from hunting leases with the "**Hunting Payment**," provided each of the following requirements are met: (1) Landlord provides Tenant, within ninety (90) days of the Effective Date, written documentation reasonably showing income to Landlord from the lease of hunting rights on the Premises during each of the prior three (3) years, and (2) Landlord suffers an actual loss of income from the lease of hunting rights after using commercially reasonable efforts to mitigate such loss (e.g., through relocation of hunters to other lands owned by Landlord or rescheduling to earlier or later dates). The Hunting Payment is the average consideration received by Landlord during the prior three (3) years from the lease of hunting rights to the Premises, less any amounts received by Landlord through Landlord's mitigation efforts; provided, however, in no case shall the Hunting Payment exceed the amount that is equal to \$15.00 multiplied by the number of acres constituting the part of the Premises on which Landlord was forced to cease hunting activities. Any commercial, recreational, or any other type of hunting that Landlord allows on the Premises may be conducted only following delivery of the notice prescribed in Exhibit D (attached hereto and incorporated herein by reference) which notice directs that no person with permission to carry a firearm on the Premises shall discharge a firearm at or near (or in any other way damage or interfere with) the Windpower Facilities or any personnel working thereon.

7. **Taxes.** Tenant shall reimburse Landlord for the portion of the real property taxes levied against or allocated to the Windpower Facilities. Landlord shall be liable for the real property taxes levied against or allocable to facilities installed by Landlord or others for Landlord on the Premises, and the underlying value of the Premises itself. Tenant shall reimburse Landlord, within thirty (30) days of a request therefor, for any taxes resulting from (i) an increase in the underlying value of the Premises which the taxing authority directly attributes to the Windpower Facilities, or (ii) a reclassification of the Premises because of the Windpower Facilities. Landlord and Tenant agree to work together to minimize any reclassification of the Premises and any resulting penalties or interest. It is a condition to Landlord's right to reimbursement hereunder that Landlord submit the real property tax bill to Tenant prior to the due date therefor and simultaneously with any request for such reimbursement (and in any event within six (6) months after Landlord receives the bill from the taxing authority). Landlord shall pay before delinquency all real property taxes and shall promptly send to Tenant evidence of payment of the same. If Landlord fails to do so Tenant shall have the right to pay such taxes on Landlord's behalf and any amounts so paid by Tenant may be offset against the amounts next payable by Tenant pursuant to Section 6 above. Tenant may contest the legal validity or amount of any such taxes for which it is responsible under this Lease, and may institute such proceedings as it considers necessary, provided that Tenant shall bear all expenses in pursuing such contest or proceeding. Landlord agrees to render to Tenant all reasonable assistance in contesting the validity or amount of any such taxes, including joining in the signing of any reasonable protests or pleading which Tenant may deem advisable to file; provided, however, that Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses, including reasonable attorneys' fees incurred in connection with providing such assistance. If the taxing authorities will agree to provide a separate assessment and tax statement for the portion of the real property taxes levied against or allocated to the Windpower Facilities, Tenant agrees to pay such real property taxes directly to the taxing authorities, and Landlord agrees to pay the remainder of the real property taxes levied against

or allocable to facilities installed by Landlord or others for Landlord on the Premises and the underlying value of the Premises. Landlord and Tenant each agree to indemnify and hold each other harmless from any liability, cost or expenses if either party should fail to pay its portion of such real property taxes.

8. Tenant's Representations, Warranties and Covenants.

8.1 Indemnity. Tenant shall indemnify, defend, protect and hold Landlord harmless from and against any losses, costs, damages, liabilities or expenses for physical damages to property (including destruction of growing crops) and for physical injuries to any person, arising directly or indirectly or in any way growing out of Tenant's use or occupancy of the Premises, except to the extent such losses, costs, damages, liabilities or expenses arise directly or indirectly from the negligence or willful misconduct of Landlord or any third party under the control of Landlord. Tenant shall not be liable or responsible for losses of rent, business opportunities, profits and the like that may result from Landlord's loss of use of the portion of the Premises occupied by the Windpower Facilities pursuant to this Lease.

8.2 Insurance. Tenant shall maintain commercial general liability insurance insuring Tenant against loss caused by Tenant's use of the Premises, in an amount not less than One Million Dollars (\$1,000,000.00) of combined single-limit coverage, and shall provide certificates of this insurance coverage to Landlord upon written request.

8.3 Requirements of Governmental Agencies. Tenant shall comply in all material respects with all laws applicable to the Windpower Facilities, but shall have the right, in its sole discretion and at its sole expense, in its name or in Landlord's name, to contest the validity or applicability of any law, ordinance, order, rule or regulation of any governmental agency or entity. Tenant shall control any such contest and Landlord shall reasonably cooperate with Tenant in such contest, at no out-of-pocket expense to Landlord.

8.4 Mechanics' Liens. Tenant shall not permit any mechanics' liens to be filed against the Premises as a result of Tenant's use of the Premises and if any such mechanics' liens are so filed, Tenant shall promptly cause the removal thereof. If Tenant wishes to contest any such lien, Tenant shall, within sixty (60) days after it receives notice of the lien, provide a bond or other security as Landlord may reasonably request, or remove such lien from the Premises pursuant to applicable law.

8.5 Tenant's Responsibility for Hazardous Materials. The term "**Hazardous Materials**" means petroleum, asbestos, polychlorinated biphenyls, radioactive materials, radon gas or any chemical, material or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste" or "toxic substances," or words of similar import, under all Environmental Laws (as hereinafter defined). The term "**Environmental Laws**" means all statutes, ordinances, orders, rules and regulations of all federal, state or local governmental agencies relating to the use, generation, manufacture, installation, handling, release, discharge, storage or disposal of Hazardous Materials, including, but not limited to, the Federal Water Pollution Act, as amended (33 U.S.C. § 1251 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), and the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801 et seq.). If Tenant places, disposes or releases any Hazardous Material in or onto the Premises and such placement, disposal or release results in the contamination of the Premises, then Tenant shall remediate such Hazardous Materials to the extent ordered to do so by a

governmental authority with jurisdiction. Landlord acknowledges that Tenant has disclosed to Landlord that in connection with the ordinary course of construction, operation and maintenance of the Windpower Facilities, Tenant will use limited quantities of Hazardous Materials, at all times in compliance with Environmental Laws.

8.6 **Decommissioning of Windpower Facilities.** Tenant shall have the right at any time to relocate, remove, replace or otherwise alter any Windpower Facilities, machinery, fixtures and other improvements placed by it on the Premises. Within twelve (12) months following the expiration or earlier termination of this Lease, Tenant, at its sole cost and expense, shall decommission the Windpower Facilities, which shall include (collectively, the "**Decommissioning**") the removal of all towers and Turbines, the removal of all other above-grade facilities to not less than three (3) feet below grade or as otherwise required by any applicable governmental authority, and the burying of all tower foundations and the reseeding of areas where the tower pads were located with grasses and/or natural vegetation. Tenant may leave all roads in their existing condition.

