

WIND ENERGY LEASE AND AGREEMENT

THIS WIND ENERGY LEASE AND AGREEMENT (this "**Lease**") is made, dated and effective as of the 12th day of August, 2008 (the "**Effective Date**"), by and between The Robert Alexander Revocable Living Trust Under Agreement dated June 15, 2000, Robert Alexander, Trustee (collectively "**Landlord**") and HOOPESTON WIND LLC, a Delaware limited liability company ("**Tenant**"). Landlord and Tenant are herein referred to together as the "**Parties**" and each as a "**Party**".

SECTION 1 - GRANT OF RIGHTS

1.1. **Lease.** Landlord is the owner of certain real property located in the County of Vermilion, (the "**County**"), in the State of Illinois (the "**State**"), as more particularly described on **Exhibit "A"** attached hereto and as generally depicted on the map attached hereto as **Exhibit "A-1"** (the "**Property**"). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby leases to Tenant and its successors and assigns, and Tenant hereby leases from Landlord, the surface of the Property, including all air space thereof and all areas necessary or appropriate for the construction of underground Wind Power Facilities, as defined below, for the express purposes and upon all of the terms and conditions hereinafter set forth.

1.2. **Purposes of Lease.** Pursuant to this Lease, Tenant shall have possession of the Property for the following uses and purposes (collectively, "**Operations**");

1.2.1. Determining the feasibility of wind energy conversion on the Property or on neighboring lands, including but not limited to: (a) studies of wind speed, wind direction and other meteorological data, (b) conducting ground surveys and geotechnical investigations, and (c) environmental, biological, cultural and other tests and studies (such activities, "**Diligence**");

1.2.2. Converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted;

1.2.3. Developing, constructing, reconstructing, erecting, installing, improving, enlarging, replacing, repowering, relocating and removing from time to time, and using, maintaining, repairing, operating and monitoring, the following, for the benefit of one or more Projects (as defined below): (a) wind turbine generators ("WTGs"), wind energy conversion systems and wind power generating facilities (including associated towers, foundations, support structures, guy wires, braces and other structures and equipment), of any type or technology (collectively, "**Generating Units**"); (b) electrical power interconnection, transformation, transmission, collection and distribution facilities, including overhead and underground transmission, distribution and collector lines, wires and cables, conduit, footings, foundations, towers, poles, crossarms, guy lines and anchors, substations, interconnection and/or switching facilities, circuit breakers and transformers, and energy storage facilities; (c) overhead and underground control, communications and radio relay systems and telecommunications equipment, including fiber, wires, cables, conduit, towers and poles; (d) meteorological towers and meteorological measurement, monitoring and recording equipment and facilities; (e) roads, bridges, culverts and erosion control facilities; (f) water pipelines, storage and pumping facilities; (g) control, maintenance, storage and administration buildings; (h) utility lines and installations; (i) laydown areas and maintenance yards; (j) signs; (k) fences, gates, cattle guards and other safety and protection facilities; and (l) other improvements, fixtures, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing (all of the foregoing, including the Generating Units, collectively, "**Wind Power Facilities**");

1.2.4. Vehicular and pedestrian ingress, egress and access to and from Wind Power Facilities on, over and across the Property by means of roads and lanes thereon if existing, or otherwise by such roads as Tenant or anyone else may construct from time to time, in each case for the benefit of one or more Projects (collectively, "**Access Rights**");

1.2.5. Drilling, redrilling, maintaining, repairing, using, operating, improving, replacing, relocating, plugging and abandoning water wells, and pumping and using water as needed in connection with the construction or maintenance of one or more Projects; and

1.2.6. Undertaking any other activities that Tenant or a Subtenant (as defined below) determines are necessary, helpful, appropriate, convenient or cost-effective in connection with, incidental to or to accomplish any of the foregoing purposes or for the benefit of one or more Projects, as defined in Section 1.3.3. Without limiting the generality of the foregoing, the Parties recognize that (a) power generation technologies are improving at a rapid rate and that Tenant or a Subtenant may (but shall not be required to) from time to time replace existing Generating Units on the Property with newer model (and potentially larger) Generating Units and (b) the Operations may be accomplished by Tenant, a Subtenant or one or more third parties authorized by Tenant or a Subtenant.

1.3. Easements.

1.3.1. In addition, Landlord hereby grants to Tenant the following easements (the "**Easements**")

1.3.1.1. A non-exclusive easement for audio, visual, view, light, flicker, noise, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to any Project or Operations;

1.3.1.2. An exclusive easement to use, convert, maintain and capture the free and unobstructed flow of wind currents and wind resources over and across the Property. Any obstruction to the free flow of the wind is prohibited throughout the entire area of the Property, including that real property consisting horizontally three hundred and sixty degrees (360°) from any point where any Generating Units and associated Wind Power Facilities are or may be located at any time from time to time (each such location referred to as a "Site") and for a distance from each Site to the boundaries of the Property, together vertically through all space located above the surface of the Property, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from each point along the exterior boundary of the Property through each Site to each point and on and along such line to the opposite exterior boundary of the Property.. Trees, structures and improvements located on the Property as of the date of this Lease shall be allowed to remain and Tenant may not require their removal. Landlord may not place or plant any trees, structures or improvements on the Property after the date of this Lease which may, in Tenant's sole judgment, impede or interfere with the flow of wind to any Site or Wind Power Facility, unless Landlord has received approval from Tenant for any such trees, structure or improvement. The provisions of this Section 1.3.1.2 shall survive the termination of this Lease for the full Term of this Lease;

1.3.1.3. An exclusive easement to permit the rotors of Generating Units located on adjacent properties to overhang the Property;

1.3.1.4. One or more nonexclusive easements for Access Rights on, over and across the Property, including for vehicular and pedestrian ingress, egress and access to and from one or more Projects; and

1.3.1.5. One or more easements for Wind Power Facilities on, under, over and across the Property, for the benefit of one or more Projects; in each such case as, where and to whom designated by Tenant or such Subtenant. Tenant shall provide to Landlord a site map depicting the layout of the Wind Power Facilities on, under, over and across the Property as such maps are created or amended. Any part of the Wind Power Facilities placed underneath the surface of the Property shall be clearly marked by markers on the surface of the Property.

For purposes of this Lease, the term "**Project**" means one or more Generating Units and associated Wind Power Facilities that are constructed, installed and/or operated on the Property and/or on other lands in the general vicinity of the Property by or on behalf of Tenant, a Subtenant or an affiliate of either thereof, as an integrated energy generating and delivery system.

1.3.2. With respect to each Easement, (a) to the extent permitted by Law (as defined below), such Project Easement shall be appurtenant to (i) the estate created by this Lease and (ii) any other fee and estates upon which Tenant has constructed or intends to construct Wind Power Facilities as part of a Project; (b) such Easement shall run with the Property (and such other fee and easement estates, as applicable) and inure to the benefit of and be binding upon Landlord and the holder(s) of the Easement; and (c) no use of or improvement to the Property (or such other lands) or any lands benefited by the Easement, and no Transfer (as defined below), shall, separately or in the aggregate, constitute an overburdening of the Easement.

1.3.3. It is the parties intent that the following description of the wind easements granted hereunder be in compliance with all laws regarding wind easements and each party hereto agrees to modify this Lease to the extent required to create and maintain such compliance.

1.3.4. Notwithstanding the restrictions of Section 1.3.1.2., trees, structures and improvements located on the Property as of the Commencement Date (defined in Section 2.2 below) shall be allowed to remain and Landlord may construct on the Property buildings, structures, or the like, so long as said buildings or structures are no more than Fifty (50) feet in height and at least one thousand (1,000) feet from the closest point of any of the Site (whether located on the Property or elsewhere in the Project) and pose no interference with any other part of the Project or similar facilities of the Project not located on the Property. Landlord may construct such buildings and structures that comply with the previous restrictions without prior consent from Tenant. However, in the event Landlord constructs a building or structure without the consent of the Tenant and it is determined by Tenant that said building or structure is violates the restrictions set forth in this paragraph, then in that event, after notice from Tenant, Landlord shall immediately remove or cause to be removed all non-complying buildings or structures, and shall pay to Tenant any monies lost due to restricted access to wind by virtue of Landlord's noncompliance with this section.

1.3.5 **Special Compensation for Easements Not Proximate to WTG.** With respect to any Easement or area of the Property used by Tenant for the purpose of roads, above-ground transmission lines or other use and not within a one mile radius of any WTG location on the Property, Tenant shall calculate such area of the Property so used (the "**Non-Turbine Easement**"), by reasonable method (for example, with respect to maintenance yards, roads, or above-ground transmission lines, by measuring the width and length of the used area) and Tenant shall pay to Landlord (i) prior to the construction of any such roads, transmission lines, substation or other such installation, a sum equal to one and one-half (1-1/2) times the then-current fair market value of the

portion of the Property within the Non-Turbine Easement, and (ii) the sum of five hundred dollars (\$500.00) per year per acre of such measured area of the Non-Turbine Easement. Notwithstanding the foregoing, and subject to Section 3.7, any underground transmission lines not within a one mile radius of any WTG location shall be compensated solely at the rate of twenty cents (\$0.20) per linear foot per year (the "***Underground Transmission Payment***").

1.3.6 **Substation**. If the substation for a Project is installed on the Property, then Tenant may lease or purchase fee title to the actual acreage to be occupied by the substation (the "Substation Tract"). Upon its exercise of its rights under this paragraph, and the delivery to it of a deed or lease in a form mutually acceptable to the parties (approval as to which shall not be unreasonably withheld), Tenant shall pay Landlord a sum equal to one and one-half times (1-1/2) the then-current fair market value of the measured substation area, and the sum of five hundred dollars (\$500) per year, per acre, of such measured substation area..

1.3.7 **Fair Market Value**. For purposes of Sections 1.3.5 and 1.3.6, the current fair market value of the Property within the Non-Turbine Easement or the Substation Tract shall be an amount reasonably agreed to by Landlord and Tenant. If Landlord and Tenant are unable to agree on such fair market value, the fair market value shall be determined by written appraisal performed by an independent appraiser reasonably acceptable to Landlord and Tenant.

