

AMENDED AND RESTATED
WIND ENERGY EASEMENT AGREEMENT
(#IL-GAL1-242)

This Wind Energy Easement Agreement (this "Agreement") is made, dated and effective as of February 27, 2020 (the "Effective Date"), between **Donald D. Jacobson and Sharon I. Jacobson, husband and wife** (collectively, "Owner"), and **Knox County Wind Farm LLC, a Delaware limited liability company** ("Grantee").

Owner and Grantee's predecessor-in-interest, Orion Renewable Resources LLC, a Delaware limited liability company, entered into a wind energy easement agreement in the form of a letter agreement (the "Letter Agreement") dated April 3, 2018 (the "Letter Agreement Effective Date"). Owner and Grantee now wish to amend and restate the Letter Agreement on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, Owner and Grantee hereby agree to amend and restate the Letter Agreement in its entirety as follows:

1. Easement. For good and valuable consideration, the receipt of which is hereby acknowledged by Owner, Owner hereby grants an easement ("Easement") to Grantee in, on, under, over and across that certain real property (the "Property") of Owner located in Knox County, Illinois (the "County"). The Property consists of approximately 340.40 acres of land and is further described in Exhibit A attached hereto and incorporated herein. In the event of inaccuracies in the foregoing legal description, Owner and Grantee shall amend this Agreement to correct the inaccuracies.

2. Purpose. The Easement is for wind energy purposes, including converting wind energy into electrical energy, collecting and transmitting electrical energy, and related activities (collectively, the "Grantee Activities"). The Grantee Activities include, without limitation: (a) determining the feasibility of wind energy conversion on the Property, including studies of wind speed, wind direction and other meteorological data, and extracting soil samples; (b) constructing, installing, using, replacing, relocating and removing from time to time, and maintaining and operating, wind turbines, underground and overhead electrical transmission and communications lines, electric transformers, energy storage facilities, telecommunications equipment, power generation facilities to be operated in conjunction with large wind turbine installations, roads and gates, meteorological towers and wind measurement equipment, control buildings, maintenance yards, and related facilities and equipment (collectively the "Windpower Facilities") on the Property; and (c) undertaking any other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing. Grantee shall have the exclusive right to convert all of the wind resources of the Property. The Windpower Facilities are expected to be operated in conjunction with Windpower Facilities installed on other nearby properties (collectively, the "Project"). Owner reserves all rights to use the Property except to the extent Owner's use interferes with Grantee's use of the Property in accordance with this Agreement or violates the provisions of this Agreement, including but not limited to Sections 9.2, 10.2 and 10.3.

3. Term. This initial term of this Agreement (“Initial Term”) commenced on the Letter Agreement Effective Date and will continue until the later of (a) thirty (30) years after the first day of the month following the month in which Windpower Facilities in the Project commence operation by delivering commercial quantities of electricity to the electric utility grid (the “Commercial Operation Date”), or (b) thirty-five (35) years after the Letter Agreement Effective Date. Unless earlier terminated, Grantee may elect to extend the Initial Term for one or two additional 10-year terms commencing on the last day of the Initial Term or the tenth (10th) anniversary of such day, respectively, upon at least 90 days’ notice to Owner. The Initial Term plus either or both of such additional terms are called the “Term.” If Grantee has not poured the foundation for the first wind turbine to be installed (“Start of Construction”) in the Project prior to the seventh (7th) anniversary of the Letter Agreement Effective Date, or if the Start of Construction has not occurred on the Property prior to the eighth (8th) anniversary of the Letter Agreement Effective Date, Owner may terminate this Agreement by notice to Grantee within sixty (60) days of such anniversary.

4. Payments. In consideration of the rights granted hereunder, Grantee will pay Owner the amounts as set forth in Schedule I attached hereto and incorporated herein.

5. Ownership of Windpower Facilities. Owner shall have no ownership or other interest in any Windpower Facilities installed on the Property, and Grantee may remove any or all Windpower Facilities at any time.

6. Taxes. Grantee shall pay personal property taxes (if any) attributable to Windpower Facilities and other improvements to the Property installed by Grantee. Both parties understand that for each wind turbine installed on the Property, the County will assign a new Property Index Number (“PIN”) to the land on which such turbine is located and the portion of the turbine considered real property. Grantee shall pay property taxes for each PIN, and also pay or reimburse Owner for any increase in real property taxes levied against the Property outside of any PINs as a result of such turbine installations or installations of other Windpower Facilities on the Property, or attributable to a reclassification of the Property as a result of the Easement. Owner shall pay all taxes, assessments or other fees attributable to facilities installed by Owner or others on the Property or to the underlying value of the Property itself. It is a condition to Owner’s right to payment or reimbursement hereunder that Owner submit the real property tax bill to Grantee within six months after Owner receives the bill from the taxing authority. Owner and Grantee agree jointly to use commercially reasonable efforts to cause the Property not to be reclassified from its present agricultural or open space exemption as a result of the Easement, and to cause the County tax assessor to issue separate property tax bills to Owner and Grantee. Grantee’s obligations to Owner under this paragraph shall remain in effect after termination of this Agreement until the Windpower Facilities have been removed from the Property to the extent required by Section 13.3.

7. Grantee’s Representations, Warranties and Covenants. Grantee hereby represents, warrants and covenants to Owner that:

7.1 Indemnity and Insurance. Grantee will indemnify Owner against liability for physical damage to property and for physical injuries to any person, to the extent caused by Grantee’s operations or activities on the Property, where such indemnity includes reasonable

defense costs including but not limited to reasonable attorneys' fees. The reference to property damage in the preceding sentence does not include losses of rent, business opportunities, profits and the like that may result from Owner's loss of use of the portion of the Property occupied by Windpower Facilities. After the Commercial Operation Date, the foregoing indemnity shall include the following damages caused by Grantee's operations if located more than five feet (5') from the edge of the areas occupied by the Windpower Facilities and Transmission Facilities: damage to Owner's existing crops (as determined under Section 7(b) in Schedule I attached hereto and made part hereof), damage to Owner's drainage tiles and waterways (which damage shall be repaired by Grantee, including use of a double wall pipe technique or placement of suitable fill material under the repaired or replaced tile as necessary to minimize settling, in Grantee's reasonable judgment in consultation with Owner), the costs associated with soil compaction (as determined under Section 7(a) in Schedule I attached hereto and made part hereof), and the actual costs to repair damage to existing roads, fences, or other structures of Owner located on the Property. In addition, Grantee shall maintain liability insurance (the "Policy") insuring Grantee and Owner against loss caused by Grantee's use of the Property under this Agreement, or else (if Grantee or any affiliate is a regulated utility or a creditworthy entity) Grantee shall self-insure and assume the risk of loss for general liability exposures, including those for which Grantee has agreed to indemnify Owner pursuant to this Section 7.1. The amount of insurance under the Policy shall be not less than One Million Dollars (\$1,000,000.00) of combined single limit liability coverage before the Start of Construction and Five Million Dollars (\$5,000,000.00) thereafter. Under such Policy, Owner will be named as an additional insured with respect to operations or activities of Grantee but only to the extent Owner is held liable for damage and injuries caused by such operation or activities for which Grantee has agreed to indemnify Owner pursuant to this Section 7.1. No coverage is provided for liability arising out of Owner's own negligence or misconduct. After the Start of Construction, at Owner's request, Grantee will provide Owner with a certificate of insurance that shows the insurance coverage provided under such Policy, or evidence of self-insurance reasonably acceptable to Owner.

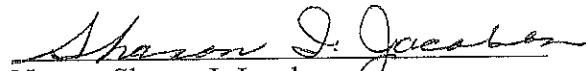
7.2 Requirements of Governmental Agencies. Grantee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Windpower Facilities, including the Illinois Underground Utility Facilities Damage Prevention Act (the "Prevention Act"), as applicable. Grantee shall have the right, in its sole discretion, to contest by appropriate legal proceedings, brought in the name of Grantee or in the names of both Grantee and Owner where appropriate or required, the validity or applicability to the Property or Windpower Facilities of any law, ordinance, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Owner shall cooperate in every reasonable way in such contest, at no out-of-pocket expense to Owner. Any contest or proceeding, including any maintained in the name of Owner, shall be controlled and directed by Grantee, but Grantee shall indemnify Owner from Grantee's failure to observe or comply with the contested law, ordinance, statute, order, regulation or property assessment.