9. **Landlord's Representations, Warranties and Covenants.** Landlord hereby represents, warrants and covenants to Tenant as follows:

9.1 **Landlord's Authority.** Landlord is the sole owner of all of the surface interests in and to the Premises and has the right and authority to sign this Lease and to grant Tenant the rights granted in this Lease. This Lease constitutes a valid and binding agreement enforceable against Landlord in accordance with its terms. Landlord agrees to warrant and defend its ownership of the Premises against any other party claiming to have any interest in the Premises, subject to the permitted exceptions to title referenced in the attached Exhibit B (the "**Permitted Encumbrances**").

9.2 **No Interference.** Tenant shall have the exclusive right to measure, evaluate and convert all of the wind resources of the Premises. Landlord shall not interfere with, nor allow any other party to interfere with, the free, unobstructed and natural wind flow, wind speed and wind direction over and across the Premises, whether by constructing buildings or other structures or walls, planting trees or engaging in any other activity on the Premises or any adjacent property owned by Landlord. Landlord shall not conduct any activity, nor grant any rights to any third party, whether on the Premises or elsewhere, that would interfere in any way with Tenant's use of the Premises or the rights granted under this Lease and Landlord shall exercise reasonable care not to disturb or uncover any below ground electrical cables. Landlord shall not grant any easement, license, lease or other right for access across any portion of the Premises to any third party in the business of development or operation of wind powered electrical generation or which would otherwise interfere with Tenant's development and acquisition of the Windpower Facilities. Landlord may use the Premises for agricultural and existing residential uses that do not interfere with Tenant's use of the Premises and may, without Tenant's consent, enter into agricultural and grazing leases; provided that Landlord shall not enter into any new leases that would impair the exercise by Tenant of its rights under this Lease.

9.3 **Other Leases and Easements.** As of the Effective Date, and except for the Permitted Encumbrances, Landlord has not: (a) leased any portion of the Premises to any third party; (b) encumbered any portion of the Premises with any easement, restriction or other encumbrance; or (c) granted any other right to or interest in the Premises to any third party. The Premises have not been submitted by Landlord for participation in the Conservation Reserve Program under the Food Security Act of 1985 and Landlord will not submit any portion of the Premises for participation hereunder during the term of this Lease. The

Premises are not subject to any resource conservation easements or other restrictions which would either prohibit or restrict the use of the Premises by Tenant for the purposes set forth in Section 4 of this Lease. In the event Landlord or a grazing lease tenant of Landlord executes a controlled burning of the surface vegetation, Landlord shall: (i) provide or cause the provision of appropriate advance written notice to Tenant of such activity; and (ii) shall conduct (and cause any such tenant to so conduct) such activity in compliance with all applicable laws, rules and regulations.

9.4 Liens and Encumbrances. As of the Effective Date, and except for the Permitted Encumbrances, Landlord warrants and represents to Tenant that there are no liens or encumbrances on the Premises (whether evidencing a monetary indebtedness or otherwise). With respect to any liens or encumbrances that Tenant may hereafter reasonably determine may have priority over the rights of Tenant or may interfere with Tenant's use of the Premises, Landlord shall use its commercially reasonable efforts to obtain for the benefit of Tenant a nondisturbance agreement (in a form and containing provisions reasonably acceptable to Tenant) from each holder of such lien or encumbrance (recorded or unrecorded) which provides that such holder of such lien or encumbrance shall not disturb Tenant's use of the Premises or rights under this Lease or terminate this Lease so long as Landlord is not entitled to terminate this Lease under its terms (a "**Nondisturbance Agreement**"). If Landlord, despite its commercially reasonable efforts, is unable to obtain a Nondisturbance Agreement from each such holder of such lien or encumbrance, Tenant shall have the right (but not the obligation) to make payments or perform any obligations required to be so made or performed in satisfaction of Landlord's obligations under such lien or encumbrance, whereupon Landlord shall, upon demand, reimburse Tenant for the amount of such payment and the cost of such performance, or, at Tenant's option, Tenant may offset the amounts so paid by Tenant against sums next due and payable to Landlord under this Lease.

9.5 Requirements of Governmental Agencies. At no out-of-pocket cost to Landlord, Landlord shall reasonably assist and cooperate with Tenant (including, where necessary or required, signing applications and related documentation for governmental approvals) in applying for, complying with or obtaining any governmental permits and approvals, building permits, environmental reviews or any other approvals required for the financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Windpower Facilities. Landlord shall not oppose or object to, whether in the permitting or approval process or otherwise, Tenant's exercise of any of its rights described herein.

9.6 Landlord's Responsibility for Hazardous Materials. (a) Except as otherwise disclosed in writing to Tenant and any incidental quantities thereof customarily used for agricultural purposes, there are no Hazardous Materials, abandoned wells, solid waste disposal sites or underground storage tanks located on the Premises; (b) the Premises are not in violation of any Environmental Law and Landlord has not contaminated the Premises with Hazardous Materials; and (c) the Premises are not subject to, and Landlord has no notice of, any judicial or administrative action, investigation or order under any Environmental Law. If Landlord breaches its warranty or representation, or if a release of a Hazardous Material is caused or permitted by Landlord or its agents, employees, tenants (other than Tenant) or contractors which results in contamination of the Premises, then Landlord shall indemnify, defend, protect and hold Tenant, and Tenant's employees, agents, partners, lenders, members, officers and directors, harmless from and against any and all claims, actions, suits, proceedings, losses, costs, damages, liabilities (including, without limitation, sums paid in settlement of claims), deficiencies, fines, penalties or expenses (including, without limitation,

reasonable attorneys' fees and consultants' fees, investigation and laboratory fees, court costs and litigation expenses) which arise during or after the term of this Lease as a result of such breach or contamination. This indemnity shall include, without limitation, and Landlord shall pay all costs and expenses relating to: (x) any claim, action, suit or proceeding for personal injury (including sickness, disease or death), property damage, nuisance, pollution, contamination, spill or other effect on the environment; (y) any investigation, monitoring, repair, clean-up, treatment or detoxification of the Premises; and (z) the preparation and implementation of any closure plan, remediation plan or other required action in connection with the Premises.

9.7 Indemnity. Landlord shall indemnify, defend, protect and hold Tenant harmless from and against losses, costs, damages, liability or expenses for physical damage to property (including, without limitation, Tenant's roads) and for physical injuries to any person, to the extent caused by the operations or activities of Landlord or those acting by, for or under Landlord.