1.4. **Exclusivity**. Tenant shall have the exclusive right to develop and use the Property for wind energy purposes and to convert all of the wind resources of the Property; provided, however, that nothing expressly or impliedly contained in this Lease or represented to Landlord shall be construed as requiring Tenant to undertake construction, installation or operation of any Wind Power Facilities on the Property. Landlord shall cooperate with Tenant and each Subtenant in connection with its Operations, and, upon request by Tenant, shall make available to Tenant for inspection copies of all reports, agreements, surveys, plans and other records of Landlord, if any, that relate to Property or would facilitate Tenant's Operations.

1.5. **Tenant's Reserved Rights**. Tenant shall have a first right of refusal and option, and Landlord hereby grants such an exclusive and irrevocable first right of refusal and option, to match the terms under which any third party seeks to enter into an agreement for wind power development of lands in which Landlord has or acquires an interest after the Effective Date and which is located within one half mile of the boundaries of the Property. Such option and first right of refusal shall be effective as to any agreements which would take effect during the Term of this Lease. If Landlord receives any such third party offer to enter into an agreement, full particulars of the same shall be delivered to Tenant, and Tenant shall have thirty (30) days within which to notify Landlord that Tenant elects to enter into an agreement on the specified terms and conditions.

1.6 **Landlord's Reserved Rights**. Subject to the rights of Tenant under this Lease, Landlord hereby reserves the right to use the Property for any purpose (including but not limited to agriculture, ranching, hunting, oil, gas, water and other mineral exploration and development, and geophysical and archeological exploration), and to lease the Property and grant easements on, over, under and across the Property to other persons and entities for such purposes (and any income derived by Landlord from such use, leasing or easement granting shall belong entirely to Landlord); provided, however, that (a) such uses, leases and easements shall not include wind energy development or the installation or use of any facilities related to wind energy development or generation (which rights and uses are exclusively granted to Tenant in this Lease), (b) such uses, leases and easements shall be for purposes and activities that are not and will not be inconsistent with any of Tenant's or any Subtenant's Projects or Operations, or Tenant's enjoyment of the rights granted to it under this Lease and (c) any such leases and easements entered into after the

Effective Date shall expressly provide that they are subject and subordinate in all respects to this Lease and to the rights of Tenant and any Subtenants hereunder. Notwithstanding the foregoing, if there is any conflict or disagreement between the Parties regarding their respective rights to develop and utilize the Property, then Tenant's use (for the purposes permitted in this Lease) shall have first priority. With respect to any hunting activities at the Property, Tenant may establish reasonable limitations to the use of the Property for such purposes as appropriate to protect Tenant's Wind Power Facilities and persons constructing, servicing or removing such Wind Power Facilities and no hunting shall be permitted during the periods identified in writing to Landlord for the initial construction of the Wind Power Facilities or the scheduled maintenance of the Wind Power Facilities.

SECTION 2 - TERM

2.1 **Option Term.** This Lease shall initially be for a term (the "**Option Term**") commencing on the Effective Date and, unless this Lease is terminated earlier as provided herein, ending on the sooner to occur of (a) five (5) years after the Effective Date or (b) the date on which the Operation Term (as defined below) commences. During this Option Term, Tenant will be conducting Diligence related to assessing the viability of potential Wind Power Facilities on the Property.

2.1.1 In Tenant's sole discretion, Tenant may elect, by giving Landlord written notice within thirty (30) days of the end of the Option Term, to continue its Diligence (the "**Extended Option Term**"). The Extended Option Term shall begin at the end of the Option Term and shall end on the sooner of (a) three (3) years after such end of the Option Term (provided, if Tenant is making a good faith effort to develop the Project at the end of such period, such outside date shall be extended up to two (2) additional years as long as Tenant continues to make such good faith effort), or (b) the date on which the Operation Term (as defined below) commences.

2.1.2 If Tenant decides, either during the Option Term or during the Extended Option Term, not to build any Wind Power Facilities on the Property, then Tenant, in addition to adhering to its responsibilities under Section 11.3, shall share a copy of all wind data collected during such Option Term and Extended Option Term, if applicable, without any representation or warranty, to Landlord within ninety days of Tenant's written notification to Landlord of such decision. Nothing in this Lease or otherwise shall be construed as requiring Tenant to install or operate Turbines or any other Wind Power Facilities, or to conduct any other business, or to use the Property.

2.2. **Operation Term.** If the Wind Power Facilities achieve commercial operation (the "Commencement Date"), the Lease shall automatically extend for thirty (30) years, effective as of such Commencement Date, which shall also coincide with the end of the Option Term or the Extended Option Term, as appropriate (the "**Operation Term**"). In addition, Tenant shall have the sole right and option (the "**Lease Extension Option**") to extend the term of this Lease for fifteen (15) years beyond the end of the Operation Term (the "**Extended Operation Term**") by providing written notice to Landlord within thirty (30) days of the end of the Operation Term. The Extended Operation Term shall commence upon the expiration of the Operation Term. The terms and conditions set forth in this Lease shall continue and remain in effect during the Operation Term and the Extended Operation Term, if applicable. As used herein, the phrase "**Term Of This Lease**" means, collectively, (a) the Option Term, (b) the Extended Option Term, (c) the Operation Term,

and (d) the Extended Operation Term. Notwithstanding the foregoing, in no event shall the term of this Lease be longer than the longest period permitted by Law.

2.3. **Memorandum of Lease.** Coincident with the execution of this Lease, the Parties shall sign, cause to have notarized, and record the Memorandum of Lease in the form attached hereto as **Exhibit "B"** and incorporated herein by this reference (the "Memorandum of Lease") in the Official Records of Real Property for the County in which the Property is located (the "Official Records"). Landlord also agrees, if so requested by Tenant, at any time to execute a revised version of the Memorandum of Lease in recordable form setting forth the names of the parties, the term of the Lease, the description of the Property, and any other information required to satisfy the requirements of Illinois law, as such requirements may change from time to time, which Tenant may record in order to give record notice to third parties of this Lease.

SECTION 3 - RENT

3.1. **Rent During the Option Term.** Tenant shall pay to Landlord, as rent (the "**Option Term Rent**"), in the amount of Five Dollars (\$5.00) per acre, which shall be paid on the earlier of (a) sixty (60) days from the Effective Date; or (b) within fifteen (15) days of the Tenant's receipt of a title search of the Property from a reputable land title company, where the results from such title search are subject to the provisions of Section 8. If Tenant exercises its option to extend the Option Term pursuant to Section 2.1.1 above, Tenant shall pay to Landlord, the extension rent (the "**Extended Option Term Rent**"), in the amount of Five Dollars (\$5.00) per acre per year for the first three (3) years of the Extended Option Term, such amount to be paid in advance for each of such three (3) years of the Extended Option Term, with the first such payment being due within thirty (30) days of Tenant's exercise of such option and subsequent payments being due within thirty (30) days after each anniversary of the end of the Option Term. Tenant acknowledges that Landlord shall not be obligated to pay any Extended Option Term Rent for the fourth (4th) or fifth (5th) year, if any, of the Extended Option Term.

3.2. **Rent During the Operation Term.**

3.2.1. For each calendar year that occurs during the Operation Term and the Extended Operation Term (each, an "**Operation Term Year**"), Tenant shall pay to Landlord, as rent (the "**Rent**"), the sum of (i) the product of (a) the amount of revenues received by the Tenant from the gross revenues generated by the Generating Units then located on the Property over the course of an Operation Term Year ("Gross Revenues"), and (b) a royalty rate of three percent (3.0%); and (ii) the Additional Net Rent, as defined in Section 3.4.

3.2.2. Rent shall be calculated on a monthly basis, and shall be paid no later than seventy-five (75) days after the end of such calendar month.

3.2.3. For purposes hereof, Gross Revenues shall not include revenues received by Tenant: (a) from the sale, lease, sublease, assignment, transfer or other disposition of Wind Power Facilities or any other of Tenant's or any Subtenant's improvements, trade fixtures or chattel (or any interest therein); (b) from sales of electrical energy produced by Generating Units not located on the Property; (c) from any rental or other payment received by Tenant in exchange for Tenant's assigning, subleasing, mortgaging or otherwise transferring all or any interest of Tenant in this Lease; (d) from the sale, modification or termination of any obligation under a power purchase contract; (e) from parasitic or other loss (i.e., electrical energy used to power Wind Power Facilities or Operations, or lost in the course of transforming, shaping, transporting or delivering the

electricity); (f) from sales of electrical energy for which payment is not received (including because of a default by the purchaser thereof); (g) as reimbursement or compensation for wheeling costs or other electricity transmission or delivery costs; or (h) from federal production tax credits or other production tax credits or investment tax credits (collectively "Investment Tax Credits"), or any reimbursement thereof received by Tenant or a Subtenant in connection with any Project. Gross Revenues shall include proceeds received from the sale of any credits credit certificates or similar items such as those for greenhouse gas reduction or the generation of green power, renewable energy or alternative energy, provided that in no event shall such include Investment Tax Credits. Except as provided above in this Section, Production Rent shall be calculated without offset for any (i) costs of producing, gathering, storing, transporting, marketing or otherwise making electricity ready for sale, (ii) charges or fees imposed upon Tenant, including, but not limited to, charges or fees for transmission service, financial transmission rights, transmission losses, ancillary services, congestions costs, or fees or charges imposed by the purchaser and/or the applicable transmission operating company, and (iii) federal, state, or local taxes incurred by Tenant in connection with the sale of electricity.

3.3. Commingling; Prorations.

3.3.1. In the event that electrical energy produced from Generating Units located on the Property is commingled with electrical energy produced from Generating Units located on other lands, then Tenant shall, using such methods, calculations, procedures and/or formulae as Tenant may in good faith adopt, allocate to the Property a portion of the Gross Revenues received from such commingled electrical energy.

3.3.2. Any Rent for part of a calendar year shall be calculated based solely on the Gross Revenues actually received during such partial calendar year. Further, if at any time during the term of this Lease Landlord owns less than one hundred percent (100%) of the fee interest in the Property, then the Rent payable to Landlord hereunder shall be reduced proportionately.