7.3 Construction Liens. Grantee shall keep the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to, the Property in connection with Grantee's use of the Property; *provided, however*, that if Grantee elects to contest any such lien, Grantee shall, within sixty (60) days after it receives

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

“OWNER”


Name: Donald D. Jacobson


Name: Sharon I. Jacobson

[Signatures continued on following page.]

"GRANTEE"

**Knox County Wind Farm LLC,
a Delaware limited liability company**


By 
Name: Michael Haag
Title: President

EXHIBIT A

Description of Property

ALL THAT CERTAIN real estate lying and being situated in Knox County, Illinois, being more particularly bounded and described as follows:

Real Property Tax Parcel No. 03-21-300-001 (107 acres)

107 Acres, described as being on the West side of the Southwest Quarter of Section 21, Township 13 North, Range 3 East of the Fourth Principal Meridian, Knox County, Illinois.

Real Property Tax Parcel No. 03-21-400-002 (34 acres) 03-21-400-001 (50.71 acres) , 03-21-300-002 (53 acres)

The West fifty-one (51) acres of the Southeast Quarter (SE-1/4) of Section Twenty-One (21); The North thirty-four (34) acres of the East one-hundred nine (109) acres of the Southeast Quarter (SE-1/4) of Section Twenty-One (21): The East fifty-three (53) acres of the Southwest Quarter (SW-1/4) of Section Twenty-One (21); all in Township Thirteen (13) North, Range Three (3) East of the 4th Principal Meridian.

Real Property Tax Parcel No. 03-21-100-005 (33 acres)

Lot 2 of the Northwest Quarter of Section 21, Township 13 North, Range 3 East of the Fourth Principal Meridian, Knox County, Illinois.

Real Property Tax Parcel No. 03-21-200-006 (62.69 acres)

Lots Three (3) and Four (4) of the Northeast Quarter (NE-1/4) of Section Twenty-One (21), all in Township Thirteen (13) North, Range Three (3) East of the 4th Principal Meridian, EXCEPT a part of Lot 4 of a Subdivision of the Northeast Quarter of Section 21, Township 13 North, Range 3 East of the 4th Principal Meridian, Knox County, Illinois, per plat recorded with the Recorder of Knox County, January 28, 1869, at Book 78, Page 80, Number 53683, described as follows: Beginning at the Southeast Corner of said Lot 4; thence North along the East line of said Lot 4, 30 chains to a stone being the Point of Beginning of the tract to be described; thence West 10.35 chains to a stone; thence South 17.69 chains to a stone being the Southeast Corner of Walnut Grove Cemetery; thence East 10.35 chains, more or less, to a point on the East line of said Lot 4; thence North 17.69 chains, more or less, to the Point of Beginning.

(In the event of inaccuracies or insufficiencies in the foregoing legal description, Grantee may modify this Exhibit A to correct such inaccuracies or insufficiencies, and shall notify Owner of any such modification)

EXHIBIT B

Purchase and Sale of Control Property

1. Control Property. Pursuant to Section 6 of Schedule I to this Agreement, Grantee may elect to purchase the Control Property. The final location of the Control Property shall be subject to Owner's consent as provided in Section 10.2. As provided in Section 6 of Schedule I, the purchase price for the Control Property shall be a one-time payment to Owner, payable within thirty (30) days of the Commercial Operation Date, equal to two (2) times the fair market value of the acreage of the Control Property for its current or reasonably expected land use. If the parties are unable to agree on such fair market value, then fair market value shall be determined by written appraisal performed by an independent appraiser reasonably acceptable to Owner and Grantee. Unless the substation on the Control Property is owned by a regulated utility, at the end of the Term and after the Property has been restored, Owner may repurchase the Control Property from Grantee for a small or nominal sum.

2. Closing. By written notice to Owner delivered before the closing of the sale (the "Closing"), Grantee will designate the proposed date, time and location of the closing for the purchase of the Control Property. At the Closing, Grantee will pay or cause to be paid any and all recording or conveyancing taxes and transfer fees incurred in connection with the sale to Grantee. Ad valorem taxes for the Control Property for the calendar year of the Closing for the purchase will not be prorated between the Parties and shall be the responsibility of Grantee or its designee. At the Closing, Owner shall deliver to Grantee (i) a special warranty deed (the "Deed") conveying good and indefeasible fee simple title to the Control Property and all improvements thereon free and clear of all liens, encumbrances and other title exceptions, except the Permitted Encumbrances (as defined below); (ii) a non-foreign certificate required by Section 1445 of the Internal Revenue Code of 1986, as amended; and (iii) such other documents or instruments as are reasonably requested by Grantee or Grantee's title company to close the transaction, including, without limitation, a seller's affidavit in the form typically required by a title company to enable the title company to issue an extended coverage title insurance policy. The Deed shall contain a waiver of surface rights for the exploration, development and production of oil, gas and other minerals. As used herein, the term "Permitted Encumbrances" shall mean and refer to only (x) those easements, covenants, restrictions, rights of way and other encumbrances affecting the Control Property that are evidenced of record as of the Effective Date in the County's Real Property Records, except that the Permitted Encumbrances shall not include, and Owner shall obtain a satisfaction and release on or before the Closing of, any monetary liens, including, without limitation, any and all mortgages, mechanics liens, financing statements and judgment liens encumbering the Control Property; and (y) any other matters affecting the Control Property executed after the Effective Date with Grantee's prior written consent.

3. Subdivision and Other Approvals. Grantee shall take all actions and pay all costs of obtaining any governmental approvals (the "Approvals") required to partition the Control Property from the balance of the Property, so that the Control Property constitutes a legal lot that can be conveyed to Grantee or Grantee's designee as contemplated by this Agreement. The Approvals shall be on terms and conditions satisfactory to Grantee, in Grantee's sole discretion. Owner agrees to join in executing any applications and requests reasonably required by Grantee in connection with Grantee's pursuit of the Approvals, to support approval of such applications and requests, and to otherwise cooperate with Grantee in the processing and pursuit of such applications and requests.

4. Actual Acreage. The actual acreage of the Control Property shall be subject to confirmation in an ALTA survey to be obtained by Grantee at Grantee's expense.

5. Breach. In the event that a party breaches its obligations at the Closing, the other Party shall have the right to seek the remedy of specific performance of the defaulting party's obligations.

SCHEDULE I

Payments

Section 1. *Payments.* Grantee shall pay Owner in accordance with this Schedule I in the amounts set forth below. All capitalized terms used but not otherwise defined in this Schedule I shall have the meanings given in the body of this Agreement.

Section 2. *Payments Before Start of Construction*

(a) Initial Payments. Within 30 days after the Letter Agreement Effective Date, Grantee paid Owner the sum equal to the greater of (i) \$4.00 per acre of the Property, or (ii) \$1,000, and has paid or will pay Owner the same sum within 30 days after the first anniversary of the Letter Agreement Effective Date. In addition, within thirty (30) days after the second anniversary of the Letter Agreement Effective Date and each subsequent anniversary thereafter during the Term, unless such anniversary occurs after the Start of Construction or this Agreement has terminated, Grantee will pay Owner an additional sum for each acre of the Property (or such portion of the initial Property as Grantee may designate from time to time as the Property subject to this Agreement), but not less than the specified minimum amount, as set forth below:

<u>Anniversary</u>	<u>Amount</u>
2-3	\$4.00/acre, but not less than \$1,000
4-6	\$6.00/acre, but not less than \$1,000
7	\$8.00/acre, but not less than \$1,000

(b) Meteorological Towers and SODAR Units. If Grantee installs one or more meteorological towers or SODAR units on the Property prior to the Start of Construction, Grantee will pay Owner \$2,000 per year for each such tower and each such unit from the date of installation until the Commercial Operation Date, such amount to be payable within thirty (30) days after installation and each anniversary of installation. After the Commercial Operation Date, Grantee will pay Owner \$4,000 per year for each meteorological tower (if any) installed by Grantee on the Property.