10. Assignment; Cure.

10.1 Assignees. Tenant shall have the right, without need for Landlord's consent, to do any of the following, conditionally or unconditionally, with respect to all or any portion of the Premises: (i) finance, securitize, utilize as credit support, mortgage or otherwise encumber the Windpower Facilities; (ii) apportion, grant co-leases, subleases, subeasements, co-easements, separate easements, leases, licenses or similar rights (however denominated) to one or more persons; or (iii) sell, convey, lease, assign or transfer, in whole or in part, Tenant's interest in and to this Lease, or any or all right or interest of Tenant in this Lease, or any or all right or interest of Tenant in the Premises or in any or all of the Windpower Facilities. Tenant will give notice of any such assignment (including the address of the assignee thereof for notice purposes) to Landlord; provided, however, that failure to give such notice shall not constitute a default under this Lease, but rather shall only have the effect of (x) not binding Landlord with respect to such assignment until such notice shall have been given, and (y) not releasing the assignor from liability under this Lease pursuant to Section 10.2.

10.2 Assignee Obligations; Assignor Release. No assignee shall have any obligation or liability under this Lease prior to the time that the assignee takes actual physical possession of the Premises. An assignee shall be liable to perform obligations under this Lease commencing on the date such assignee takes actual physical possession of the Premises and only for and during the period such assignee is in possession of the Premises, provided that if such assignee quits possession of the Premises or otherwise ceases operating the Windpower Facilities such assignee shall notify Landlord of the new assignee who is then in possession of the Premises in accordance with Section 10.1. Any assignment permitted hereunder (except an assignment to a Leasehold Mortgagee, which shall be governed by Section 11 of this Lease) shall release the assignor from obligations accruing after the date that liability is assumed by the assignee and assignee takes actual physical possession of the Premises.

10.3 Extended Cure Period. If any default by Tenant under this Lease cannot be cured without first obtaining possession of all or part of the Premises and/or all or part of the Windpower Facilities and/or all or part of Tenant's interest in the Lease, then any such default shall be deemed remedied if: (a) within sixty (60) days after receiving notice from Landlord as set forth in Section 15.1 hereof, either Tenant shall have acquired possession of all or part of the Premises and/or all or part of the Windpower Facilities and/or all or part of such interest in this Lease, or shall have commenced appropriate judicial or nonjudicial proceedings to obtain the same; and (b) Tenant shall be in the process of diligently prosecuting

any such proceedings to completion; and (c) after gaining possession of all or part of the Premises and/or all or part of the Windpower Facilities and/or all or part of such interest in the Lease, Tenant performs all the obligations as and when the same are due (to the extent then possible) in accordance with the terms of this Lease. If Tenant is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing such proceeding shall be extended for the period of such prohibition; provided, however, that Tenant shall have fully cured any failure to perform any monetary obligations of Tenant hereunder and shall thereafter continue to perform such monetary obligations.

10.4 Certificates. Upon not less than ten (10) days prior written notice from Tenant, Landlord shall execute such estoppel certificates (certifying as to such matters as Tenant may reasonably request) and/or Nondisturbance Agreements as Tenant or any Leasehold Mortgagee (as hereinafter defined) may reasonably request from time to time. Any such certificates may be conclusively relied upon by the Tenant. The failure of the Landlord to deliver any such certificate within such time shall be conclusive upon the Tenant that (i) this Lease is in full force and effect and has not been modified, (ii) the Rent has been paid through the date of such written notice, (iii) there are no uncured Events of Default (as defined herein) by the Tenant hereunder and (iv) the other certifications so requested are in fact true and correct.

10.5 Subletting. Tenant shall have the right, from time to time and without Landlord's consent, to sublease all or any portion of the Premises. Tenant may, at Tenant's election, delegate performance of any or all covenants hereunder to any one or more subtenants, or subtenants of subtenants, and the performance so delegated, upon consummation thereof, shall be deemed Tenant's performance. However, no sublease pursuant to this Section shall relieve Tenant of any of its obligations under this Lease without the consent of Landlord.

11. Leasehold Financing.

11.1 Mortgage by Tenant. Tenant may, from time to time without Landlord's consent, conditionally or unconditionally, hypothecate, mortgage, pledge alienate, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in the Windpower Facilities and/or Tenant's leasehold estate and rights under this Lease, including any easements granted to Tenant under or pursuant to this Lease ("**Leasehold Estate**"). Each holder of any such lien is hereinafter referred to as a "**Leasehold Mortgagee.**" Without Landlord's consent, a Leasehold Mortgagee or its assigns may enforce such lien and acquire title to the Leasehold Estate in any lawful way and, pending foreclosure of such lien, the Leasehold Mortgagee may take possession of the Premises and operate the Windpower Facilities, performing all obligations performable by Tenant. Upon foreclosure of such lien by power of sale, judicial foreclosure or acquisition of the leasehold estate by deed in lieu of foreclosure, the Leasehold Mortgagee may, upon notice to Landlord, sell and assign the Leasehold Estate to any party without Landlord's consent. Notwithstanding anything herein contained to the contrary, the Leasehold Mortgagee and/or any person or entity acquiring the leasehold estate shall be liable to perform the obligations imposed on Tenant by this Lease only to the extent arising during the period during which such person or entity has ownership of the Leasehold Estate or possession of the Premises.

11.2 Rights and Obligations of Leasehold Mortgagees.

(a) Each Leasehold Mortgagee shall have the right, but not the obligation, without the payment of any penalty, to (i) make any payments due under this Lease, and (ii) 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 Leasehold Mortgagee shall be as effective to prevent or cure any default under this Lease as they would have been if made, done and performed by Tenant, and Landlord agrees to accept such performance, payment and cure.

(b) Landlord agrees for the benefit of each Leasehold Mortgagee that it will not, without the prior written consent of such Leasehold Mortgagee (which consent shall be given or withheld on the basis of the documents governing the relationship between such Leasehold Mortgagee and Tenant): (i) amend or modify, or take any action causing, consenting to or accepting the amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Leasehold Mortgagee hereunder or impair or reduce the security for any lien held by such Leasehold Mortgagee, or (ii) cancel, terminate or suspend, or take any action causing, consenting to or accepting the cancellation, termination or suspension of this Lease.

(c) The right of a Leasehold Mortgagee to receive notices and to cure Tenant's defaults pursuant to the provisions of this Section 11.2 shall be available only to those Leasehold Mortgagees which shall have notified Landlord in writing of their name and address, or whose lien is recorded in the official records of the County in which the Premises are located. When giving notice to Tenant of Tenant's default under this Lease, Landlord shall also concurrently serve a copy of such notice upon each Leasehold Mortgagee.

(d) In the case of a Payment Default by Tenant, Landlord shall take no action to terminate this Lease unless such default continues beyond the cure period which this Lease provides to Tenant for curing such default, and then only after Landlord shall have given each Leasehold Mortgagee a second written notice of such default and an additional thirty (30) days, in addition to and after the expiration of Tenant's cure period, within which to cure such default.