3.4 **Additional Net Rent.** In addition to the Rent described above, as additional consideration for Landlord's execution, delivery and performance of this Lease, Landlord shall be entitled to a portion of the economic benefits received by Tenant (or Hoopetson Wind LLC ("EM") if EM has sold a portion of a Project to a third party) related to the Project, where Tenant will pay Landlord an additional annual amount ("Additional Net Rent") equal to one half of one percent (0.5%) of the annual net proceeds realized by EM from Tenant's operations on the Property. The Additional Net Rent shall be calculated based on the gross revenues received by Tenant from the sale of energy generated at the Property less all of Tenant's costs and expenses incurred in connection with Tenant's generation of energy at the Property. Owner shall receive from Tenant each Additional Net Rent payment within seventy five (75) days after the end of each calendar year.

To the extent that Tenant's operations at the Property are part of a larger Project, the income and expenses attributable to the Property shall be based on the percentage that the nameplate capacity of the WTGs located at the Property is to the nameplate capacity of all WTGs in the Project. Additional Net Rent shall be deemed "Rent" hereunder and in no way shall Landlord's right to such payment be deemed to create a partnership between Tenant and Landlord. Landlord shall have reasonable rights to audit Tenant's books and records for examining the calculations of Rent hereunder provided (i) request for such audit shall be made at least twenty days (20) following the date of the delivery of the statement to be audited; (ii) such audit shall be performed by a certified public accountant at the Tenant place of business where such records are maintained; (iii) only one audit may be made in any Lease Year; and (iv) Tenant shall not be required to maintain books and records for any Lease Year for more than three (3) years following the payment of Rent for amounts applicable to such Lease Year unless such books are the subject of an ongoing audit, in which case

Tenant shall not be required to maintain such books and records longer than one (1) year following the end of such audit. In the event the entire Project is sold by EM or all of the beneficial interest in EM is sold to a third party, EM shall have the right to purchase Landlord's right to the Additional Net Rent by paying to Landlord a sum equal to one half of one percent (0.5%) of the net profit realized by Tenant from such sale, and upon any such purchase Landlord's right to Additional Net Rent shall terminate.

3.5 **Minimum Rent.** Notwithstanding the foregoing, if Rent for any Operation Term shall be less than \$4,000 per megawatt of nameplate capacity of Generating Units located on the Property (the "**Minimum Rent**"), Tenant shall pay Landlord the difference in cash no later than 75 days after the end of the Operation Term Year. The amount of the Minimum Rent shall be adjusted for inflation pursuant to Section 3.7 on the second (2nd) anniversary of the Effective Date and each anniversary thereafter during the Operation Term.

3.6 **Inflationary Adjustments.** Any amounts under this Lease that are expressly stated to be adjusted for inflation shall be adjusted annually by the increase in the Consumer Price Index (Midwest Urban; All items; 1982-84=100) published by the Bureau of Labor Statistics, U.S. Department of Labor ("**Index**"), but not less than two percent (2%) per year. The base for computing the increase in the Index for this purpose shall be the Index for the month of November preceding the date on which such adjustment is to be made (the "**Beginning Index**"). The adjustment shall be effective for every full calendar year following the date of any adjustment and shall be determined by multiplying such amount by a fraction, the numerator of which is the Index published for the month of November prior to each adjustment and the denominator of which is the Beginning Index. If the Index is discontinued or revised, such other government index or computation by which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3.7 **Other Rent Payments.** If, on the Commencement Date, no amounts are payable by Tenant under either Section 1.3.5 or Section 3.2, with the exception of an Underground Transmission Payment as described in Section 1.3.5, Tenant shall pay Landlord annually twenty-five dollars (\$25) per acre of area (up to one hundred (100) acres) contained within the Property (or such portion thereof as shall be covered by this Lease from time to time) within thirty (30) days after the Commencement Date and each anniversary of the Commencement Date thereafter during the Operation Term (the "**Non-WTG Payment**"). Such Non-WTG Payment shall be adjusted for inflation pursuant to Section 3.6 on the second (2nd) anniversary of the Commencement Date and each anniversary thereafter. If Landlord is only being compensated by Tenant with an Underground Transmission Payment under Section 1.3.5 and Section 3.2 of this Agreement, then Tenant shall also pay Landlord the Non-WTG Payment in addition to the Underground Transmission Payment.

SECTION 4 - SPECIFIC COVENANTS BY TENANT

4.1. **Road Construction and Maintenance.** Tenant shall maintain in good condition any roads it uses on the Property (each, the "**Tenant Roads**"). Landlord reserves the right to use and to grant others the right to use any Tenant Roads; provided, however, that Tenant shall be reimbursed for an equitable share of the road maintenance costs to the extent the Tenant Roads are used by anyone other than Landlord.

4.2. **Taxes.** Tenant shall pay any property taxes levied or assessed by any governmental authority upon the Wind Power Facilities installed on the Property by Tenant or a Subtenant. Except as expressly provided in the foregoing sentence, Tenant shall not be responsible for paying any

taxes attributable to (a) improvements or facilities installed by Landlord or others on the Property or (b) the underlying value of the Property, which taxes and assessments shall be paid by Landlord when due. Tenant shall have the right, in its sole discretion, to contest by appropriate legal proceedings (which may be brought in the name(s) of Landlord and/or Tenant where appropriate or required), the legal validity or amount of any assessments or taxes the payment of which Tenant is responsible for hereunder. The Parties agree to fully cooperate to obtain any available tax refunds or tax abatements with respect to the Property.

4.3 Construction Liens. Tenant shall keep the Property free and clear of all liens and claims of lien for labor and services performed on, and materials, supplies and equipment furnished to, the Property in connection with Tenant's or any Subtenant's Operations; provided, however, that Tenant shall have the right, in its sole discretion, to contest such liens and claims by appropriate legal proceedings (which may be brought in the name(s) of Landlord and/or Tenant where appropriate or required). Landlord shall cooperate in every reasonable way in such contest, and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred for such cooperation.

4.4 Location and Construction of the Wind Energy Facilities. Prior to the commencement of construction activities on the Property, Tenant shall consult with Landlord and provide it with a proposed site map when first established (and as updated) by Tenant for the purpose of establishing mutually acceptable locations for any roadways, cattle guards, gates and other improvements to be installed by Tenant, or its contractors, on the Property. Tenant shall make the ultimate decision as to the placement of such roadways, cattle guards, gates and other improvements. A final site map shall be provided to Landlord locating the Windpower Facilities situated on the Property, including underground interconnections, using the most current technology that is commercially feasible and commonly used for such purposes. Any such roadways, cattle guards or gates shall be constructed in such a manner so as to minimize the adverse impact on Landlord's ongoing agricultural operations while maximizing the potential of the Wind Power Facilities. Any water utilized by Tenant, or its contractors, in connection with the construction and maintenance of the Wind Power Facilities shall be purchased from Tenant at the prevailing market rate for water in the area.

4.5 Security and Maintenance. At Landlord's request, Tenant shall place a lock on any gate accessing the Property from a public roadway so as to prevent unauthorized access by third parties and provide Landlord with a key or combination to the same. Additionally, Tenant shall keep all fixtures and improvements installed or constructed by Tenant free and clear of trash, debris, weeds and other noxious vegetation. Tenant shall further regularly maintain any roadways accessing the Wind Power Facilities. In the event Landlord shall identify a specific person or persons accessing the Property on behalf of Tenant who shall fail to keep the Property reasonably free and clear of trash and debris resulting from activities by, or at the request of, Tenant, Landlord may deny such specific person or persons access to the Property by giving ten (10) days written notice to Tenant.

4.6 Affiliate Sales. All contracts or transactions entered into between Tenant any person or entity for the sale of production, energy, electricity, power, capacity and/or renewable energy credits, pollution credits or other associated credits shall be the result of arms length negotiations and fairly representative of contracts or transactions entered into between unrelated or unaffiliated parties within the industry. Sales to Affiliates of Tenant shall be permitted, subject to the terms of this Section 4.6. As used herein, "Affiliate" means any person or entity that directly or indirectly owns 50% or more of the equity interests in such entity.

4.7 Drain Tile Repair by Tenant. Tenant shall make commercially reasonable repair (including replacement of damaged tile as necessary) of any tile damage that Tenant's construction or operation activities cause on Landlord's property, and Tenant will pay crop damage for any crops damaged by flood due to broken tile which would not have occurred but for Tenant's activities on the property. In the event that any such damage is not appropriately repaired, Landlord shall have up to 36 months from date of alleged damage to identify such damaged area, and substantiate that such damage was caused by Tenant's activities. Underground electrical wires and cables shall be installed with a trencher, and to a depth not less than 48 inches below the natural surface of the ground. All farm drainage tile which intersects the Tenant's underground electrical wires and cable shall be identified and repaired and/or replaced if damaged, by a contractor qualified in farm drainage. Tenant agrees to consult, in good faith, with Landlord regarding the repair and/or replacement of said drainage tile. Landlord shall have the right to inspect all tile repairs and connections prior to backfill, provided Landlord is immediately available to do so. If Landlord is not available, Tenant's contractor shall provide Landlord with digital photographs of the repair. Upon completion of a Project and the commercial production of electricity from all of the WTGs therein, Tenant shall provide Landlord with i) a GPS coordinate reading of the location of such repaired or replaced tile and ii) an illustration depicting the location of all underground electrical wires and cables, on the property of Landlord, as well as the intersection of all such underground improvements with the drainage tile system on Landlord's property. In the event that Landlord's activities on the Property subsequent to installation of the Wind Power Facilities and the commercial production of electricity from all of the WTGs therein shall require identification of the physical location of said wires and cables, Tenant agrees to do so, at no expense to Landlord, within five (5) days of receiving the locate request.

4.8 Connection Power Lines Buried. To the extent that power collection cables are run between the WTGs, Tenant will bury all power lines to code on the Property to a minimum depth of 48 inches below the natural surface of the Land. Tenant shall ensure that protective caution or warning tape will be buried above the cables. In regards to crossing drainage ditches, cables will either cross above ground in appropriate protective piping, or at least 48 inches below ground so as to allow for periodic backhoe dredging of such draining ditches. All cable runs will be marked at time of construction with field markers and a detailed map of the installation will be provided to Landlord and filed with appropriate authorities. Landlord shall not be liable for non-intentional damage to underground cable on the Property due to normal farming practice, including "deep tillage", provided there is no disturbance of subsurface below, 25 inches deep. Landlord shall not be responsible for any gradual erosion that reduces the effective depth of Tenant's cables. Power lines used for transmission rather than collection may be installed above ground.