Section 3. *Installation Payment.* If and when wind turbines are installed on the Property, Grantee will pay Owner a one-time installation payment (the "Installation Payment") equal to (a) \$4,000 per wind turbine to be installed on the Property, payable within thirty (30) days of the Start of Construction, plus (b) damages associated with any crop damage or soil compaction caused by Grantee's construction activities (as determined under Section 7 below), payable within thirty (30) days of the Commercial Operation Date.

Section 4. *Payments During Operations.*

(a) If and when wind turbines are installed in the Project and begin generating electricity, Grantee will pay Owner the following annual amounts commencing within thirty (30) days of the Commercial Operation Date:

- (1) If wind turbines are installed on at least one legal parcel in a grouping of one or more contiguous legal parcels that constitute all or a portion of the Property as of the Effective Date, (A) \$4,800 multiplied by the number of megawatts of installed capacity of wind turbines installed on such contiguous legal parcels, if any, based on such turbines' "nameplate rating" (as determined by the manufacturer) ("MW Payment"), *plus* (B) \$12.00 per acre of such contiguous legal parcels, or \$2,000, whichever is greater, *plus* (C) \$1.00 per linear foot of any new roads constructed by Grantee on such contiguous legal parcels, *plus* (D) \$0.10 per linear foot of any underground electric line corridors constructed by Grantee on such contiguous legal parcels.
- (2) If wind turbines are not installed on any legal parcel in a grouping of one or more contiguous legal parcels that constitute all or a portion of the Property as of the Effective Date, (A) \$26.00 per acre of such contiguous legal parcels ("No-Facility Payment") or \$2,000, whichever is greater, *plus* (B) \$1.00 per linear foot of any new roads constructed by Grantee on such contiguous legal parcels, *plus* (C) \$0.10 per linear foot of any underground electric line corridors constructed by Grantee on such contiguous legal parcels.
- (3) If a wind turbine installed on an adjacent property overhangs a portion of the Property, as permitted by Section 9.10 of this Agreement, then the annual amount payable by Grantee after the Commercial Operation Date shall be increased by \$2,000 for each such turbine.

Each of the foregoing dollar amounts will increase by 2.0% per year on January 1 of each year following the first full calendar year after the Commercial Operation Date.

(b) Annual payments shall be paid semi-annually within forty-five (45) days of June 30 and December 31 of each year following the Commercial Operation Date, and each payment shall be accompanied by a statement, including adequate supporting documentation, to show how the payment was calculated. Such statement shall identify each component of the payment, the calculation of such component, and the total payment due, all in a clear and comprehensible manner.

Section 5. *Shared Substations.* Any wind turbines located on the Property will be connected to a utility's transmission line at a substation or switching facility. If electricity from other sources is transmitted through the same substation or facility, the electricity generated on the Property and delivered to the substation or facility will be determined separately by Grantee using electric meters and Grantee's computerized data acquisition system to calculate the payments due Owner.

Section 6. *Substation; Overhead Transmission Line.* If the electric substation for the Project is installed on the Property, then Grantee may lease or purchase the actual acreage occupied by the substation (the "Control Property"); *provided* that, as set forth in Section 10.2 of this Agreement, the final location of the substation to be installed on the Property shall be subject to Owner's

consent. Upon its exercise of its rights under this paragraph, Grantee, will make a one-time payment to Owner payable within thirty (30) days of the Commercial Operation Date, equal to two (2) times the fair market value of such acreage for its current or reasonably expected land use. If the parties are unable to agree on such fair market value, then fair market value shall be determined by written appraisal performed by an independent appraiser reasonably acceptable to Owner and Grantee. If Grantee elects to purchase the Control Property, Owner will sell and convey the same to Grantee upon and subject to the terms and conditions set forth in Exhibit B attached to and made a part of this Agreement. If Grantee elects to lease the Control Property, such lease will be a separate agreement and Owner and Grantee shall mutually agree in good faith on the terms and conditions of such lease agreement. In addition, if some or all of the towers and overhead transmission lines between the Project substation and the point of interconnection to the utility grid are installed on the Property, then Grantee will pay Owner, upon the Start of Construction and thereafter within 30 days of each anniversary date of the Start of Construction for the rest of the Term, the sum of \$0.51 per lineal foot of the actual length of the corridor for such overhead transmission lines that crosses Owner's Property, such amount to increase by 2.0% per year on January 1 of each year following the first full calendar year after the Commercial Operation Date.

Section 7. *Crops and Compaction.*

(a) Compaction. If Grantee causes compaction of any cultivated part of the Property which is located more than five feet (5') from the edge of the areas occupied by above-ground Windpower Facilities and Transmission Facilities, and such compaction is reasonably expected to seriously impair crop yield in future years, Grantee shall compensate Owner as calculated below (the "Compaction Payment") and will also "rip" such part of the Property as provided in Section 10.4 of this Agreement. In consideration of the Compaction Payment, no additional damages shall be paid in future years for that episode of compaction and, except as provided in clause (b) below, no compensation for crops that Owner is prevented from planting anywhere on the Property shall be paid, and no compensation for damage to or destruction of existing crops anywhere on the Property shall be paid except as provided in Section 7.1 of this Agreement. The Compaction Payment will be calculated using the following formula: $\text{Unit Price} \times 400\% \times \text{Unit Yield Per Acre} \times \text{Acres Damaged} = \text{Damages}$, where:

- Unit Price will be equal to the following: (i) if a crop insurance policy covers the legal parcels involved at the time of compaction, then the Spring Crop Insurance Price or the Fall Crop Insurance Price (as applicable), or (ii) if a crop insurance policy does not cover the legal parcels involved at the time of compaction, then the average of the last previous March 1st and September 1st Chicago Board of Trade prices for that crop; *provided*, that if Owner can prove the Unit Price is unique because the subject crops are specialty crops or higher-value contracts, then Owner and Grantee shall mutually agree in good faith on the Unit Price.
- Unit Yield Per Acre will be equal to the following: (i) if a crop insurance policy covers the legal parcels involved at the time of compaction, then 100% of the "Approved Actual Production History" as defined by such policy, or (ii) if a crop insurance policy does not cover the legal parcels involved at the time of compaction, then the average of the previous three (3) years' yields according to Owner's records for the smallest parcel of land that includes the damaged area;

provided, that if Owner can prove the Unit Yield Per Acre is unique because the subject crops are specialty crops or higher-value contracts, then Owner and Grantee shall mutually agree in good faith on the Unit Yield Per Acre. If Owner does not have yield records available, the parties will use FSA 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. For compaction occurring before the Commercial Operation Date, payment shall be made at the time provided in Section 3(b) above. For compaction occurring after the Commercial Operation Date, payment shall be made within thirty (30) days after determining extent of damage.

(b) Planting and Crops. If Grantee's activities destroy Owner's existing crops, or prevent Owner from planting crops, then Grantee will pay Owner damages for such loss or destruction of existing crops, or for crops that Owner is so prevented from planting. All such damages will be calculated and paid in accordance with clause (a) above, except that the formula for calculating damages shall be the following: $\text{Unit Price} \times 100\% \times \text{Unit Yield Per Acre} \times \text{Acres Damaged} = \text{Damages}$.

(c) Existing Crops. For purposes of this Agreement, "existing crops" includes seeds which have been planted but have not yet germinated.