(e) In the case of a non-monetary default by Tenant, Landlord shall take no action to terminate this Lease unless such default continues beyond the cure period which this Lease provides to Tenant for curing such default, and then only after Landlord shall have given each Leasehold Mortgagee a second written notice of such default and an additional sixty (60) days, in addition to and after the expiration of Tenant's cure period, within which to elect to:

(i) commence and diligently proceed to cure such default, if such default can be cured by the Leasehold Mortgagee without obtaining possession of the Premises; or

(ii) commence and diligently proceed to obtain possession of the Premises (including possession by a receiver) in order to cure such default, if such default can only be cured after the Leasehold Mortgagee obtains possession of the Premises; or

(iii) institute and diligently pursue foreclosure proceedings or otherwise proceed to acquire Tenant's interest under this Lease. A Leasehold

Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which prompted the service of such notice is cured.

(f) If this Lease is terminated by Landlord on account of any default, or terminates for any other reason, then Landlord shall give prompt written notice thereof to each Leasehold Mortgagee. Each Leasehold Mortgagee, within sixty (60) days after receipt of written notice from Landlord, shall have the right to elect to enter into a new lease of the Premises as described below. Within thirty (30) days after receiving a Leasehold Mortgagee's written request therefor, Landlord shall execute and deliver a new lease of the Premises to such Leasehold Mortgagee or its nominee or to the purchaser, assignee or transferee of the Leasehold Estate, as the case may be, for the remainder of the term of this Lease, containing the same covenants, agreements, terms, provisions and limitations as are contained in this Lease, provided that the Leasehold Mortgagee shall pay to Landlord, simultaneously with the delivery of such new lease, all unpaid rent due under this Lease up to and including the date of the commencement of the term of such new lease and all expenses, including reasonable attorneys' fees, disbursements and court costs, incurred by Landlord in connection with Tenant's default, the termination of this Lease and the preparation of the new lease. After execution of the new lease, the Leasehold Mortgagee shall commence and diligently proceed to cure all defaults which reasonably can be cured by the Leasehold Mortgagee.

(g) As long as there is a Leasehold Mortgage, neither the bankruptcy nor insolvency of Tenant shall operate to terminate, nor permit Landlord to terminate, this Lease as long as all rent and other charges payable by Tenant continue to be paid in accordance with the terms of this Lease.

(h) If any Leasehold Mortgagee 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 this Section 11.2 for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided, however, that such Leasehold Mortgagee shall have fully cured any failure to perform any monetary obligations of Tenant hereunder and shall thereafter continue to perform such monetary obligations.

(i) During the period that a Leasehold Mortgagee shall be in possession of the Premises and/or during the pendency of any foreclosure proceedings instituted by a Leasehold Mortgagee, the Leasehold Mortgagee shall pay or cause to be paid all rent and other charges payable by Tenant which have accrued during such period and are unpaid. Following the acquisition of the Leasehold Estate by the Leasehold Mortgagee or its designee, either as a result of foreclosure or acceptance of an assignment in lieu of foreclosure, the Leasehold Mortgagee or party acquiring title to the Leasehold Estate shall commence performing all of Tenant's obligations under this Lease thereafter arising, whereupon Landlord's right to terminate this Lease based upon the default in question shall be deemed waived. Any default not susceptible of being cured by the Leasehold Mortgagee or party acquiring title to the Leasehold Estate shall be, and shall be deemed to have been, waived by Landlord upon completion of the foreclosure proceedings or acquisition of Tenant's interest in this Lease by any purchaser (who may, but need not be, the Leasehold Mortgagee) at the foreclosure sale, or who otherwise acquires the Leasehold Estate from the Leasehold Mortgagee or by virtue of a Leasehold Mortgagee's exercise of its remedies. No such purchaser, or successor to such purchaser, shall be liable to perform the obligations imposed on

Tenant by this Lease incurred or accruing after such purchaser or successor no longer has ownership of the Leasehold Estate or possession of the Premises.

(j) If two or more Leasehold Mortgagees exercise their rights hereunder and there is a conflict which renders it impossible to comply with all such requests, then the Leasehold Mortgagee whose Leasehold Mortgage is senior in priority shall prevail. If any Leasehold Mortgagee pays any rent or other sums due hereunder which relate to periods other than during its actual ownership of the Leasehold Estate, such Leasehold Mortgagee shall be subrogated to any and all rights which may be asserted against Landlord with respect to such period of time.

(k) Upon the reasonable request of any Leasehold Mortgagee, Landlord and Tenant shall amend this Lease to include any provision reasonably requested by such Leasehold Mortgagee to implement the protective provisions contained in this Lease for the benefit of such Leasehold Mortgagee or to allow such Leasehold Mortgagee reasonable means to protect or preserve the lien of its Leasehold Mortgage on the occurrence of a default under this Lease; provided, however, that Landlord shall not be required to amend this Lease in any way which would affect the term of this Lease or the rent payable hereunder or otherwise in any material respect adversely affect any rights of Landlord under this Lease.

12. Access Easement.

12.1 Grant of Access Easement. For good and valuable consideration, the receipt of which is hereby acknowledged by Tenant, Landlord hereby grants to Tenant, its licensees, subtenants, agents, invitees and assigns, for the benefit of one or more Projects, the right of ingress to and egress from the Windpower Facilities, whether located on the Premises, on adjacent property or elsewhere, over and across the Premises by means of all existing roads and lanes, or otherwise by such route or routes as Tenant may construct from time to time (the "**Access Easement**"). The Access Easement shall include the right to improve existing roads and lanes and to construct new roads and lanes. The Access Easement shall inure to the benefit of and be binding upon Landlord and Tenant and their respective permitted transferees, successors and assigns, and all persons claiming under them.

12.2 Use of Access Easement after Lease Termination. If this Lease expires or terminates after Tenant has installed one or more Turbines on the Premises or on property other than the Premises as part of a commercial utility-scale electrical generating facility, and if Tenant elects to keep the Access Easement in effect after the expiration or termination of this Lease, then Tenant shall pay to Landlord, at the time of such expiration or termination and each anniversary thereof, an amount equal to the annual fair market rental (as hereafter determined) of Tenant's use or intended use of the specific portion of the Premises on which such roads, lanes or other routes to be used by Tenant are located or are to be located; provided that the Access Easement shall be limited in scope to only such use of the existing roads as Tenant reasonably requires to access Windpower Facilities located on property other than the Premises. The annual fair market rental shall be an amount agreed upon by Landlord and Tenant as of the expiration or termination date of this Lease and at the beginning of successive ten (10) year periods thereafter. If the parties are unable to agree, the annual fair market rent value shall be determined by an impartial appraiser agreed upon by both parties who is experienced in real estate transactions in the state and who is a member of a national appraisal organization. If the parties are unable to agree on an appraiser, then an appraiser meeting the qualifications set forth above shall be chosen by the senior judge of the state district court for the judicial district in which the Premises are located. Notwithstanding the

foregoing, until the annual fair market rent value is determined in accordance with this Section 12.2, the Access Easement granted to Tenant hereunder shall continue uninterrupted.