4.9 Crop Damage. If Tenant causes compaction of any part of the Property which is located more than five feet (5') from the edge of the areas occupied by the Wind Power Facilities, and such compaction is reasonably expected to seriously impair crop yield in future years, Tenant shall compensate Landlord as calculated below (the "Compaction Payment"). In consideration of the Compaction Payment, no additional damages shall be paid in future years for that episode of compaction and no compensation for growing crops or crops that Landlord is prevented from planting anywhere on the Property shall be paid. The Compaction Payment will be calculated using the following formula: $\text{Unit Price} \times 400\% \times \text{Unit Yield Per Acre} \times \text{Acres Damaged} = \text{Damages}$ (but in no event more than \$6,400 per acre for compaction occurring during initial construction of a Project). Unit Price will be based on the average of the last previous March 1st and September 1st Chicago Board of Trade prices for that crop. Yield will be the average of the previous three (3) years' yields according to Landlord's records for the smallest parcel of land that includes the damaged area. If Landlord does not have yield records available, the parties will use federal Farm Service Agency records or other commonly used yield information available for the area. The parties shall try in

good faith to agree to the extent of damage and acreage affected. If they cannot agree, they shall promptly have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent. Payment shall be made within thirty (30) days after determining extent of damage. Tenant shall have no obligation to restore the soils to their former state.

4.10 **CRP Lands.** If Tenant installs Turbines, or if other equipment on land in the Property currently under the Conservation Reserve Program ("CRP"), the Tenant shall assist Landlord in separating out lands used for Turbines, roads, and other Wind Power Facilities from the CRP program, and shall compensate the Landlord for loss of CRP income (and documented penalties not to exceed \$20,000) on the acres so removed from CRP. Tenant shall also employ native prairie seeds in a regional re-seeding and restoration effort around areas removed from the CRP program. Tenant will coordinate and work closely with the FSA office to plan and implement this effort, and shall pay all costs of such re-seeding.

SECTION 5 - SPECIFIC REPRESENTATIONS, WARRANTIES AND COVENANTS BY LANDLORD

5.1. **Representations and Warranties.** Landlord hereby represents and warrants to Tenant that, as of the Effective Date, the following are true, correct and complete; and Landlord acknowledges and agrees that such representations and warranties (and any other representations, warranties and certifications of Landlord contained in this Lease) may be conclusively relied upon by (a) Tenant, (b) any existing or proposed Subtenant or assignee of Tenant, (c) any existing or proposed Lender (as defined below) and (d) any title company proposing to issue title insurance to Tenant or any such assignee, Subtenant or Lender:

5.1.1. Landlord is the fee title owner of the Property.

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

5.1.3. Except for those matters disclosed on Exhibit C, (a) this Lease and the Property are in full compliance with all applicable federal, State and local laws, statutes, ordinances, orders, rules and regulations (each, a "**Law**"), (b) this Lease does not violate any contract, agreement, instrument, judgment or order to which Landlord is a party or which affects the Property, (c) there is no Law that could prohibit or restrict Tenant's Operations or the exercise of any of Tenant's other rights under this Lease or the Project Easements and (d) there are no commitments or agreements with any governmental agency or public or private utility affecting the Property or any portion thereof that have not been disclosed in writing by Landlord to Tenant.

5.1.4. Without limiting the generality of the foregoing, to the best of Landlord's knowledge, (a) no underground tanks are now located or at any time in the past have been located on the Property or any portion thereof, (b) no asbestos-containing materials, petroleum, explosives or other substances, materials or waste which are now or hereafter classified or regulated as hazardous or toxic under any Law (each, a "**Hazardous Material**") has been generated, manufactured, transported, produced, used, treated, stored, released, disposed of or otherwise deposited in or on or allowed to emanate from the Property or any portion thereof other than as permitted by all health, safety and other Laws (each, an "**Environmental Law**") that govern the

same or are applicable thereto and (c) there are no other substances, materials or conditions in, on or emanating from the Property or any portion thereof which may support a claim or cause of action under any Environmental Law. Landlord has not received any notice or other communication from any governmental authority alleging that the Property is in violation of any Environmental Law.

5.1.5. To the best of Landlord's knowledge, there are no recorded or unrecorded liens, encumbrances, covenants, conditions, reservations, restrictions, easements, leases, subleases, occupancies, tenancies, mineral rights, water rights, options, rights of first refusal or other matters affecting, relating to or encumbering the Property or any portion thereof (each, an "**Encumbrance**"), the existence, use, foreclosure or exercise of which could reasonably be expected to delay, interfere with or impair Operations or the exercise of any of Tenant's other rights under this Lease or the financing of any Project. Without limiting the generality of the foregoing, except as disclosed in writing to Tenant prior to the Effective Date, (i) there are no oil, gas or other mineral or water leases in, on or affecting the Property or any portion thereof, (ii) there are no leases or easements affecting the Property or any portion thereof that could entitle any person or entity to construct or operate Generating Units on the Property or otherwise utilize the Property or any part thereof in connection with a wind energy project, (iii) no person or entity has any right or claim against the Property or against Landlord that is or could potentially be adverse to the rights and interests of Tenant hereunder and (iv) there are no persons in possession of the Property or any part thereof except the Parties. Further, except as disclosed in writing to Tenant prior to the Effective Date, there have been no services rendered, work done or materials furnished in connection with repair, improvement, development, construction, removal, alteration, demolition or any other similar activity on or incident to the Property or any portion thereof within one hundred and twenty (120) days prior to the Effective Date; and there are no outstanding or unasserted claims, or persons entitled to any claim or right to a claim, for mechanics' or materialman's liens against the Property or any portion thereof. Landlord and the Property are in full compliance with any Encumbrance that affects or encumbers the Property or any portion thereof.

5.1.6. To the best of Landlord's knowledge, there are no physical conditions of the Property, nor any other material adverse facts or conditions relating to the Property or any portion thereof, that could delay, interfere with or impair Operations or the exercise of any of Tenant's other rights under this Lease or the financing of any Project, or which could, with the passage of time, the giving of notice or both, have such an effect.

5.1.7 Except as disclosed in writing to Tenant prior to the Effective Date, there is no ongoing development, drilling, mining, production or related activities on the Property or any portion thereof with respect to any oil, gas or other mineral or water resources.

5.2. **No Interference.** Neither Landlord's activities nor the exercise of any rights or interests heretofore or hereafter given or granted by Landlord to any Related Person (as defined below) of Landlord, whether exercised on the Property or elsewhere, shall, currently or prospectively, interfere with, impair or materially increase the cost of (a) the construction, installation, maintenance or operation of any Project, (b) vehicular or pedestrian access to, or the transmission of energy from, the Property, any Wind Power Facilities or any Project, (c) any Operations of Tenant or any Subtenant on the Property or with respect to any Project or (d) the undertaking of any other activities or the free enjoyment and exercise of any other rights or benefits given to or permitted Tenant hereunder. If Landlord has any right to influence, prohibit or control the location of sites for exploration, drilling, recovery and/or production of minerals, hydrocarbons, water, gravel or any similar resource on or under the Property, then Landlord shall exercise such right so as to minimize interference with any of Tenant's Operations. Without limiting the generality of the foregoing, neither Landlord nor any Related Person of Landlord shall (i) interfere with or impair (A) the free,

unobstructed and natural availability, accessibility, flow, frequency, speed or direction of air or wind over and across the Property (whether by planting trees, constructing buildings or other structures, or otherwise), (B) the operation of Generating Unit rotors that overhang the Property or (C) the lateral or subjacent support for the Wind Power Facilities or (ii) engage in any other activity on the Property or elsewhere; in each case that might cause a decrease in the output or efficiency of Tenant's or any Subtenant's Generating Units. As used in this Lease, the term "Related Person" means any member, limited or general partner, principal, officer, director, shareholder, predecessor-in-interest, successor-in-interest, employee, agent, relative, heir, representative, contractor, sublessee, grantee, licensee, invitee or permittee of a specified Party, or any other person or entity that has obtained or hereafter obtains rights or interests from, under or through such Party

5.3. **Ownership of Wind Power Facilities.** Landlord shall have no ownership or other interest in any Wind Power Facilities installed on the Property, and Tenant may remove any or all Wind Power Facilities at any time and from time to time. Without limiting the generality of the foregoing, to the extent permitted by Law, Landlord hereby waives any statutory or common law lien that it might otherwise have in or to the Wind Power Facilities or any thereof. In the event that such waiver is not enforceable or permitted by Law, then Landlord hereby subordinates each such statutory or common law lien to any Lender's Lien (as defined below) from time to time existing against the Wind Power Facilities or any thereof.

5.4. **Quiet Enjoyment; Liens and Encumbrances.** During the entire term of this Lease, (a) Tenant shall have peaceful and quiet enjoyment of the Property, without hindrance or interruption by Landlord or any other person or entity and (b) Landlord shall protect and defend the right, title and interest of Tenant hereunder from any other rights, interests, title and claims of or by any Related Person of Landlord or any other third person or entity. Without limiting the generality of the foregoing:

5.4.1. Landlord shall not, without Tenant's prior written approval, enter into, alter, modify or extend any agreement affecting the Property or any part thereof or allow any Encumbrance to attach to the Property or any portion thereof, if the same could reasonably be expected to delay, interfere with or impair Operations or the exercise of any of Tenant's other rights under this Lease or the financing of any Project.

5.4.2. On the Effective Date, the Property shall be free and clear of all monetary Encumbrances other than those expressly approved in writing by Tenant, and Landlord represents and warrants to Tenant that it has delivered to Tenant a true, complete and correct copy of each such Encumbrance together with copies of all related promissory notes. After the Effective Date, any mortgage, deed of trust or other Encumbrance placed or permitted to be placed on the Property or any part thereof by (or because of the acts or omissions of) Landlord, shall be subject to (a) this Lease (and any amendments or supplements thereto, regardless whether or not then executed or recorded) and the rights of Tenant and any Subtenant thereunder, (b) any Sublease, whether or not then in existence, (c) any Lender's Lien (as defined below), whether or not then in existence and (d) any and all documents executed or to be executed by Landlord, Tenant or any Subtenant in connection with this Lease, the Easements or the Property. Except as expressly provided herein, no Subtenant shall acquire any rights greater than those rights held by the Tenant under this Lease.