Section 8. *Right to Inspect Records*. Not more than once per year, Owner shall have the right by appointment at Grantee's offices during normal business hours, personally or by representative, to inspect the utility statements received by Grantee and any other necessary books and records of Grantee for the purpose of verifying the payments due under this Agreement. All such inspections shall be paid for by Owner unless Owner discovers an inaccuracy in the payments made to Owner in excess of three percent (3%) of the total payments due Owner in Grantee's favor. Owner shall keep confidential all information inspected or obtained by Owner hereunder in accordance with Section 14.2 of this Agreement; further, any representative of Owner that performs any such inspection or obtains any such information shall provide Grantee, in advance, a signed confidentiality agreement containing the terms set forth in Section 14.2 of this Agreement.

Section 9. *Late Payment*. If Grantee should fail to pay Owner any sum to be paid by Grantee to Owner hereunder within thirty (30) days after such payment is due, Grantee shall pay Owner, to the maximum extent allowed by law, a late payment penalty of one and one half percent (1.5%) of the unpaid amount each month from the date payment was due until the date paid. If Grantee should fail to pay Owner any sum to be paid by Grantee to Owner hereunder within ninety (90) days after such payment is due, the late payment penalty shall increase to three percent (3.0%) of the unpaid amount each month (including previous unpaid late payment penalties) from the 90th day after payment was due until the date paid.

Section 10. *No Representation*. Owner acknowledges that any estimates of production or revenue provided by Grantee are for informational purposes only and shall not be relied on by Owner in executing this Agreement. Other than those representations and warranties set forth in Section 7 of this Agreement, Grantee has neither made, nor makes, any representations or

warranties concerning the likelihood that Grantee will install Windpower Facilities on the Property, the amount of production or revenue generated by any Windpower Facilities installed on the Property, the payments Grantee will make hereunder during any period of time, or any other matter whatsoever. Owner acknowledges that Grantee has no obligation to install wind turbines or to generate or sell any amount of electrical energy from the Property.

notice of the filing of such lien, either bond around such lien or establish appropriate reserves therefor, or otherwise remove such lien from the Property pursuant to applicable law.

7.4 Hazardous Materials. Grantee and its agents or contractors shall not violate, and shall indemnify Owner against liability and expense arising from any violation by Grantee or Grantee's agents or contractors of, any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations, on or under the Property.

7.5 Construction Areas. During construction, reconstruction, major repair, replacement or removal of Windpower Facilities or Transmission Facilities (as defined in Section 12.1) from time to time, whether located on the Property or elsewhere, Grantee shall use commercially reasonable efforts to limit such activities to the following areas:

(a) For wind turbines and related facilities, circles having a radius of four hundred feet (400').

(b) For roads and underground electric or communication lines, strips of land fifty feet (50') wide.

(c) For overhead transmission and communications lines and related Transmission Facilities, strips of land one hundred feet (100') wide.

(d) For the Project substation, control building, maintenance yard and related structures or facilities, and for other structures or facilities in the Project, a land area of five (5) acres for each structure or facility.

8. Noise and Flicker. Grantee shall have the right in connection with the construction, use and operation of the Project to emit or cause the emission of noise from normal or expected operation of Windpower Facilities, as well as vibration, air turbulence, wake, and electromagnetic and frequency interference, to permit wind turbulence, to allow and permit wind turbines to overhang, cast shadows, or cause flicker or shadow onto the Property and adjacent properties and to impact Owner's views of and from the Property, and similar field effects. OWNER, FOR ITSELF AND ON BEHALF OF ITS SUCCESSORS AND ASSIGNS, HEREBY ACCEPTS SUCH EFFECTS AND WAIVES ANY RIGHT TO OBJECT TO SUCH EFFECTS AND HEREBY RELEASES GRANTEE FROM ANY CLAIMS, DAMAGES, LIABILITIES OR LOSSES OWNER MAY INCUR THEREFROM.

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

9.1 Owner's Authority. Owner is the sole owner of the Property and holds fee simple title to the surface estate of the Property. Owner has the unrestricted right and authority and has taken all necessary action to authorize Owner to execute this Agreement and to grant to Grantee the rights granted hereunder. Each person signing this Agreement on behalf of Owner is authorized to do so and all persons having any ownership interest in the Property (including spouses) are signing this Agreement. When signed by Owner, this Agreement constitutes a valid

and binding agreement enforceable against Owner and the Property in accordance with its terms. Without limiting the foregoing, if a title search shows that the holders of fee simple title to the Property are different from the persons who signed this Agreement as Owner, the persons who signed this Agreement as Owner shall immediately cause all of the holders of fee simple title to the Property to execute an amendment to this Agreement pursuant to which all of such holders of fee simple title to the Property agree to and ratify this Agreement, all at no cost to Grantee.

9.2 *Restrictive Covenant -- No Interference.* Grantee shall have the quiet use and enjoyment of the Property in accordance with the terms of this Agreement. Owner's activities and any grant of rights Owner makes to any person or entity, whether located on the Property or elsewhere within the Project, shall not, currently or prospectively, interfere with: the development, construction, installation, maintenance or operation of Windpower Facilities, whether located on the Property or elsewhere in the Project; access over the Property to such Windpower Facilities; any Grantee Activities; or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, (a) the activities of Owner shall not interfere with the wind speed or wind direction over the Property, whether by placing windmills or wind turbines, planting trees or constructing buildings or other structures (collectively, "Owner's Structures") closer than five hundred (500) feet or twenty (20) times the height of any such Owner's Structure, whichever is greater, to any wind turbine or proposed wind turbine of Grantee, whether located on the Property or elsewhere in the Project, and (b) Owner shall not engage in any other activity (other than ordinary agricultural activities), whether located on the Property or elsewhere within the Project, that might cause a decrease in the output or efficiency of the Windpower Facilities. For this purpose, the height of planted trees will be deemed to be their expected height at full maturity.

Grantee may send Owner a site development plan from time to time that shows the planned locations of Grantee's wind turbines ("Turbine Siting Plan") so that Owner can comply with clause (a) above. If Owner is planning to install or build an Owner's Structure and has not received the Turbine Siting Plan, Owner will give Grantee at least 60 days' prior written notice of the height and location of the Owner's Structure so that Grantee has such information before completing the Turbine Siting Plan. Any structures or trees existing on the date of Owner's receipt of the Turbine Siting Plan, or additions or replacements thereof at the same location and with no greater height (or expected height at full maturity, in the case of growing trees), will be deemed not to violate this Section.

9.3 *Liens and Tenants.* Except as disclosed to Grantee in writing, there are no liens, encumbrances, leases, mortgages, deeds of trust, mineral or oil and gas rights, options, or other exceptions to Owner's fee title ownership of the Property (collectively, "Liens") which are not recorded in the public records of the County. Lienholders (including tenants), whether or not their Liens are recorded, shall be Owner's responsibility, and Owner shall cooperate with Grantee to obtain a non-disturbance agreement from each party that holds a Lien (recorded or unrecorded) that might interfere with Grantee's rights under this Agreement. A non-disturbance agreement is an agreement between Grantee and a lienholder which provides that the lienholder shall not disturb Grantee's possession or rights under the Easement or terminate this Agreement so long as Owner is not entitled to terminate this Agreement under the provisions hereof. If Owner is unable to obtain any such non-disturbance agreement from a lienholder that holds a mortgage, deed of trust, tax lien or other Lien that is senior to this Easement (if any), Grantee shall be entitled (but not

obligated) to make payments in fulfillment of Owner's obligations to the lienholder and may offset the amount of such payments from amounts due Owner under this Agreement.

9.4 Requirements of Governmental Agencies. Owner shall assist and fully cooperate with Grantee, at no out-of-pocket expense to Owner, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews, or any other approvals required for the financing, construction, installation, relocation, replacement, maintenance, operation or removal of Windpower Facilities in the Project (whether located on the Property, on adjacent property, or elsewhere in the Project), including execution of applications for such approvals if required. In connection with any applications for such approvals, Owner agrees at Grantee's request to support such application (at no out-of-pocket expense to Owner) at any administrative, judicial or legislative level. Owner hereby waives any setbacks that otherwise restrict the location of any Windpower Facilities or Transmission Facilities to be installed on the Property or on adjacent properties, including but not limited to waiver of all property line setbacks, pursuant to state or county rules, regulations or ordinances (that is, Owner approves a reduction of each such setback to zero), and Owner shall cooperate with Grantee in obtaining written waivers of such setbacks and shall execute any documents reasonably requested by Grantee to evidence Owner's waiver of such setbacks.