12.3 Term; Assignment. Unless Tenant elects to keep the Access Easement in effect after the expiration or termination of this Lease, as provided in Section 12.2 hereof, the term of the Access Easement shall be coterminous with the term of this Lease, and shall expire or terminate contemporaneously herewith. Tenant shall have the right, without need for Landlord's consent, to assign or convey all or any portion of the Access Easement to an assignee on an exclusive or nonexclusive basis. The Access Easement shall inure to the benefit of and be binding upon Landlord and Tenant and their respective transferees, successors and assigns, and all persons claiming under them.

12.4 Maintenance and Repairs. Tenant shall be responsible for performing such maintenance and repairs on the roadways located on the Access Easement that may be required to keep the roadways passable for Landlord and Tenant. If Landlord allows any unrelated third party to use the Access Easements, Tenant shall be entitled to be reimbursed by such third party for the cost of repairing any damage to the roadways caused by such third party.

12.5 Access Easement Agreement. At any time during the term of this Lease, Landlord agrees, upon written request by Tenant, to execute and deliver to Tenant a document to be recorded in the county where the Premises is located further evidencing and describing the Access Easement in a form mutually acceptable to Landlord and Tenant (the "Access Easement Agreement").

13. Transmission Easement.

13.1 Grant of Transmission Easement. For good and valuable consideration, the receipt of which is hereby acknowledged by Landlord, Landlord hereby grants to Tenant, its licensees, subtenants, agents, invitees and assigns, for the benefit of one or more Projects, an exclusive easement (the "Transmission Easement") in, on, over, along and under the Premises for the right to erect, construct, reconstruct, replace, relocate, improve, enlarge, alter the voltage of, remove, maintain and use the following from time to time, whether located on the Premises or elsewhere: (a) a line or lines of towers, with such wires and cables as from time to time are suspended therefrom, and/or underground wires and cables (which shall be buried at least three (3) feet underground), for the transmission of electrical energy and/or for communications purposes, and all necessary and proper foundations, footings, crossarms and other appliances and fixtures for use in connection with such towers, wires and cables on, over, along and in the Premises; and (b) one or more substations or interconnection or switching facilities from which Tenant or others that generate energy (whether on the Premises or elsewhere) may interconnect to a utility transmission system or the transmission system of another purchaser of electrical energy, together with the appropriate rights of way, on, along and in the Premises. Such towers, wires, cables, substations, facilities and rights of way are herein collectively called the "Transmission Facilities."

13.2 Access. The Transmission Easement includes rights of ingress to and egress from the Transmission Facilities (whether located on the Premises, on adjacent property or elsewhere) over and along the Premises by means of roads and lanes thereon if existing, or otherwise by such route or routes as Tenant may construct from time to time.

13.3 Assignment in Connection with Transmission Lines. In connection with the exercise of the rights of Tenant with respect to the transmission of electricity

generated by the Windpower Facilities or otherwise, Tenant, in its sole discretion and without further act of Landlord, shall have the right to grant to any utility the right to construct, operate and maintain underground electric transmission, interconnection and switching facilities on the Premises pursuant to any standard form of easement or other agreement used or proposed by the utility. Landlord agrees to execute such other documents and take such acts as are reasonably necessary or required to reflect such assignment, including any documents required for recording of such easement or assignment.

13.4 Term; Assignment. The term of the Transmission Easement shall be perpetual unless terminated by Tenant by written notice to Landlord, and shall not expire or be terminable by Landlord under any circumstances, notwithstanding Section 15.1 below. Tenant shall have the right, without need for Landlord's consent, to assign or convey all or any portion of the Transmission Easement on an exclusive or nonexclusive basis. The Transmission Easement shall run with the Premises and inure to the benefit of and be binding upon Landlord and Tenant and their respective transferees, successors and assigns, and all persons claiming under them. In the event of termination of this Lease, if Tenant elects to preserve the perpetual Transmission Easement granted under Section 13.1, then Tenant shall pay to Landlord, at the time of such termination and such anniversary thereof, the annual fair market rental (as hereafter determined) of Tenant's use of the specific portion of the Premises on which the Transmission Facilities are located or are to be located. The annual fair market rental shall be an amount agreed upon from time to time by Landlord and Tenant as of the termination date of this Lease and at the beginning of successive ten (10) year periods thereafter. If the parties are unable to agree, the annual fair market rental value shall be determined by an impartial appraiser agreed upon by both parties who is experienced in real estate transactions in the state and who is a member of a national appraisal organization. The fair market rental amount shall reflect the rental of such parcel for such use and shall be payable within thirty (30) days after the parties initially agree upon (or the appraiser determines) the fair market rental amount (and annually thereafter during the period such Transmission Facilities remain on the Premises). If the parties are unable to agree on an appraiser, then an appraiser meeting the qualifications set forth above shall be chosen by the senior judge of the state district court for the judicial district in which the Premises are located. Notwithstanding the foregoing, until the annual fair market rent value is determined in accordance with this Section 13.4, the Access Easement granted to Tenant hereunder shall continue uninterrupted. In the event that Tenant fails to pay the annual fair market rental when due, and Tenant fails to cure such default within sixty (60) days after receipt of written notice from Landlord, Landlord shall have the right to terminate the Transmission Easement by giving written notice to Tenant.

13.5 Transmission Easement Agreement. At any time during the term of this Lease, Landlord agrees, upon written request by Tenant, to execute and deliver to Tenant a document to be recorded in the county where the Premises is located further evidencing and describing the Transmission Easement in a form mutually acceptable to Landlord and Tenant (the "**Transmission Easement Agreement**").

14. Other Easements.

14.1 Grant of Operations Easement. For good and valuable consideration, the receipt of which is hereby acknowledged by Landlord, Landlord hereby grants to Tenant, its licensees, subtenants, agents, invitees and assigns, for the benefit of the one or more Projects, the following easements (the "**Operations Easements**"):

(a) An easement, right and entitlement on, over, across and under Premises for any audio, visual, view, light, noise, vibration, air turbulence, wake, shadow

flicker, electromagnetic, television reception, ice or other weather created hazards or other effect of any kind whatsoever resulting directly or indirectly from any operations conducted on or facilities now or hereafter located on (i) the Premises, (ii) the Windpower Facilities or (iii) the Project.

(b) An exclusive easement (i) to use, convert, maintain and capture the free and unobstructed flow of wind currents and wind resources over and across the Premises and (ii) to permit the rotors of wind turbines located on adjacent properties to overhang the Premises.

(c) The term of each Operation Easement (the "**Operation Easement Term**") shall commence on the date of this Lease and shall terminate upon termination of the Lease. Notwithstanding the foregoing, in no event shall the term of each Operation Easement be longer than the longest period permitted by law.