5.4.3. If at any time during the term of this Lease an Encumbrance is found or claimed to exist against the Property or any portion thereof (regardless whether the same existed as of the Effective Date or was created thereafter), and Tenant in its sole discretion determines that the existence, use, operation, implementation or exercise of such Encumbrance could reasonably be expected to delay, interfere with or impair Operations or the exercise of any of Tenant's other rights

under this Lease or the financing of any Project, then Tenant may, in its sole discretion, be entitled to obtain a subordination, non-disturbance agreement, consent or other agreement (in a form and containing provisions reasonably requested by Tenant) from the holder of such Encumbrance that will eliminate some or all of such risks; and Landlord shall fully and promptly cooperate with Tenant's efforts to obtain such subordination, non-disturbance agreement, consent or other agreement.

5.4.4. If any Encumbrance (including (a) the lien of property taxes and assessments or (b) any mechanic's or materialman's lien arising from construction by Landlord or any Related Person of Landlord) provides for payment or performance of obligations by Landlord, then Landlord shall, prior to delinquency make such payment and perform such obligations.

5.5. **Permitting.** Tenant or any Subtenant, if it so elects and at its own cost, may process and obtain any permit, approval, license or entitlement (including any zoning change, zoning approval, land use permit, variance, tax incentive or tax abatement) in connection with Operations, Wind Power Facilities or any Project (generally, the "Permitting Process"). Further, Tenant and each Subtenant shall have the right to (a) meet with governmental agencies and with any other persons or entities with whom Landlord has contractual arrangements relating to, or which have jurisdiction over or an interest in, the Property or any portion thereof and (b) discuss with any such agencies, persons and entities the terms of this Lease, the terms of any contractual arrangements between Landlord and any such agency, person or entity, and any other matters relating to the Property or to Tenant's or any Subtenant's Operations, Wind Power Facilities or Projects. Landlord agrees to execute any and all applications, statements, and other instruments reasonably necessary as part of the Permitting Process, and Landlord also agrees not to oppose any activities conducted as part of the Permitting Process. Landlord hereby appoints Tenant or any Subtenant as Landlord's agent in fact to execute any and all such applications, statements, and other instruments related to the Permitting Process in the name of Landlord, if Landlord is unavailable or otherwise fails to sign the same. Tenant or any Subtenant agrees to provide to Landlord copies of all permits, licenses, approvals, certificates, and other governmental or regulatory matters, which may be obtained as part of the Permitting Process.

5.6. **Division Into Separate Leases.** Tenant may use the Property for one Project or Tenant may divide the Property into multiple separate Projects. In the event that Tenant elects to divide the Property into multiple projects, Landlord shall, within thirty (30) days after written request from Tenant, and without demanding any additional consideration, bifurcate this Lease by entering into and delivering to Tenant two or more new leases (which shall supersede and replace this Lease) that provide Tenant with separate Lease Estates (as defined below) in different portions of the Property, as designated by Tenant. Each of such new leases shall: (a) specify the portion(s) of the Property to be covered thereby, (b) contain the same terms and conditions as this Lease (except for any requirements that have been fulfilled by Tenant or any Subtenant prior to the execution of such new leases, and except for any modifications that may be required to ensure that each Party's combined obligations under such new leases do not exceed such Party's obligations under this Lease) and be in a form reasonably acceptable to Tenant and Landlord; (c) be for a term equal to the remaining term of this Lease; (d) contain a grant of access, transmission, communications, utility and other easements for the benefit of the bifurcated Lease Estates, covering such portion or portions of the Property as Tenant may designate; (e) require payment to Landlord of only a proportionate amount of the Rent; and (f) enjoy the same priority as this Lease over any lien, encumbrance or other interest created by Landlord. Further, notwithstanding any other provision of this Lease, in the event of any uncured default under any such new lease, such event of default shall not affect, or cause a termination of, any other such new lease or any rights or interests granted under any other such new lease.

SECTION 6 - MUTUAL COVENANTS

6.1. **Insurance.** Commencing with the beginning of construction of the Wind Power Facilities (excluding any construction of wind testing towers or other installations made only for investigating the suitability of the Property for the installation of WTGs), Tenant (the "***Insuring Party***") shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance protecting the other Party (the "***Insured Party***") against loss or liability caused by the Insuring Party's or its Related Persons' occupation and use of, and activities on, the Property, in an amount not less than Four Million Dollars (\$4,000,000.00) of combined single limit coverage per occurrence, accident or incident. The Insured Party shall be named as additional insured in such policy. Upon request by the Insured Party, the Insuring Party shall promptly deliver a certificate of such insurance to the Insured Party.

6.2. **Compliance With Law.** Each Party shall, at its expense, comply (and cause its Related Persons to comply) in all material respects with each Law applicable to its (or their) operations or activities on the Property; provided, however, that each Party shall have the right, in its sole discretion, to contest, by appropriate legal proceedings (which may be brought in the name(s) of Landlord and/or Tenant where appropriate or required), the validity or applicability of any such Law, and the other Party shall cooperate in every reasonable way in such contest, at no out-of-pocket expense thereto.

6.3. **Hazardous Materials.** Neither Party nor its Related Persons shall violate any Environmental Law on, under or with respect to the Property. Each Party shall, at its sole cost and expense, promptly clean up, remove or take other legally-authorized remedial action with regard to any soil, ground water or other contamination and damage caused by Hazardous Materials for which it or its Related Persons is/are responsible, and for which clean up, removal or remedial action is required pursuant to any Environmental Law. Each Party shall (a) give the other Party written notice of any breach or suspected breach of the foregoing covenant, promptly upon learning of such breach, (b) undertake such clean up, removal or remedial action in a manner designed to minimize the impact on the other Party's and its Related Persons' activities and operations on the Property and (c) cooperate with the other Party and its Related Persons with regard to any scheduling or access to the Property in connection with any action required by this Section.

6.4. **Indemnification.**

6.4.1. Each Party (the "***Indemnifying Party***") shall defend, indemnify and hold harmless the other Party and such other Party's Related Persons (each, an "***Indemnified Party***") from and against any and all claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including attorneys', investigators' and consulting fees, court costs and litigation expenses (collectively, "***Claims***") suffered or incurred by such Indemnified Party, arising from (a) physical damage to the Indemnified Party's property (which (i) in Tenant's or any Subtenant's case, shall include damage to any Wind Power Facilities and (ii) in Landlord's case, shall include damage to crops and livestock), to the extent caused by the Indemnifying Party or any Related Person thereof, (b) physical injuries or death (including by reason of any hunting on the Property) to or of the Indemnified Party or the public, to the extent caused by the Indemnifying Party or any Related Person thereof, (c) any breach of any covenant, and any failure to be true of any representation or warranty, made by the Indemnifying Party under this Lease, (d) the presence or release of Hazardous Materials in, under, on or about the Property, which are or were brought or permitted to be brought onto the Property by the Indemnifying Party or any Related Person thereof or (e) the violation of any Environmental Law by the Indemnifying Party or any Related Person

thereof; provided, however, that in no event shall the Indemnifying Party be responsible for defending, indemnifying or holding harmless any Indemnified Party to the extent of any Claim caused by, arising from or contributed to by the negligence or willful misconduct of such Indemnified Party.

6.4.2. Notwithstanding Section 6.4.1, (a) the reference to property damage in such Section does not include losses of rent, business opportunities, profits and the like that may result from the conduct of Operations on the Property by Tenant or any Subtenant as permitted by this Lease, (b) the foregoing indemnity shall not extend to damage or injury attributable to risks of known dangers associated with electrical generating facilities, such as electromagnetic fields and (c) in no event shall Tenant or any Subtenant be liable for any damage, injury or death that is not caused by its own (as opposed to its manufacturers', suppliers' or any other persons' or entities') negligence or willful misconduct.

SECTION 7 - ASSIGNMENT, SUBLEASING AND MORTGAGING

7.1. **Right To Assign, Sublease and Encumber.** Tenant and each Subtenant shall have the absolute right at any time and from time to time, without obtaining Landlord's consent, to: (a) assign, sublease or grant an easement, Sublease or license in, or otherwise transfer all or any portion of its right, title or interest under this Lease, in its Sublease and/or in any Wind Power Facilities to any person or entity (each (excluding a transfer to or from a Lender), a "**Transfer**"); and/or (b) encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument) all or any portion of its right, title or interest under this Lease, in its Sublease and/or in any Wind Power Facilities to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation (a "**Lender's Lien**"). As used herein, (i) the term "**Subtenant**" means any person or entity that receives a Transfer from Tenant of less than all of the right, title or interest under this Lease or in one or more Easements, (ii) the term "**Sublease**" means the grant or assignment of such rights from Tenant to a Subtenant and (iii) the term "**Lender**" means any financial institution, hedging counterparty or other person or entity that from time to time (1) takes a security interest in this Lease, the Project or any Wind Power Facilities or (2) provides a secured guarantee or secured financing for some or all of Tenant's or a Subtenant's Project, Wind Power Facilities or Operations, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns. References to Tenant in this Lease shall be deemed to include any person or entity that succeeds (whether by assignment or otherwise) to all of the then-Tenant's then-existing right, title and interest under this Lease.

7.2. **Release From Liability.** Upon a Sublease, Tenant shall not be released from any of its obligations or liability to Landlord hereunder. However, upon a Transfer of all of the then-Tenant's then-existing right, title or interest under this Lease or in an Easement, the assigning Tenant shall be released from all of its obligations and liability under this Lease and/or such Easement (as the case may be), so long as the assignee assumes Tenant's obligations and liabilities with respect to the right, title and interest so transferred.

7.3. **Transfer By Landlord.** Landlord shall not transfer any right or obligation under this Lease, including without limitation, the right to receive rental payments, except in connection with the transfer of a full fee interest to a new owner. Landlord shall not transfer the fee interest to a new owner and reserve any rights under this Lease, it being the parties intention that the Landlord under this Lease shall always be the fee owner of the land which is the subject of this Lease.