9.5 Access. Owner hereby grants to Grantee the right of ingress to and egress from Windpower Facilities (whether located on the Property, on adjacent property, or elsewhere in the Project) over and across the Property by means of roads and lanes thereon if existing, or otherwise by such route or routes as Grantee may construct from time to time (the "Access Easement"). The Access Easement shall include the right to improve existing roads and lanes, shall run with the Property, and shall inure to the benefit of and be binding upon Owner and Grantee and their respective transferees, successors and assigns, and all persons claiming under them. The Access Easement shall expire upon termination or expiration of this Agreement.

9.6 Hazardous Materials. Owner and Owner's tenants, agents, or contractors shall not violate, and shall indemnify Grantee against liability and expenses arising from any violation by Owner or Owner's tenants, agents, or contractors of, any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state or local laws or regulations, on or under the Property.

9.7 Indemnity. Owner will indemnify Grantee against liability for physical damage to property and for physical injuries to any person, to the extent caused by the operations or activities of Owner or Owner's invitees, employees, tenants, agents or contractors, where such indemnity includes reasonable defense costs including but not limited to reasonable attorneys' fees.

9.8 Non-exclusive Grant of Rights. Owner hereby grants Grantee a non-exclusive right, privilege, license and easement covering all of the following:

(a) Any and all easements, rights-of-way, rights of entry, hereditaments, privileges and appurtenances benefiting, belonging to or inuring to the benefit of Owner and pertaining to the Property.

(b) Any and all right, title and interest of Owner in and to any land in the bed of any street, road, avenue or alley (open, proposed or closed) in front of or adjoining the Property and any and all right, title and interest of Owner, in and to any rights-of-way, rights of ingress or egress, or other interests in, on, or to any land, highway, street, road, avenue or alley (open, proposed or closed) in, on, or across, in front of, abutting, or adjoining the Property.

(c) Any and all right, title and interest of Owner, in and to any strips or gores of land adjacent or contiguous to the Property, whether those lands are owned or claimed by deed, limitations, or otherwise.

9.9 Lateral Support. Grantee shall have and exercise the right of subjacent and lateral support for Windpower Facilities on the Property to whatever extent is necessary for the safe construction, operation and maintenance of Windpower Facilities. Grantee shall not use guy wires for lateral support except in connection with meteorological towers or transmission structures or towers. Owner expressly covenants that Owner shall not excavate so near the sides of or underneath the Windpower Facilities as to undermine or otherwise adversely affect their stability.

9.10 Overhang. Owner grants Grantee an easement for the right and privilege to permit the wind turbines located on adjacent properties to overhang a portion of the Property (the "Overhang Easement Property") by no more than 150 feet at a height of at least 90 feet above the ground. Owner shall not interfere with the operation of wind turbine rotors that overhang the Overhang Easement Property.

10. Owner's Activities.

10.1 Agricultural Activities. In the construction and operation of its Windpower Facilities, Grantee will make reasonable efforts not to interfere with Owner's agricultural activities on the Property. To that end, Grantee will designate a single point of contact in the general vicinity of the Project for communications with Owner at all times; Grantee will give Owner at least 48 hours' notice of the commencement of construction activities on the Property, which notice will contain an estimate of the overall time period during which Project construction (including trenching for underground lines) is expected to occur. For purposes of the Agreement, "ordinary agricultural activities" or "agricultural activities" mean usual and customary farming activities engaged in by Owner at the Effective Date of this Agreement, plus such like activities in a form which is changed due to the passage of time and further development of farming techniques, none of which would cause county zoning authorities to re-classify the land as non-agricultural. It is the intention of the parties that this encompass not only raising of livestock and planting, cultivation, and harvesting of row crops, including organic crops, but also such things as tree farming, raising nursery stock, and raising fruits and vegetables.

10.2 Construction and Siting; Farming. Grantee will consult with Owner (or, at Owner's request, with Owner's then-current tenant) prior to the Start of Construction to describe

Grantee's plan and schedule for construction on the Property. As part of the consultation, Grantee will present a preliminary site map showing the proposed location of wind turbines, new roads, overhead lines, an electric substation (if any), and other above-ground Windpower Facilities, as well as underground collection lines. Grantee will also discuss with Owner the measures Grantee will take during construction to minimize conflicts between Grantee's construction activities and Owner's ongoing operations, and to maximize the portion of the Property Owner is able to continue to use during construction consistent with the purposes of this Agreement. To that end, Owner will provide Grantee with data on the location and depth of existing field tile lines (if known) prior to the Start of Construction so that Grantee can minimize damage to such field tile lines during construction. Grantee will solicit Owner's advice and input, before finalizing the site design, and the final location or re-location (as applicable) of wind turbines, new roads, overhead lines, substation, and other above-ground Windpower Facilities to be installed on the Property shall be subject to Owner's consent. If a site map in the form of "Exhibit C" attached to this Agreement is attached to this Agreement on the Effective Date, or is later mutually agreed by Owner and Grantee, Owner hereby consents to the location of any wind turbines, new roads, overhead lines, substation, and other above-ground Windpower Facilities shown on such Exhibit C. Owner reserves the right to continue to farm any portion of the Property up to five feet (5') from the Windpower Facilities and Transmission Facilities.

10.3 Underground Lines; Repair and Replacement of Drainage Tiles.

(a) At Grantee's option, either (i) Grantee will hire a local tiling firm to do any trenching work on the Property in connection with the installation of underground power lines, or (ii) Grantee will allow all of the landowners in the Project collectively to select a local tiling consultant to be present during trenching work for the Project, and Grantee will pay such consultant at standard local long-term rates. Grantee will install its underground power lines at least five feet (5') below the soil surface so long as soil conditions do not make it commercially impracticable to do so, unless Owner consents to a lesser depth. During construction, if Grantee encounters underground drainage tiles while trenching for underground lines, Grantee shall install its underground lines below the drainage tiles unless the drainage tiles are six feet (6') or more below the surface, in which case Grantee shall install its underground lines above the drainage tiles.

(b) After the Commercial Operation Date, Grantee shall provide Owner with a site map showing the "as built" location of the underground lines on the Property (using GPS coordinates), and such "as built" site map shall include notations identifying the depth of all underground tiles and underground lines at any location where such items cross (using GPS coordinates with a deviation no greater than one inch). Grantee will also place field markers at the edge of fields and take any other measures that are required by the Prevention Act or county permits to mark the location of the underground lines, *provided* that marker tape placed in the trenches for the underground lines shall be at a depth no less than two feet (2') above the underground lines and at least two feet (2') below the soil surface.

(i) After Owner's receipt of the "as built" site map, Owner shall notify Grantee at least seven (7) days in advance of installing, repairing or replacing underground drainage tiles or doing other soil-disturbing activities at a depth greater than two feet (2') below the soil surface in a location directly above or in close proximity to Grantee's underground lines; *provided*, that Owner may notify Grantee as soon as practicable in the case of an

immediate need to repair, replace or install tile due to legitimate concerns about flooding. Within seven (7) days of Grantee's receipt of such notice from Owner (or promptly, in the case of an immediate need to install, repair or replace tile as described by Owner), Grantee, using its "as built" site maps, shall confirm for Owner the actual depth of the marker tape and underground lines in the location of the proposed installation, repair or replacement work.

(ii) If the entirety of Owner's proposed installation, repair or replacement work will be conducted at a depth above the marker tape, then in all cases Owner may conduct such work without a representative of Grantee present and without further notice to Grantee, and Grantee shall be responsible for any damage to underground lines caused directly and solely by any inaccuracies in Grantee's notification of the depth of the marker tape and underground lines in the location of the work. If any of Owner's proposed installation or repair work will be conducted at a depth below the marker tape, then within thirty (30) days of such notification (or promptly, in the case of an immediate need to install, repair or replace tile as described by Owner), Grantee will send out a field representative to uncover the affected Grantee underground lines so that Owner can complete its soil-disturbing activities in a safe and professional manner; *provided* that Grantee shall not be required to so uncover its underground lines in response to Owner's notification more than two (2) times per year (except in the case of an immediate need to install, repair or replace tile as described by Owner, or if due to Grantee's activities).