14.2 **Landlord Easements.** To the extent that Landlord holds any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Premises (the "**Landlord Easements**"), and Landlord Easements are or could be used for the benefit of the Premises, then the same are hereby included in this Lease, and Tenant, its agents and invitees shall be entitled to make full use thereof. Upon the request of Tenant at any time and from time to time during the term of this Lease, Landlord shall grant thereto (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant), for no additional consideration, one or more subeasements of the Landlord Easements (each, a "**Landlord Subeasement**").

14.3 **Term, Assignment.** With respect to the Access Easement, Transmission Easement, each Operations Easement, and Landlord Subeasement (each, an "**Easement**"): (a) to the extent permitted by Law (as defined below), such Easement shall be appurtenant to the leasehold estate granted herein; (b) such Easement shall run with the Premises (and such other lands, as applicable) and inure to the benefit of and be binding upon Landlord and the holder of the Easement and their respective successors and assigns, and all persons claiming under them; (c) no act or failure to act on the part of Tenant or the holder of the Easement shall be deemed to constitute an abandonment, surrender or termination thereof, except upon recordation by such holder of a quitclaim deed specifically conveying the Easement back to Landlord; and (d) no use of or improvement to the Premises (or such other lands) or any lands benefited by the Easement, and no transfer of such Easement shall, separately or in the aggregate, constitute an overburdening of the Easement.

14.4 **Other Easement Agreement.** At any time during the term of this Lease, Landlord agrees, upon written request by Tenant, to execute and deliver to Tenant a document to be recorded in the county where the Premises is located further evidencing and describing the Easement in a form reasonably acceptable to Tenant.

15. **Default and Termination.**

15.1 **Remedies Upon Tenant's Default.** Tenant shall be in default under this Lease (an "**Event of Default**") only if Tenant shall have failed to perform any of Tenant's covenants under this Lease (including the payment of rent or other charges) and such failure continues for a period of thirty (30) days after written notice from Landlord (or if such failure is not reasonably capable of being cured within thirty (30) days, if Tenant shall not have commenced to cure the same within such thirty (30) day period and thereafter diligently prosecutes the same to completion). Upon the occurrence of an Event of Default involving

Tenant's failure to pay rent or other charges (a **"Payment Default"**), Landlord shall be entitled, at its election, to terminate this Lease, reenter the Premises and take possession thereof (subject, however, to the rights of assignees pursuant to Section 10 and Leasehold Mortgagees pursuant to Section 11) or, so long as Landlord does not terminate Tenant's right to possession of the Premises, keep this Lease in full force and effect and collect rent and other charges from Tenant as and when due under this Lease, with Landlord having the obligation to mitigate damages. If Landlord elects to terminate this Lease, then all rights and obligations of the parties shall terminate, except that Landlord shall have the right to sue for and collect all rent and other amounts with respect to which Tenant shall then be in default, and all damages to Landlord by reason of such Event of Default, Landlord having the obligation to mitigate damages, and Tenant shall surrender the Premises to Landlord. Upon the termination of this Lease, Tenant shall (a) upon written request by Landlord, execute and record a quitclaim deed of Tenant's right, title and interest in and to the Premises, and (b) as soon as reasonably practicable thereafter, remove all Windpower Facilities from the Premises in accordance with Section 8.6. If Tenant fails to complete the Decommissioning of the Windpower Facilities within twelve (12) months after termination of this Lease, then Landlord may do so, in which case Tenant shall reimburse Landlord for the reasonable costs of removal, less salvage, incurred by Landlord. Any Event of Default other than a Payment Default may only result in a cause of action by Landlord under applicable law, and Landlord waives the right to terminate this Lease for any Event of Default other than a Payment Default.

15.2 Remedies Upon Landlord's Default. If Landlord shall at any time be in default of any of its covenants or representations under this Lease and such default shall continue for a period of thirty (30) days after written notice to Landlord (or if such default (other than a failure of a representation) is not reasonably capable of being cured within thirty (30) days, if Landlord shall not have commenced to cure the same within such thirty (30) day period and thereafter diligently prosecute the same to completion), then Tenant shall be entitled to exercise concurrently or successively any one or more of the following rights, in addition to all other remedies provided in this Lease or available at law or in equity: (a) to bring suit for the collection of any amounts for which Landlord may be in default, or for the performance of any other covenant or agreement of Landlord, without terminating this Lease; (b) to offset any or all amounts owed by Landlord to Tenant against all amounts next coming due from Tenant to Landlord; and/or (c) to terminate this Lease upon thirty (30) days' written notice to Landlord, without waiving Tenant's rights to damages for Landlord's failure to perform its obligations hereunder.

16. Condemnation.

16.1 Definitions. The following definitions apply in construing provisions of this Lease relating to a taking of all or any part of the Premises or the Improvements or any interest in them by eminent domain or inverse condemnation:

(a) **"Taking"** means any taking by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning authority or entity under threat of condemnation in avoidance of an exercise of eminent domain. The Taking shall be considered to take place as of the earlier of (x) the date actual physical possession is taken by the condemner or (y) the date on which the right to compensation and damages accrues under the law applicable to the Premises.

(b) "Total Taking" means the Taking of the fee title to all the Premises.

(c) "Substantial Taking" means the Taking of so much of the Premises that the remaining Premises would not be economically and feasibly usable, in Tenant's opinion, by Tenant in connection with the Permitted Use.

(d) "Partial Taking" means any Taking other than a Total Taking or Substantial Taking.

16.2 Notice to Other Party. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

(a) Notice of intended Taking.

(b) Service of any legal process relating to condemnation of the Premises.

(c) Notice in connection with any proceedings or negotiations with respect to such condemnation.

(d) Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

16.3 Representative of Each Party; Effectuation. Landlord and Tenant shall each have the right to represent its respective interests in each proceeding or negotiation with respect to a Taking or intended Taking and to make full proof of his or its claims. Landlord and Tenant each agrees to execute and deliver to the other any instruments that may be required to effectuate or facilitate the provisions of this Lease relating to condemnation.

16.4 Total or Substantial Taking. On a Total or Substantial Taking, Tenant's obligation to pay Rent shall terminate on the date of Taking, or the payment due date last following the final sale of electricity by Tenant from operations of any portion of the Wind Farm Project, whichever is later. If Tenant determines that the Taking is a Total or Substantial Taking, Tenant may, by notice to Landlord given within one hundred twenty (120) days after Tenant receives notice of intended Taking, elect to treat the Taking as a Substantial Taking. If Tenant does not so notify Landlord, the Taking shall be deemed a Partial Taking.

16.5 Delivery of Possession. Tenant may continue to occupy the Premises until the day of Taking.

16.6 Proceeds. On any Taking covered by this Section 16 above, all sums, including damages and interest, awarded shall be paid to Landlord or Tenant consistent with state law.

17. Miscellaneous.

17.1 Force Majeure. If performance of this Lease or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (as 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 as soon as such causes are removed. "**Force Majeure**" means: fire, earthquake, flood, tornado or other acts of God and natural disasters; 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.