7.4 **Owner Debt Service.** If any amounts become payable by Landlord for debt service or similar matters with respect to the Property, and Landlord fails timely to pay such amounts, resulting in a possibility that the interest of Landlord in the Property may be foreclosed or sold, then Tenant may (but need not) pay such amounts on behalf of and as agent for Landlord, and deduct the amount of such payments from the next payments of Rent due from Tenant to Landlord.

SECTION 8 - DEFAULT; REMEDIES

8.1. **Default.** If a Party (the "***Defaulting Party***") fails to timely perform its obligations hereunder (an "***Event of Default***"), then it shall not be in default hereunder unless it fails to cure such Event of Default within sixty (60) days after receiving written notice from the other Party (the "***Non-Defaulting Party***") stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "***Notice of Default***"); provided, however, that if the nature or extent of the obligation or obligations is such that more than sixty (60) days are required, in the exercise of commercially reasonable diligence, for performance of such obligation(s), then the Defaulting Party shall not be in default if it commences such performance within such sixty (60) day period and thereafter pursues the same to completion with commercially reasonable diligence. In addition, an Event of Default shall occur if a Party files for protection or liquidation under the bankruptcy laws of the United States or any other jurisdiction, or has an involuntary petition in bankruptcy or a request for the appointment of a receiver filed against it, and such involuntary petition or request is not dismissed within sixty (60) days after filing.

8.2. **Payment Under Protest.** The Defaulting Party may cure any monetary Event of Default by depositing the amount in controversy (not including claimed consequential, special, exemplary or punitive damages) in escrow with any reputable third party escrow, or by interpleading the same, which amount shall remain undistributed until final decision by a court of competent jurisdiction or upon agreement by the Parties. No such deposit shall constitute a waiver of the Defaulting Party's right to institute legal action for recovery of such amounts.

8.3. **Remedies.**

8.3.1. Except as qualified by Sections 9 and 10 and the other provisions of this Section 8, upon an uncured default by a Defaulting Party under this Lease, the Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative. Such remedies shall include the right in the Non-Defaulting Party to pay or perform any obligations of the Defaulting Party that have not been paid or performed as required hereunder, and to obtain (a) subrogation rights therefor and (b) immediate reimbursement from the Defaulting Party for the actual, reasonable and verifiable out-of-pocket costs of such payment or performance.

8.3.2. Notwithstanding any other provision of this Lease or any rights or remedies that Landlord might otherwise have at law or in equity, at all times while there are Wind Power Facilities located on the Property, Landlord shall not (and hereby waives the right to) commence any action or proceeding in which termination, cancellation, rescission or reformation of this Lease is sought as a remedy, and Landlord shall be limited to seeking damages in the event of any failure by Tenant to perform its obligations hereunder; provided, however, that if Tenant fails to pay to Landlord any damages awarded Landlord in a nonappealable judgment by a court with jurisdiction, then Landlord may, after giving a Notice of Default and subject to Sections 9 and 10 hereof, terminate this Lease.

8.4. **Certificates.** Each Party (the "**Responding Party**") shall, within fifteen (15) days after written request by the other Party or any existing or proposed Subtenant or Lender (each, a "**Requesting Party**"), execute and deliver to the Requesting Party an estoppel certificate (a) certifying that this Lease is in full force and effect and has not been modified (or if modified stating with particularity the nature thereof), (b) certifying the dates to which the Rent has been paid, (c) certifying that to the best of the Responding Party's knowledge there are no uncured Events of Default hereunder (or, if any uncured Events of Default exist, stating with particularity the nature thereof) and (d) containing any other certifications as may reasonably be requested. Any such certificates may be conclusively relied upon by the Requesting Party. The failure of the Responding Party to deliver any such certificate within such time shall be conclusive upon the Responding Party 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 by the Requesting Party hereunder and (iv) the other certifications so requested are in fact true and correct.

SECTION 9 - PROTECTION OF SUBTENANTS

9.1. **Rights of Subtenants.** Subject to any limitations provided in its Sublease, each Subtenant shall be entitled to exercise all of the rights and privileges of Tenant hereunder. Without limiting the generality of the foregoing, each Subtenant shall have the right, but not the obligation, to pay any or all amounts due hereunder, and to perform any other act or thing required of Tenant hereunder, or which may be necessary or appropriate to cure any Event of Default.

9.2. **Notice of Default; Cure.** As a precondition to exercising any rights or remedies upon an alleged Event of Default by Tenant, Landlord shall deliver a copy of the applicable Notice of Default (as defined below) to each Subtenant concurrently with delivery of such Notice of Default to Tenant. The Subtenants shall collectively have the same period of time to cure said Event of Default as is given to Tenant pursuant to this Lease. If a Subtenant holds an interest in less than all of the Property, then any Event of Default by Tenant shall be remedied or deemed remedied, as to such Subtenant's interest (and Landlord shall not disturb such interest), if such Subtenant shall have cured such Event of Default as to the portion of the Property and the Wind Power Facilities in which it holds an interest.

SECTION 10 - PROTECTION OF LENDERS

10.1. **Lender's Right to Possession, Right to Acquire and Right to Assign.** A Lender shall have the absolute right to do one, some or all of the following things: (a) assign its Lender's Lien; (b) enforce its Lender's Lien; (c) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to (i) the easement estate created by this Lease (the "**Lease Estate**") or (ii) any Sublease; (d) use the access to the Property and operate any Wind Power Facilities or any portion thereof as provided to the Tenant under this Lease or a Subtenant hereunder or under a Sublease (as applicable), or cause a receiver to be appointed to do so; (e) assign or transfer the Lease Estate or Sublease to a third party; or (f) exercise any rights of Tenant or a Subtenant hereunder or under a Sublease (as applicable). Landlord's consent shall not be required for any of the foregoing; and, upon acquisition of the Lease Estate or a Sublease by a Lender or any other third party who acquires the same from or on behalf of the Lender, Landlord shall recognize the Lender or such other party (as the case may be) as Tenant's or such Subtenant's proper successor, and the Lease or the Sublease (as the case may be) shall remain in full force and effect.

10.2. **Notice of Default.** As a precondition to exercising any rights or remedies as a result of any default or alleged default by Tenant or a Subtenant, Landlord shall deliver a duplicate copy of

the applicable Notice of Default to each Lender concurrently with delivery of such notice to Tenant or such Subtenant, as applicable, specifying in detail the alleged Event of Default and the required remedy, which notice shall be delivered to such addresses provided to Tenant by each Lender.

10.3. **Cure.** A Lender shall have the same period after receipt of a Notice of Default to remedy an Event of Default, or cause the same to be remedied, as is given to Tenant or a Subtenant after Tenant's or such Subtenant's receipt of a Notice of Default hereunder or under a Sublease (as applicable), plus, in each instance, the following additional time periods: (a) thirty (30) days in the event of any monetary Event of Default; and (b) forty-five (45) days in the event of any non-monetary Event of Default; provided, however, that (a) such forty-five (45)-day period shall be extended for the time reasonably required by the Lender to complete such cure, including the time required for the Lender to obtain possession of the Property (including possession by a receiver), institute foreclosure proceedings or otherwise perfect its right to effect such cure and (b) the Lender shall not be required to cure those Events of Default which are not reasonably susceptible of being cured or performed by such party ("**Non-Curable Defaults**"). The Lender shall have the absolute right to substitute itself for Tenant or any Subtenant and perform the duties of Tenant or such Subtenant hereunder or under the Sublease (as applicable) for purposes of curing such Event of Default. Landlord expressly consents to such substitution, agrees to accept such performance, and authorizes the Lender (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all of the rights and privileges of Tenant or such Subtenant hereunder or under the Sublease (as applicable). Landlord shall not terminate this Lease or any Sublease prior to expiration of the cure periods available to a Lender as set forth above. Further, (i) neither the bankruptcy nor the insolvency of Tenant or any Subtenant shall be grounds for terminating this Lease as long as the Rent and all other amounts payable by Tenant or such Subtenant hereunder or under the Sublease (as applicable) are paid by the Lender in accordance with the terms thereof and (ii) Non-Curable Defaults shall be deemed waived by Landlord upon completion of foreclosure proceedings or other acquisition of the Lease Estate or such Sublease (as applicable).

10.4. **Deemed Cure; Extension.** If any Event of Default by Tenant or a Subtenant under this Lease or under the Sublease (as applicable) cannot be cured without obtaining possession of all or part of (a) the Property, (b) the Wind Power Facilities, (c) the Lease Estate and/or (d) the Sublease, then any such Event of Default shall nonetheless be deemed remedied if: (i) within ninety (90) days after receiving notice from Landlord as set forth in Section 10.2, a Lender acquires possession thereof, or commences appropriate judicial or nonjudicial proceedings to obtain the same; (ii) the Lender is prosecuting any such proceedings to completion with commercially reasonable diligence; and (iii) after gaining possession thereof, the Lender performs all other obligations as and when the same are due in accordance with the terms of this Lease or the Sublease, as the case may be. If a Lender is prohibited by any process or injunction issued by any court or by reason of any action of any court having jurisdiction over any bankruptcy or insolvency proceeding involving Tenant or a Subtenant, as the case may be, from commencing or prosecuting the proceedings described above, then the ninety (90)-day period specified above for commencing such proceedings shall be extended for the period of such prohibition.

10.5. **Liability.** A Lender that does not directly hold an interest in this Lease or in a Sublease, or that holds a Lender's Lien, shall not have any obligation under this Lease or such Sublease prior to the time that such Lender succeeds to absolute title to such interest. Any such Lender shall be liable to perform obligations under this Lease or such Sublease only for and during the period of time that such Lender directly holds such absolute title. Further, in the event that a Lender elects to (a) perform Tenant's obligations under this Lease or a Subtenant's obligations under a Sublease, (b) continue Operations on the Property, (c) acquire any portion of Tenant's of a

Subtenant's right, title, or interest in the Property, in this Lease or in a Sublease or (d) enter into a new lease or new Sublease as provided in Section 10.6, then such Lender shall not have any personal liability to Landlord in connection therewith, and Landlord's sole recourse in the event of default by such Lender shall be to execute against such Lender's interest in the Property and the Wind Power Facilities. Moreover, any Lender or other party who acquires the Lease Estate or a Sublease pursuant to foreclosure or an assignment in lieu of foreclosure shall not be liable to perform any obligations thereunder to the extent the same are incurred or accrue after such Lender or other party no longer has ownership of the Lease Estate or such Sublease.