(iii) Owner shall deliver to Grantee's field representative a signed acknowledgement as soon as Grantee's field representative uncovers each such underground line, whereupon Owner shall indemnify Grantee for any damage to or interruption in service of such underground line(s). Owner shall be responsible for replacing all marker tape in the trenches for the underground lines so that such marker tape remains in the same location as it was located prior to Owner's work.

(c) Upon completion of construction, re-construction or deconstruction on the Property, Grantee will promptly repair or replace any field tiles damaged or destroyed by Grantee, its agents or representatives, in a manner that assures the field tile line's proper operation at the point of repair or replacement. Once Owner has provided Grantee with written acceptance of the drainage repairs or replacements, Grantee shall be relieved of any obligation to effect further repairs unless Grantee shall cause new damage to drainage tiles.

10.4 Soil Restoration; Weed Control. Upon completion of construction on the Property, Grantee will restore the soil surface on any portion of the Property disturbed by Grantee that is not within five feet (5') of the Windpower Facilities. In addition, if such land was in native grassland prior to construction, Grantee will re-plant native grass seed on such portion of the Property. If Grantee causes compaction of any cultivated part of the Property located more than 5 feet from the edge of areas occupied by above-ground Windpower Facilities or Transmission Facilities, Grantee will "rip" such portion of the Property in at least three passes to a depth of at least 18 inches to the extent practicable, unless the presence of tile lines or underground utilities necessitate a lesser depth. After the Commercial Operation Date, Grantee will use commercially reasonable efforts to control weeds resulting from Grantee's use of the Property.

10.5 Clearing of Timber. Grantee reserves the right from time to time to clear timber from areas of the Property as designated by Grantee (collectively, "Clearance Area"), in connection with construction or operation of the Project. Grantee will give Owner at least 30 days' notice before removing timber from the Clearance Area so that Owner has the opportunity to remove such timber. Grantee's notice will identify the Clearance Area and the timing needed for removal. If Owner notifies Grantee within 15 days that it wants to remove such timber, Owner will promptly remove such timber from the Clearance Area and dispose of it off-site or at a location on the Property that does not interfere with construction or operation of the Project (in the reasonable judgment of Grantee), at Owner's expense. Otherwise, Grantee or its contractors may remove such timber from the Clearance Area and dispose of it off-site or at a location on the Property designated by Owner that does not interfere with construction or operation of the Project (in the reasonable judgment of Grantee), at Grantee's expense.

10.6 Gates and Fences. When installing a gate within Owner's existing fence, Grantee will make such fence cuts, braces, and repairs that will be permanent and remain functional for the remaining life of the fence of which they are part; alternatively, Owner may require Grantee to install a cattle guard in lieu of a gate. If Owner maintains locks on exterior gates, Owner will provide Grantee with keys or with the combinations to such locks.

10.7 Roads. To minimize erosion caused by Grantee's construction of roads on the Property, Grantee will seek Owner's advice on the design of such roads. Grantee will incorporate Owner's advice into the final road design to the extent such advice does not require Grantee to spend more to build such roads than required by use of good engineering practice, as determined by Grantee in its reasonable judgment. To the extent crane routes do not follow either existing, improved or new roads on the Property, Grantee will provide a map of such crane routes to Owner (using GPS coordinates). During construction, Grantee will keep Owner's existing site roads used by Grantee in good repair. After construction is complete, Grantee will maintain roads used by Grantee on the Property to the extent necessary for Grantee's continued use, as reasonably determined by Grantee. In addition, Grantee shall use commercially reasonable efforts to construct roads on the Property in a fashion that will be suitable for crossing by Owner's agricultural vehicles. Further, after the Commercial Operation Date, in the event that the installation of wind turbines or roads by Grantee re-routes the natural drainage, causing drainage problems on the Property, Grantee will use commercially reasonable efforts to correct such problems. Owner reserves the right to use Grantee's roads on the Property except to the extent Owner's use interferes with Grantee's use or violates the provisions of this Agreement. After the Commercial Operation Date, Grantee shall use commercially reasonable efforts to cause its employees, contractors and invitees to drive only on site roads on the Property and not off-road.

10.8 Soil. Grantee shall not place any dirt it removes from the Property anywhere on the Property except on or under the areas that are within five feet (5') of the areas occupied by Windpower Facilities. Further, Grantee shall not remove excavated materials, including rocks, from the Property without Owner's approval, and shall replace removed topsoil to the location from which it was removed to the extent practicable, or such other location as may be reasonably requested by Owner.

10.9 Animals. Grantee's employees shall not bring animals onto the Property at any time.

10.10 Mineral Development. Owner reserves the right to develop the minerals, if any, owned by Owner or third parties on the Property so long as such development (including, without limitation, any drilling or mining) does not interfere with Grantee's use of the Property (as provided in Section 9.2 above) and does not materially diminish the amount of land surface of the Property available for the Grantee Activities.

10.11 Hunting. Under no circumstances shall Grantee or any of Grantee's invitees hunt on the Property. Owner expressly reserves the right to hunt or to allow its invitees and licensees to hunt on the Property, so long as such hunting is done in a safe manner and does not interfere with Grantee's use of the Property, damage any Windpower Facilities, or injure any of Grantee's personnel, business invitees, agents, contractors or property. Owner or its invitees and licensees shall indemnify Grantee from any such interference, damage or injury. Notwithstanding the foregoing, Owner shall not permit any hunting during periods when Grantee's or Grantee's contractors' construction personnel are present on the Property during construction of Windpower Facilities or Transmission Facilities. Such prohibition shall apply to Owner and its employees, invitees and licensees, and Owner shall include such prohibition in all agreements granting hunting rights on the Property. The provisions of this paragraph shall survive termination of this Agreement and completion of the decommissioning activities described in Section 12.3.

11. Assignment; Cure.

11.1 Assignees. Grantee and any Assignee (as hereinafter defined) shall have the right, without need for Owner's consent, to do any of the following, conditionally or unconditionally, with respect to all or any portion of the Property: finance Windpower Facilities; grant easements, co-easements, subeasements, leases, subleases, licenses or similar rights (however denominated) to one or more Assignees, *provided* no such grant shall exceed the rights granted to Grantee under this Agreement; or sell, convey, lease, assign, mortgage, encumber or transfer to one or more Assignees the Easement, or any or all right or interest in the Easement or in this Agreement, or any or all right or interest of Grantee in the Property or in any or all of the Windpower Facilities that Grantee or any other party may now or hereafter install on the Property. An "Assignee" is any of the following: (a) any one or more parties involved in the development, financing or refinancing of any Windpower Facilities, including, without limitation, any lender to or investor in, or purchaser or lessee of, Windpower Facilities; (b) any one or more parties involved in financing or refinancing the development of the Project or any Windpower Facilities, or any purchaser or owner of Windpower Facilities; (c) a corporation, partnership or limited liability company now existing or hereafter organized (including Grantee) in which Grantee or any of its owners, or any affiliate or partner of either, owns (directly or indirectly) a controlling interest at the time of assignment; (d) a partnership now existing or hereafter organized, a general partner of which is such a corporation, partnership or limited liability company; or (e) a corporation, partnership, limited liability company, or other entity that acquires all or substantially all of Grantee's business, assets or capital stock, directly or indirectly, by purchase, merger, consolidation or other means. Grantee or an Assignee that has assigned an interest under this Section will give notice of such assignment (including the address of the assignee thereof for notice purposes) to Owner, *provided* that failure to give such notice shall not constitute a default under this Agreement but rather shall only have the effect of not binding Owner with respect to such assignment until such notice shall have been given.