17.2 Confidentiality. LANDLORD SHALL MAINTAIN IN THE STRICTEST CONFIDENCE, FOR THE SOLE BENEFIT OF TENANT, ALL INFORMATION PERTAINING TO THE TERMS AND CONDITIONS OF THIS LEASE, INCLUDING, WITHOUT LIMITATION, THE FINANCIAL TERMS OF THIS LEASE, TENANT'S SITE DESIGN AND PRODUCT DESIGN, METHODS OF OPERATION, METHODS OF CONSTRUCTION AND POWER PRODUCTION OF THE WINDPOWER FACILITIES. LANDLORD SHALL NOT USE SUCH INFORMATION FOR ITS OWN BENEFIT, PUBLISH OR OTHERWISE DISCLOSE IT TO OTHERS, OR PERMIT ITS USE BY OTHERS. THE PROVISIONS OF THIS SECTION 17.2 SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE. TENANT AUTHORIZES LANDLORD TO PROVIDE COPIES OF THE LEASE AND DISCLOSE THE TERMS THEREOF TO LANDLORD'S FAMILY, ATTORNEY, ACCOUNTANT, FINANCIAL ADVISOR AND ANY EXISTING OR PROSPECTIVE MORTGAGEE, LESSEE, OR PURCHASER, SO LONG AS THEY LIKewise AGREE NOT TO PROVIDE COPIES OF THE LEASE OR DISCLOSE THE TERMS THEREOF TO ANY UNAUTHORIZED PERSON OR ENTITY.

17.3 Successors and Assigns. This Lease shall burden the Premises and shall run with the land. This Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective heirs, successors and assigns. Nothing set forth in this Lease shall be deemed to limit or abridge Landlord's right to sell, transfer or otherwise convey all or any portion of the Premises; provided that any such transfer shall be wholly subject to Tenant's rights pursuant to this Lease.

17.4 Memorandum of Lease. Landlord and Tenant shall execute a memorandum of this Lease, in the form attached hereto as Exhibit C, and Tenant shall record such memorandum in the Official Records of the County in which the Premises are located. Landlord consents to the recordation of the interest of any Leasehold Mortgagee or assignee of Tenant's interest in this Lease.

17.5 Notices. All notices pursuant to this Lease shall be in writing and shall be sent only by the following methods: personal delivery; United States Mail (first-class, certified, return-receipt requested, postage prepaid); or delivery by a national, overnight courier service which keeps records of deliveries (such as, by way of example but not limitation, Federal Express, United Parcel Service and DHL). For purposes of giving notice hereunder, the respective addresses of the parties are, until changed as hereinafter provided, the following:

Landlord:

West Family Trust
Ann Bean, Trustee
4621 93rd Street
Lubbock, Texas 79424
Attn: Ann Bean

Tenant:

Texas Land Partners, L.P.
9050 Capital of Texas Highway North
Suite 390
Austin, TX 78759
Attn: William Coats

Any party may change its address at any time by giving written notice of such change to the other party in the manner provided herein. All notices shall be deemed given on the date of personal delivery or, if mailed by certified mail, on the delivery date or attempted delivery date shown on the return-receipt.

17.6 Entire Agreement; Amendments. This Lease and the attached Exhibits constitute the entire agreement between Landlord and Tenant respecting its subject matter, and replace and supersede any prior agreements. This Lease shall not be modified or amended except in a writing signed by both parties or their lawful successors in interest.

17.7 Limitations. Neither party shall be liable to the other party or any person or entity claiming by or through the other party, for any special, indirect, incidental, punitive or consequential damages including but not limited to lost profits or loss of business, arising out of or in any manner connected with the performance or non-performance of this Lease, even if the parties have knowledge of the possibility of such damages.

17.8 Attorneys' Fees. If either party brings any action or proceeding against the other (including any cross-complaint, counterclaim or third party claim) to enforce or interpret this Lease, or otherwise arising out of this Lease, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including reasonable attorneys' fees and accountants' fees, which shall be payable whether or not such action or proceeding is prosecuted to judgment. For purposes hereof, the term "prevailing party" includes a party who dismisses an action for recovery in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

17.9 Partial Invalidity. Should any provision of this Lease be held, in a final and unappealable decision by a court of competent jurisdiction, to be invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.

17.10 Construction and Interpretation. The headings of the Sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part thereof. Unless the context requires otherwise, references in this Lease to Sections, subsections or Exhibits refer to the Sections, subsections and Exhibits of this Lease. Unless the context requires otherwise, references to a "party" or "parties" refer to Landlord or Tenant, or both, as the context may require. The word "including" shall be construed in its inclusive sense, and not in limitation, whether or not language of non-limitation (such as "without limitation") is used with reference thereto. References to a "month" or "months" refer to whole or partial calendar months during the Term. All provisions of this Lease have been negotiated by Landlord and Tenant at arms' length. This Lease shall not be construed for or against either party by reason of the authorship or alleged authorship of any provision hereof or by reason of the status of the respective parties as Landlord or Tenant.

17.11 Tax Credits. Landlord and Tenant agree that this Lease does not constitute and is not intended to constitute an "ownership interest" in the Windpower Facilities for purposes of section 45 of the Internal Revenue Code. If under applicable law the holder of a lease becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government or any production tax credits under section 45 with respect to the Windpower Facilities are allocable to Landlord, then, at

Tenant's option, Landlord and Tenant shall amend this Lease or replace it with a different instrument so as to convert Tenant's interest in the Premises to a substantially similar interest that makes Tenant eligible for such tax credit, benefit or incentive.

17.12 Quiet Enjoyment. Landlord covenants and warrants that Landlord is the true and lawful owner of the Premises, subject only to the Permitted Encumbrances, and has full right and power to lease the Premises. Landlord agrees that Tenant shall quietly and peaceably hold, possess and enjoy the Premises for the Term of this Lease, and any extension thereof, without any hindrance or molestation. Landlord shall defend title to the Premises and the use and occupancy of the same against the claims of all persons, except those claiming by or through Tenant. Landlord shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, that are or may be recorded against the Premises, or otherwise affect the Premises, or the rights or obligations of Tenant, without first obtaining the prior written consent of Tenant, which consent may be withheld in Tenant's sole and absolute discretion.

17.13 Setback Waiver. To the extent that (a) Landlord now or in the future owns or leases any land adjacent to the Premises or (b) Tenant or any affiliate of any thereof owns, leases or holds an easement over land adjacent to the Premises and has installed or constructed or desires to install or construct Improvements on said land at and/or near the common boundary between the Premises and said land, Landlord hereby waives any and all setbacks and setback requirements, whether imposed by applicable law or by any person or entity, including any setback requirements described in the zoning ordinance of the county, city, town or in any governmental entitlement or permit heretofore or hereafter issued to Tenant or such affiliate. Further, if so requested by Tenant or any such affiliate, Landlord shall, without demanding additional consideration therefore, (i) execute (and, if appropriate, cause to be acknowledged) any setback waiver, setback elimination or other document or instrument reasonably requested by Tenant, such affiliate, or the county, city or town in connection therewith and (ii) return the same thereto within ten (10) days after such request.