10.6. **New Lease to Lender.** In the event that this Lease or a Sublease (a) terminates because of Tenant's or any Subtenant's uncured Event of Default or (b) is rejected or disaffirmed pursuant to bankruptcy law or any other law affecting creditors' rights, then, so long as a Lender has cured any such monetary Event of Default and is making commercially reasonable efforts to cure any such non-monetary Event of Default as provided herein, Landlord shall, immediately upon written request from such Lender received within ninety (90) days after any such event, without demanding additional consideration therefor, enter into a new lease or new sublease (as the case may be) in favor of such Lender, which new lease or new sublease shall be for the remainder of the terms and otherwise under the same terms and conditions of the Lease or sublease. At the option of the Lender, the new lease or sublease may be executed by a designee of such Lender, without the Lender assuming the burdens and obligations of Tenant or the Subtenant thereunder. If more than one Lender makes a written request for a new lease or sublease pursuant hereto, then the same shall be delivered to the Lender whose Lender's Lien is senior in priority.

10.7. **Lender's Consent.** Notwithstanding any provision of this Lease to the contrary, (a) Landlord shall not agree to a modification or amendment of this Lease if the same could reasonably be expected to materially reduce the rights or remedies of a Lender or impair or reduce the security for its Lender's Lien and (b) Landlord shall not accept a surrender of the Property or any part thereof or a termination of this Lease or a Sublease; in each such case without the prior written consent of each Lender.

10.8. **Further Amendments.** At Tenant's or any Subtenant's request, Landlord shall amend this Lease to include any provision that may reasonably be requested by an existing or proposed Lender, and shall execute such additional documents as may reasonably be required to evidence such Lender's rights hereunder; provided, however, that such amendment shall not materially impair the rights or materially increase the burdens or obligations of Landlord under this Lease, or extend the term of this Lease beyond the period of time stated in Section 2. Further, Landlord shall, within fifteen (15) days after written notice from Tenant, a Subtenant or any existing or proposed Lender, execute and deliver thereto a certificate to the effect that Landlord (a) recognizes a particular entity as a Lender under this Lease and (b) will accord to such entity all the rights and privileges of a Lender hereunder.

SECTION 11 - TERMINATION; RELEASE; RESTORATION, REMOVAL

11.1. **Tenant's Right To Terminate.** Subject to Sections 11.3 and 10.7, Tenant shall have the sole right, at any time and from time to time during the term of this Lease, to release or terminate all or any portion of its right, title and interest in this Lease or the Easements (as to all or any portion or portions of the Property), by giving Landlord thirty (30) days notice and by executing and causing to be acknowledged and recorded in the Official Records of the County, a deed describing with particularity the portion of such right, title or interest so released and the part of the Property to which it applies. Upon any such release by Tenant, the Parties' respective rights and obligations hereunder (including as to the Rent) shall cease as to the portion of the Property or the right, title or

interest herein as to which such release applies, but the Lease, the Easements and the Parties' respective rights and obligations hereunder shall remain in full force and effect as to any right, title and interest of Tenant not so released

11.2. **Release.** Upon the expiration or earlier termination of this Lease, promptly following written request by Landlord, Tenant shall execute and cause to be acknowledged and recorded in the Official Records of the County, a release of all of Tenant's right, title and interest in the Property.

11.3. **Restoration, Removal, and Assurances.**

11.3.1. **Restoration.** Tenant shall, at its own cost and at no cost to Landlord, with respect to any portions of the Property disturbed by Tenant in the course of Wind Operations and within six (6) months after completion of construction of Tenant's Wind Power Facilities, restore the surface of such portions of the Property to a condition reasonably similar to its condition as of the Effective Date.

11.3.2 **Removal.** Within eighteen (18) months after the expiration, surrender or termination of this Lease, whether as to the entire Property or only as to a part thereof, Tenant shall (a) remove from the Property (or such part thereof, as applicable) any Wind Power Facilities owned, installed or constructed by Tenant or any Subtenant thereon, except for any roads, (b) plug and abandon any water wells drilled by Tenant on the Property and (c) leave the surface of the Property (or such part thereof, as applicable) free from debris; provided, however, that with regard to any Wind Power Facilities located beneath the surface of the land (including footings and foundations), Tenant shall only be required to remove the same to the greater of (i) forty-eight (48) inches below the surface of the land or (ii) the depth (if any) required by applicable Law; and Tenant shall have a continuing easement to enter the Property for such purpose during such eighteen (18) month period. Nothing contained in this Section shall be construed as precluding Tenant or any Subtenant, in its sole discretion, from taking any of the actions contemplated by clauses (a), (b), or (c) of this Section at any time during the term of this Lease.

11.3.3. **Assurances.** Tenant, as well as its successors or assigns, shall post a bond, beginning fifteen (15) years after the start of the Operation Term, in an amount sufficient to cover the costs (net of salvage value) of removing all Wind Power Facilities from the Property and restoring the surface of the Property as provided in Section 11.3.2, with such amount shall be determined by an estimate provided by a company in the business of removing such Wind Power Facilities. The amount of the bond shall be set every five (5) years thereafter based on new estimates of the cost of removal and salvage value. If any governmental authority requires lessee to provide security for removal or decommissioning of the Project, Tenant shall provide a single removal bond that benefits both Landlord and the governmental authority in a manner consistent with the requirements of the governmental authority, and the governmental authority shall have access to the Property pursuant to reasonable notice to effect or complete the required removal or decommissioning.

SECTION 12 - CONDEMNATION AND DAMAGE

12.1. **Taking; Notice.** As used herein, the term "***Taking***" means the taking or damaging of the Property, the Wind Power Facilities, the Lease, the Easements or any part thereof (including severance damage) by eminent domain or by inverse condemnation or for any public or quasi-public use. A Party who receives any notice of a Taking shall promptly give the other Party notice of the receipt, contents and date of such Taking notice.

12.2. **Effect on Lease.** In the event of a Taking, the rights, interest and obligations of Tenant as to the property or assets taken shall terminate upon the earlier to occur of (a) the date on which possession thereof is taken by the condemning agency, (b) the date that Tenant, in its sole judgment, determines that it is no longer able or permitted to operate the Project(s) in a commercially viable manner on or as to the property or assets so taken or (c) the date of the condemnation judgment. In the event of any other damage to the Property or any part thereof, the rights, interest and obligations of Tenant as to the damaged portion(s) of the Property shall terminate on the date that Tenant, in its sole judgment, determines that it is no longer able or permitted to operate the Project(s) on such portion(s) of the Property in a commercially viable manner. Following such Taking or damage to the Property, this Lease shall continue in full force and effect (with an equitable reduction in the Rent) as to any part of the Property, the Wind Power Facilities, the Lease that has not been the subject of such Taking or has not been damaged (as the case may be); provided, however, that if Tenant, in its sole judgment, determines that the remaining Property, Wind Power Facilities, Lease and Easements are insufficient or unsuitable for Tenant's purposes hereunder, then, subject to Sections 11.3 and 10.7, Tenant shall be entitled (but not required) to terminate this Lease in its entirety by written notice to Landlord, whereupon the Parties shall be relieved of any further obligations and duties to each other hereunder.

12.3. **Disbursement.** If a Taking occurs, then the compensation payable therefor, whether pursuant to a judgment, by agreement or otherwise, including any damages and interest (collectively, the "**Award**"), whether for the fee, the Lease, the Easements, the Wind Power Facilities or any thereof, shall be deposited promptly with an independent third-party escrow company mutually agreed upon by the Parties (or, if the Parties cannot so agree, by an escrow company selected by the AAA), and shall be distributed in the following order or priority: (a) any portion of the Award attributable to the Taking of or injury to the Lease, the Easements or the Wind Power Facilities shall be paid to Tenant; (b) any portion of the Award attributable to any cost or loss that Tenant and/or any Subtenant may sustain in the removal and/or relocation of the Wind Power Facilities, or Tenant's or any Subtenant's chattels and trade fixtures, shall be paid to Tenant; (c) any portion of the Award attributable to Tenant's or a Subtenant's anticipated or lost profits, to damages because of deterrent to Tenant's or a Subtenant's business or to any special damages of Tenant or a Subtenant, shall be paid to Tenant; (d) any portion of the award attributable to Landlord's loss of the Rents provided herein and (e) any portion of the Award attributable to the Taking of the fee, and all remaining amounts of the Award, shall be paid to Landlord.

SECTION 13 - MISCELLANEOUS

13.1. **Notices.** All notices, statements, demands, correspondence or other communications required or permitted by this Lease shall be (a) in writing, (b) deemed given (i) when personally delivered to the recipient (be it Landlord, Tenant, a Subtenant or a Lender), (ii) five (5) days after deposit in the United States mail, certified and postage prepaid or (iii) two (2) days after delivery to a reputable overnight courier (provided receipt is obtained and charges prepaid by the delivering Party) and (c) addressed as follows:

Tenant:	Hoopston Wind LLC 3555 Timmons Lane, Suite 900 Houston, TX 77027 Office: (281) 207-7217 Fax: (281) 242-1585 Attn: Contract Administration
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With Copies To: :

Landlord

Attn:

If to any Subtenant or
Lender:

To the address(es) indicated in the notice(s) to
Landlord provided under Section 7.3

Landlord, Tenant, any Subtenant and any Lender may change its address (and the person(s) to whom notice is to be sent) for purposes of this Section by giving written notice of such change to the other parties in the manner provided in this Section. Notwithstanding the foregoing, any amounts payable to Landlord under this Lease shall be deemed to have been tendered to Landlord three (3) days after a check for the same (backed by sufficient funds), addressed to Landlord's address above, is deposited in the United States mail, first-class postage prepaid.

Tenant's and Landlord's obligations under this Lease to provide notice to any successor-in-interest to the other party and Landlord's obligation to provide notice to any Lender or Subtenant under this Lease is subject to the delivery to the party obligated to delivery notice, of the address and other notice information of the party to receive notice.