11.2 Assignee Obligations. No Assignee shall have any obligation or liability under this Agreement prior to the time that such Assignee takes actual physical possession of the Property. An Assignee shall be liable to perform obligations under this Agreement only for and during the period such Assignee is in possession of the Property. Any assignment permitted hereunder shall release the assignor from liability under this Agreement when the Assignee agrees in writing to perform the assigned obligations.

11.3 Right to Cure Defaults. To prevent termination of the Easement or any partial interest therein, Grantee (or any Assignee) shall have the right, but not the obligation, at any time prior to the termination, to pay any or all amounts due hereunder, and to do any other act or thing required of any Assignee or Grantee hereunder or necessary to prevent the termination of the Easement or any partial interest therein. If Grantee or an Assignee holds an interest in less than all of the Easement, the Property or the Windpower Facilities (other than an undivided interest in wind turbines installed on the Property), any default under this Agreement shall be deemed remedied, as to Grantee's or such Assignee's partial interest, and Owner shall not disturb such partial interest, if Grantee or the Assignee, as the case may be, shall have cured its *pro rata* portion of the default by paying the fees attributable to the Windpower Facilities in which Grantee or the Assignee, as the case may be, holds an interest.

11.4 Acquisition of Interest. The acquisition of all or any portion of Grantee's or an Assignee's interest in the Property or the Windpower Facilities or the Easement by another Assignee or any other person through foreclosure or other judicial or nonjudicial proceedings in the nature thereof, or any conveyance in lieu thereof, shall not require the consent of Owner or constitute a breach of any provision or a default under this Agreement. Upon such acquisition or conveyance, Owner shall recognize the Assignee, or such other party, as Grantee's or such other Assignee's proper successor.

11.5 New Easement. If the Easement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding or the Easement is terminated as a result of any uncured default, and within one hundred twenty (120) days after such rejection or termination Grantee or any Assignee (including any lenders in connection with the financing of the Windpower Facilities) shall have arranged to the reasonable satisfaction of Owner for the cure of all defaults that are susceptible of cure (including the payment of all fees or other charges due and payable by Grantee or other Assignees as of the date of such rejection or termination), then Owner shall execute and deliver to Grantee or such Assignee, as the case may be, a new easement agreement for the Property which (a) shall be for a term equal to the remainder of the Term of the Easement before giving effect to such rejection or termination, (b) shall contain the same covenants, agreements, terms, provisions and limitations as this Agreement (except for any requirements that have been fulfilled by Grantee or any Assignee prior to rejection or termination of the Easement), (c) shall enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Owner, and (d) shall include that portion of the Windpower Facilities in which Grantee or such other Assignee had an interest on the date of rejection or termination. The provisions of this Section shall survive the termination or rejection of this Agreement.

11.6 Extended Cure Period. If any default by Grantee or an Assignee under this Agreement cannot be cured without obtaining possession of all or part of the Property and/or all or part of the Windpower Facilities and/or all or part of Grantee's or another Assignee's interest

in the Easement, then any such default shall be deemed remedied if: (a) within one hundred twenty (120) days after receiving notice from Owner as set forth in Section 13.2 hereof, either Grantee or an Assignee shall have acquired possession of all or part of the Property and/or all or part of the Windpower Facilities and/or all or part of such interest in the Easement, or shall have commenced appropriate judicial or nonjudicial proceedings to obtain the same; and (b) Grantee or the Assignee, as the case may be, shall be in the process of diligently prosecuting any such proceedings to completion, and (c) after gaining possession of all or part of the Property and/or all or part of the Windpower Facilities and/or all or part of such interest in the Easement, Grantee or the Assignee performs all obligations as and when the same are due (to the extent then practicable) in accordance with the terms of this Agreement. If Grantee or an Assignee is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction over any bankruptcy or insolvency proceeding involving Grantee or any defaulting Assignee, as the case may be, from commencing or prosecuting the proceedings described above, the one hundred twenty (120) day period specified above for commencing such proceeding shall be extended for the period of such prohibition.

11.7 Estoppel Certificates, etc. Owner shall execute such estoppel certificates (certifying as to such factual matters as Grantee may reasonably request, including without limitation that no default then exists under this Agreement, if such be the case) and/or consents to assignment and/or non-disturbance agreements (respecting other property as to which Owner or its affiliates may have lease, use or other rights) as Grantee or any Assignee may reasonably request from time to time. Owner shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee or any Assignee for the purpose of implementing the terms and conditions contained in this Agreement or of preserving an Assignee's security interest, at no out-of-pocket cost to Owner. Notwithstanding any provision of this Agreement, the parties agree that this Agreement shall not be modified or amended prior to expiration of the Term without each Assignee's prior written consent. The previous sentence is for the express benefit of, and shall be enforceable by, each Assignee.

12. Transmission Facilities.

12.1 Grant of Transmission Easement. For the obligations set forth in Section 6 in Schedule I attached hereto and made part hereof and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Owner, Owner hereby grants to Grantee an exclusive easement ("Transmission Easement") in, on, along and under the Property for the right to erect, construct, reconstruct, replace, relocate, remove, maintain and use the following from time to time in connection with Grantee Activities, whether carried out on the Property or elsewhere: (a) a line or lines of towers, together with such wires and cables as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances and fixtures for use in connection with said towers, wires and cables on, along and in the Property; and (b) one or more substations or interconnection or switching facilities from which Grantee or others that generate energy may interconnect to a utility transmission system or the transmission system of another purchaser of electrical energy, together with the appropriate rights-of-way, on, along and in the Property. Said towers, wires, cables, substations, facilities and rights-of-way are herein collectively called the "Transmission

Facilities.” The location of the Transmission Facilities shall be subject to Section 10.2, to the extent applicable.

12.2 Access. The Transmission Easement is also for the right of ingress to and egress from the Transmission Facilities (whether located on the Property or elsewhere), over and along the Property by means of roads and lanes thereon if existing or otherwise by such route or routes as Grantee may construct from time to time, consistent with the requirements of this Agreement.

12.3 Assignment in Connection with Transmission Lines. In connection with the exercise of the rights of Grantee or any Assignee hereunder relating to Windpower Facilities, Grantee, in its sole discretion and without further act or consent of Owner, shall have the right to grant to any utility the right to construct, operate and maintain electric transmission, interconnection and switching facilities on the Property pursuant to any standard form of easement or other agreement used or proposed by the utility; *provided*, that (a) the final location of any such overhead transmission, interconnection and switching facilities shall be subject to Owner’s consent as provided in Section 10.2, and (b) Grantee or such utility shall make any payments required by Section 6 in Schedule I in connection with such facilities.

12.4 Term; Assignment. The term of the Transmission Easement shall expire upon expiration or termination of this Agreement. Grantee (and any Assignee) shall have the right, without need for Owner’s consent, to assign or convey all or any portion of the Transmission Easement to an Assignee on an exclusive or nonexclusive basis. The Transmission Easement shall run with the Property and inure to the benefit of and be binding upon Owner and Grantee and their respective transferees, successors and assigns, and all persons claiming under them.

13. Default and Termination.

13.1 Grantee’s Right to Terminate. Grantee shall have the right to terminate the Easement as to all or any part of the Property at any time, effective upon written notice to Owner from Grantee and Assignees having an interest in the Property; *provided*, that any such partial termination shall not affect less than an entire parcel assigned a Property Index Number. If Grantee terminates this Agreement before the Commercial Operation Date, Grantee will provide Owner with a summary of the wind speed data collected by Grantee on the Property or adjoining properties, without warranty.

13.2 Owner’s Right to Terminate. Except as qualified by Section 11, Owner shall have the right to terminate the Easement as follows:

(a) Default. If (i) a material default in the performance of Grantee’s obligations under this Agreement shall have occurred and remains uncured, (ii) Owner simultaneously notifies in writing Grantee and all Assignees of the default, which notice sets forth in reasonable detail the facts pertaining to the default and specifies the method of cure, and (iii) the default shall not have been remedied within sixty (60) days after Grantee or such Assignees receive the written notice, or, if cure will take longer than sixty (60) days, Grantee or any such Assignee has not begun diligently to undertake the cure within sixty (60) days and thereafter diligently prosecutes the cure to completion unless unable to do so due to Force Majeure (as defined in Section 14.1).