17.14 Brokerage Commissions. Each of Landlord and Tenant warrants and represents to the other that there are no brokers' commissions, finders' fees or any other charges due to any broker, agent or other party in connection with the negotiation or execution of this Lease created by agreement of the warranting party for which the other party shall have any liability or obligation.

17.15 Transfer Taxes. Tenant shall pay any transfer tax or other tax payable to any governmental taxing authority, including the County in which the Premises are located, by reason of the execution of this Lease and/or the recordation of a memorandum thereof.

17.16 No Partnership. Nothing contained in this Lease (including the method of computation of Rent) shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent, partnership, joint venture or any other association between Landlord and Tenant, other than the relationship of landlord and tenant.

17.17 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State in which the Premises are located.

17.18 No Abandonment. No act or failure to act on the part of Tenant shall be deemed to constitute an abandonment or surrender of this Lease, the Access Easement, the Transmission Easement, the Operations Easement or any portion thereof, except upon recordation by Tenant of a quitclaim deed specifically conveying the Lease, the Access

Easement, the Transmission Easement, the Operations Easement (or such portions thereof) back to Landlord. Without limiting the generality of the foregoing, nonuse of the Access Easement shall not prevent Tenant in the future from using the entire width and scope of the Access Easement in the event the same is needed.

17.19 No Third Party Beneficiary. Except as otherwise specified in this Lease, the terms and provisions of this Lease are intended solely for the benefit of each party hereto and their respective successors or permitted assigns and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

17.20 Further Assurances. The parties shall execute such other documents and shall take such acts as are reasonably necessary or required to effectuate the purposes of this Lease.


Signatures appear on following page.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the dates set forth below and this Lease shall be effective as of the later of such dates.

TENANT:

Texas Land Partners, LP
a Delaware limited partnership


By: Texas GP Holdings, LLC,
a Delaware limited liability company,
its General Partner

By: 
Name: Brian Evans
Title: President

Date: December 21, 2006

LANDLORD:

West Family Trust
By: Ann Bean, Trustee
4621 93rd Street
Lubbock, Texas 79424

By: 
Name: Ann Bean
Title: Trustee

Date: Dec 18, 2006

EXHIBIT A: LEGAL DESCRIPTION OF PREMISES

640 acres being Section 144, Block G&M, Abstract 1288, Briscoe County, Texas

640 acres being Section 143, Block G&M, Abstract 405, Briscoe County, Texas

EXHIBIT B: PERMITTED ENCUMBRANCES

[to be inserted by Landlord]

EXHIBIT C: MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Texas Land Partners, LP
c/o RES America Developments Inc.
9050 Capital of Texas Highway North
Suite 390
Austin, TX 78759
Attn: William Coats

(Space Above for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("**Memorandum**") is made and entered into as of December __, 2006, by and between West Family Trust ("**Landlord**") and Texas Land Partners, LP, a Delaware limited partnership ("**Tenant**").

1. **Lease.** For the term and upon the provisions set forth in that Wind Energy Ground Lease of even date herewith between Landlord and Tenant (the "**Lease**"), all of which provisions are specifically made a part hereof as though fully and completely set forth herein, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that certain real property (the "**Premises**") located in the County of Briscoe, State of Texas, as more particularly described in Exhibit "A" attached hereto, together with all rights of ingress and egress and all other rights appurtenant to the Premises, as more particularly described in the Lease.

2. **Easements.** The Lease also includes Access and Transmission Easements.

3. **Term.** The initial term of the Lease is five (5) years, commencing on December __, 2006, which Tenant has the option to extend for two (2) additional periods of one (1) year each. After the initial term and subject to certain conditions, the Lease may be extended for an additional term of thirty (30) years, which Tenant has the additional option to further extend for two (2) additional period of ten (10) years.

4. **Notice.** This Memorandum is prepared for the purpose of giving notice of the Lease and in no way modifies the express provisions of the Lease. This Memorandum shall continue to constitute notice of the Lease, even if the Lease is subsequently amended.

5. **Successors and Assigns.** Landlord and Tenant intend that the covenants, conditions and restrictions contained in the Lease shall be both personal to Landlord and Tenant and binding on their successors and assigns. Each successive owner of the Premises or of any portion thereof, and each person having any interest therein derived through any owner thereof, shall be bound by such covenants, conditions and restrictions for the benefit of the Premises.

IN WITNESS WHEREOF this Memorandum of Lease has been executed as of the date first written above.

TENANT:

Texas Land Partners, LP
a Delaware limited partnership

By: Texas GP Holdings, LLC,
a Delaware limited liability company,
its General Partner

By: _____

Name: Brian Eyans

Title: President

Date: _____, 2006

LANDLORD:

West Family Trust
By: Ann Bean, Trustee
4621 93rd Street
Lubbock, Texas 79424

By Ann Bean

Name: Ann Bean

Title: Trustee

Date: Dec 18, 2006

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2006,
by _____ of RES America Developments, Inc., a Delaware
corporation, the sole member of Texas Land Partners GP, LLC, a Delaware limited liability
company, the general partner of Texas Land Partners, LP, a Delaware limited partnership.

My Commission Expires: _____

Notary Public, State _____
Printed Name of Notary: _____

THE STATE OF Texas §
COUNTY OF DeWitt §

This instrument was acknowledged before me on the 18th day of December, 2006,
by Ann Bean.

My Commission Expires: _____

Edwina Johnson
Notary Public, State _____
Printed Name of Notary: _____

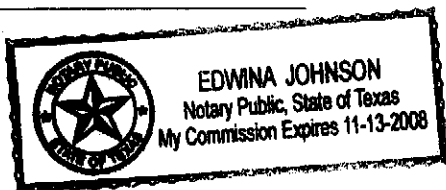


EXHIBIT D: HUNTING AND SHOOTING RESTRICTIONS

A copy of this Exhibit shall be provided to any person hunting or carrying a firearm on the Landlord's property.

The electrical power windmills, wind turbine generators and wind machines located on the Landlord's property and the wires and equipment attached thereto are very expensive and can be easily damaged by ricochets. In accordance with insurance requirements, the cause of any damage to this equipment may be investigated and damages recovered from the responsible party. In addition, stray shots could injure the personnel that regularly service such equipment (who may be on or inside the equipment and may not be readily visible).

Therefore, discharging a firearm in the direction of this equipment is prohibited. The property owner must be informed as to when and where you hunt or carry a firearm on the Landlord's property.

Kindly be cautious not to discharge a firearm in the direction of this delicate equipment, and report any damage of the equipment that you observe or potential violations of this restriction to the property owner and Texas Land Partners, LP at [TOLL FREE NUMBER].

Thank you.