13.2. **Force Majeure**. Notwithstanding any other provision of this Lease, if Tenant's performance of this Lease or of any obligation hereunder is interfered with, delayed, restricted or prevented, in whole or in part, by reason of an event of Force Majeure (as defined below), then Tenant, upon giving notice to Landlord, shall be excused from such performance (but not from its obligation to pay Rent) to the extent and for the duration of such interference, delay, restriction or prevention, and the term of this Lease and any other time periods set forth herein shall continue and be extended for a like period of time. "***Force Majeure***" means any act or condition beyond the reasonable control of Tenant, whether or not similar to the matters or conditions herein specifically enumerated, and includes: acts of God or the elements (including fire, earthquake, explosion, flood, epidemic or any other casualty or accident); strikes, lock outs or other labor disputes; delays in transportation; inability to secure labor or materials in the open market at commercially reasonable prices; inability to sell electricity at commercially reasonable prices in the open market; transmission system power failure or power surge; war, terrorism, sabotage, civil strife or other violence; acts or failures to act of Landlord; the failure of any governmental authority to issue any permit, entitlement, approval or authorization within a reasonable period of time after an application for the same has been submitted; the effect of any Law, proclamation, action, demand or requirement of any government agency or utility; or litigation contesting all or any portion of the right, title and interest of Landlord in the Property and/or of Tenant under this Lease.

13.3. **Confidentiality**. Landlord shall maintain in the strictest confidence, and shall require each Related Person of Landlord to hold and maintain in the strictest confidence, for the benefit of Tenant and each Subtenant, (a) all information pertaining to the terms of (including the payments under) this Lease, (b) any books, records, computer printouts, product designs or other information regarding Tenant or any Subtenant, or their respective Projects or businesses, (c) any information regarding Operations on the Property or on any other lands, (d) Tenant's or any Subtenant's Project

or product design and development, methods of operation or methods of construction, (e) the level of power production, the wind capacity of the Property and the availability of the Wind Power Facilities and (f) any other information that is proprietary or that Tenant or a Subtenant requests be held confidential (collectively, "**Confidential Information**"), in each such case whether disclosed by Tenant or any Subtenant, or discovered by Landlord. Excluded from the foregoing is any such information that either (i) is in the public domain by reason of prior publication through no act or omission of Landlord or any Related Person of Landlord or (ii) was already known to Landlord at the time of disclosure and which Landlord is free to use or disclose without breach of any obligation to any person or entity. Landlord shall not use Confidential Information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Tenant or any Subtenant. Notwithstanding the foregoing, Landlord may disclose Confidential Information to (1) Landlord's lenders, attorneys, accountants and other personal financial advisors, (2) any prospective purchaser of the Property or (3) pursuant to lawful process, subpoena or court order; provided that in making such disclosure Landlord advises the party receiving the Confidential Information of the confidentiality thereof and obtains the agreement of said party not to disclose such Confidential Information nor use such Confidential Information for their benefit or to the detriment of Tenant or any Subtenant.

13.4. **Cooperation.** Landlord shall fully support and cooperate (and shall cause each Related Person of Landlord to fully support and cooperate) with Tenant and each Subtenant in the conduct of their respective Operations and the exercise of their rights hereunder, and in carrying out and otherwise giving full force and effect to the purpose and intent of this Lease, including in Tenant's or any Subtenant's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights necessary or convenient in connection with Operations; and Landlord shall, without demanding additional consideration therefore, (a) execute, and, if appropriate, cause to be acknowledged, any map, application, document or instrument (including any document or instrument intended to correct an error in this Lease or to amend the legal description attached hereto) that is reasonably requested by Tenant or any Subtenant in connection herewith or therewith and (b) return the same (as executed) to Tenant within fifteen (15) days after Landlord's receipt thereof. Without limiting the generality of the foregoing, in connection with any application by Tenant or any Subtenant for a governmental permit, approval, authorization, entitlement or other consent, Landlord agrees (i) if requested by Tenant or a Subtenant, to support (and cause each Related Person of Landlord to support) such application by filing a letter with the appropriate governmental authority in a form satisfactory to Tenant or such Subtenant and by testifying publicly and lobbying the appropriate governmental authority in favor thereof, (ii) to support (and cause each Related Person of Landlord to support) Tenant's or any Subtenant's position in regard to any requirement or condition of such permit, approval, authorization, entitlement or consent, including, in regard to bonding or security requirements or amount, mitigation, environmental impacts or monitoring, and (iii) not to oppose (or permit any Related Person of Landlord to oppose), in any way, whether directly or indirectly, any such application or approval at any administrative, judicial, legislative or other level. The Landlord shall provide the Tenant and its agents, from time to time during business hours, with access to documents in the possession of the Landlord or the Landlord's agents that relate to the Property, including, but not limited to, (i) existing documents related to the environmental condition of the Property, including service contracts, licenses, franchise agreements, or permits related to any preexisting electrical facility, (ii) existing title policies and title documents, (iii) plats or surveys, (iv) any and all permits and licenses issued by any Governmental Authority, (v) any notices of violations, (vi) leases, service contracts, and maintenance agreements, (vii) agreements, licenses, or leases related to any preexisting electrical facility, and (viii) other documents related to the Property as may be reasonably requested by the Tenant, including books and records for the three (3) years prior to the Effective Date including books and records for the current calendar

year to date (provided that the Tenant agrees to keep same confidential in accordance with Section 13.3 of this Lease).

13.5. **Setback Waivers.** Landlord consents to Tenant's or Subtenant's (or affiliate thereof) location of Wind Power Facilities at any location upon the Property and any adjacent properties, including at or near the Property lines. Furthermore, in the event that any private agreements or restrictions or any laws, rules, or ordinances of any governmental agency impose setback requirements or otherwise restrict the location of any element of any Wind Power Facilities to be placed upon the Property or any adjacent properties along or near property lines, Landlord shall cooperate with and assist Tenant, Subtenant, or affiliate thereof in obtaining waivers or variances from such requirements and shall execute all further documents evidencing Landlord's agreement to the elimination of such setback requirements. This Section 13.5 shall survive the termination of this Lease.

13.6 **Successors and Assigns.** The Property shall be held, conveyed, hypothecated, encumbered, leased, used and occupied subject to the covenants, terms and provisions set forth in this Lease, which covenants, terms and provisions shall run with the Property and each portion thereof and interest therein as equitable servitudes, and shall be binding upon and inure to the benefit of the Parties and each Subtenant and other person and entity having any interest therein during their ownership thereof, and their respective Subtenants, grantees, heirs, executors, administrators, successors and assigns, and all persons claiming under them.

13.6. **Attorneys Fees.** In the event of any litigation for the interpretation or enforcement hereof, or for damages for a default hereunder, or which in any other manner relates to this Lease, or the Property, the prevailing Party shall, be entitled to recover from the other Party an amount equal to its actual, reasonable and verifiable out-of-pocket expenses, costs and attorneys' fees incurred in connection therewith.

13.7. **Construction.** This Lease, including any Exhibits attached hereto, contains the entire agreement between the Parties in connection with any matter mentioned or contemplated herein, and all prior or contemporaneous proposals, agreements, understandings and representations, whether oral or written, shall be deemed to have been merged herein and superseded hereby. Should any provision of this Lease be held to be invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by such holding. Except with respect to the rights conferred upon Subtenants and Lenders hereunder (which Subtenants and Lenders and their respective successors and assigns are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the covenants contained herein are made solely for the benefit of Landlord and Tenant and their respective successors and assigns, and shall not be construed as benefiting any person or entity who is not a Party to this Lease. Any covenants contained in this Lease which could be interpreted as partially or wholly to be performed after termination hereof, and any indemnities, representations and warranties set forth in this Lease, shall survive the expiration or earlier termination hereof. Neither this Lease nor any agreements or transactions contemplated hereby shall be interpreted as creating any partnership, joint venture, association or other relationship between the Parties, other than that of landlord and tenant. Any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Lease and is hereby waived. No waiver by a Party of any provision of this Lease shall be deemed to be a waiver of any other provision hereof. This Lease shall be governed by and interpreted in accordance with the Laws of the State. The use of the neuter gender includes the masculine and feminine, and the singular number includes the plural, and vice versa, whenever the context so requires. The terms "include", "includes" and "including", as used herein, are without limitation. Captions and headings used

herein are for convenience of reference only and shall not define, limit or otherwise affect the scope, meaning or intent hereof. As used in this Lease with respect to time of notice or performance, the term "day" shall refer to business days in the County. This Lease may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument.

13.8. **Governing Law.** This Lease is made in Illinois and shall be governed by the laws of the State of Illinois.

13.9 **Miscellaneous.** This Lease shall not and cannot be modified or amended except by a writing signed by both Parties. Whenever in this Lease the approval or consent of a Party is required or contemplated, unless otherwise specified, such approval or consent shall not be unreasonably withheld, conditioned or delayed. If the Parties are unable to amicably resolve any dispute arising out of or in connection with this Lease, then, except as otherwise provided herein, such dispute shall be resolved in the courts of the County, which shall be considered the proper forum and jurisdiction for any disputes arising in connection with this Lease. If Landlord consists of more than one person or entity, then (a) each reference herein to "Landlord" shall include each person and entity signing this Lease as or on behalf of Landlord and (b) the liability of each such person and entity shall be joint and several. In the event that this Lease is not executed by one or more of the persons or entities comprising the Landlord herein, or by one or more persons or entities holding an interest in the Property, then this Lease shall nonetheless be effective, and shall bind all those persons and entities who have signed this Lease. Landlord acknowledges that Tenant has made no representations or warranties to Landlord, including regarding development of, or the likelihood of power generation from, the Property. Each of the signatories hereto represents and warrants that he/she has the authority to execute this Lease on behalf of the Party for which he/she is signing.

[SIGNATURES ON NEXT PAGE]

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

LANDLORD

By: Robert L. Alexander

Print Name: Robert L. Alexander

Its: Owner

HOOPESTON WIND LLC

By: [Signature] SC

Print Name: Angela Schwarz

Its: Authorized Signatory

EXHIBIT "A"

Property Description

Parcel 1

County Hamilton State Illinois
Township 22 Range 13 Section 11

Portion of Section: _____

NW 1/4 SW 1/4 11-22-13

Acres: 40 more or less

Parcel 2

County _____ State _____
Township _____ Range _____ Section _____

Portion of Section: _____

Acres: _____ more or less

Map Generally Depicting the Property