(b) Abandonment. In addition, if after the Commercial Operation Date, Grantee ceases to operate the Windpower Facilities on the Property for a period of twenty-four (24) consecutive months, unless due to Force Majeure (as defined in Section 14.1), Owner may terminate this Easement upon written notice to Grantee and, in such event, Grantee shall comply with Section 13.3.

13.3 Effect of Termination; Removal. Upon termination or expiration of the Easement, whether as to the entire Property or only as to part, Grantee shall (a) upon written request by Owner, prepare and place of record in the County records, a quitclaim deed to Owner of all of Grantee's right, title and interest in and to the Property, or to that part thereof as to which the Easement has been terminated, and (b) as soon as practicable thereafter, remove all above-ground Windpower Facilities and all underground Windpower Facilities down to a depth of five feet (5') from the Property or portion as to which the Easement was terminated and restore the soil surface to a condition reasonably similar to its original condition. Grantee shall complete the removal of the Windpower Facilities and restoration of the Property within eighteen (18) months of the termination or expiration of the Easement; however, if Grantee fails to do so within such time period, Owner may remove the Windpower Facilities and restore the Property, in which case Grantee shall reimburse Owner for reasonable and documented costs of removal and restoration incurred by Owner.

13.4 Security for Removal. On such date as may be required by applicable local law, but not later than the first anniversary of the Commercial Operation Date, Grantee shall provide security ("Financial Assurance") to the County to cover the estimated removal and restoration costs associated with the Windpower Facilities then located on the Property upon termination or expiration of the Easement pursuant to Section 13.3 (the "Deconstruction Costs"). At Grantee's option if acceptable to the County, the Financial Assurance shall be either a removal bond from an individual or entity engaged in the construction business and reasonably acceptable to the parties, a surety bond from an insurance company with a Best's Rating of not less than A, a corporate guarantee (from a financially responsible entity that is reasonably acceptable to the parties and whose credit rating is investment grade), a letter of credit issued by a financial institution reasonably acceptable to the parties, a cash deposit, or other security reasonably acceptable to both parties and the County. Grantee may provide a single Financial Assurance that benefits both Owner and any governmental authority (including the County) 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. The amount of the Financial Assurance shall be based on a written estimate from an engineer licensed to practice engineering in the State of Illinois selected by Grantee and reasonably acceptable to Owner and the County, which sets forth such engineer's estimate of the Deconstruction Costs. The estimate shall include reasonable estimates of crop damage, drainage tile damage and compaction damage anticipated to be incurred during removal and the estimate may take into account the estimated salvage value if the County agrees in writing that all interests in the salvage value are subordinate to that of the County if abandonment occurs. In addition, not later than the eleventh anniversary of the Commercial Operation Date, the amount of the Financial Assurance shall be increased to include an amount equal to two years of estimated county property taxes for the Project site, which amount may be used to pay such property taxes if Grantee fails to do so. The Financial Assurance shall be phased in over the first eleven (11) years following the Commercial Operation Date, as follows:

(a) On or before the first anniversary of the Commercial Operation Date, Grantee shall provide Owner and the County with Financial Assurance to cover ten percent (10%) of the estimated Deconstruction Costs.

(b) On or before the sixth anniversary of the Commercial Operation Date, Grantee shall provide Owner and the County with Financial Assurance to cover fifty percent (50%) of the estimated Deconstruction Costs.

(c) On or before the eleventh anniversary of the Commercial Operation Date, Grantee shall provide Owner and the County with Financial Assurance to cover one hundred percent (100%) of the estimated Deconstruction Costs *plus* two years of estimated county property taxes for which Grantee is responsible under Section 6.

If the County re-evaluates the estimated Deconstruction Costs and thereafter requires changes to amount of the Financial Assurance, the amount of the Financial Assurance under this Agreement shall be adjusted to match the amount required by the County.

13.5 Conflicting Requirements. The removal, restoration and security requirements set forth in Section 13.3 and Section 13.4 meet the requirements of the AIMA defined and described in Section 14.10 below. However, to the extent that such removal, restoration and security requirements conflict with the requirements of any State, County or local permitting entity for construction and operation of the Project (the "Permitting Requirements"), such Permitting Requirements shall prevail and control over the removal and restoration requirements in this Agreement and Grantee shall be obligated to perform such Permitting Requirements instead of any conflicting requirements hereunder.

14. Miscellaneous.

14.1 Force Majeure. If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means flood, drought, earthquake, storm, fire, tornado, lightning, windstorm, unusually inclement weather or other natural catastrophe; acts of God, casualty or accident; war, sabotage, vandalism, civil strife or other violence; strikes or labor disputes; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility; or any other act or condition beyond the reasonable control of a party hereto.

14.2 Confidentiality. Owner shall maintain in confidence, and shall not publish or otherwise disclose, information pertaining to the financial terms of this Agreement, Grantee's site design, methods of construction or operation, power production or availability of the Windpower Facilities, and the like, whether disclosed by Grantee or discovered by Owner, in each case unless such information either (a) is in the public domain by reason of prior publication through no act or omission of Owner or its employees or agents, or (b) was already known to Owner at the time of disclosure and which Owner is free to use or disclose without breach of any

obligation to any person or entity; *provided however*, that Owner may disclose the financial terms of this Agreement to Owner's family members; consultants, accountants, lawyers, or other professionals who receive such information under an obligation of confidentiality; prospective buyers of the Property or lenders that may have a mortgage on the Property; or other owners of land included in the Project. Grantee shall maintain in confidence, and shall not publish or otherwise disclose, information pertaining to the financial terms of this Agreement except as necessary in connection with Grantee's development and financing activities.

14.3 Successors and Assigns. Any sale or other transfer of the Property by Owner shall be subject to the Easement and this Agreement. The Easement shall burden the Property as the servient tenement and shall run with the Property. The Easement and this Agreement shall inure to the benefit of and be binding upon Owner and Grantee and, to the extent provided in any assignment or other transfer under Section 11.1 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them. References to Grantee in this Agreement shall be deemed to include Assignees in possession of the Property. The parties agree and intend that the provisions of this Agreement shall be covenants running with the land and that they touch and concern the land because they determine how the parties will use the Property and its resources, including payment for those resources and use of the Property. The further parties agree and intend that any conveyance, assignment, sale or other transfer of all or a portion of either party's rights or interests covered by and permitted under this Agreement shall include and be subject thereto because the provisions of this Agreement are covenants that run with the land. As covenants running with the land, the parties intend that should either no longer share privity of estate with the other, its rights and obligations in this Agreement pass to the person or entity that shares privity of estate and assumes the role of Owner or Grantee. As a result, except as otherwise provided in Section 11.2 above, any party who ceases to have privity of estate under this Agreement shall bear no liability or any obligation for the terms hereunder after the date on which privity ends. The privity of contract between the current parties shall not change this result because the parties do not intend the use of identifiers like Owner or Grantee to bind those specific parties upon any transfer, conveyance, assignment, sale, or other transfer covered by and permitted under this Agreement.

14.4 Notices. All notices, requests and communications required or permitted by this Agreement shall be given in writing by personal delivery (confirmed by courier delivery service), or facsimile, receipt confirmed, or first class U.S. mail, postage prepaid, return receipt requested, certified, addressed as follows:

If to Owner:

Donald D. and Sharon I. Jacobson
1430 Knox Rd 2650N
Altona, IL 61414

Telephone: 309-368-2510
Email:

If to Grantee:

Knox County Wind Farm LLC
c/o Orion Renewable Energy Group LLC
155 Grand Avenue, Suite 706
Oakland, CA 94612
Attn: General Counsel
Phone: (510) 267-8921
Fax: (510) 267-8911

If to any Assignee:

At the address indicated in the notice to Owner provided under Section 11.1 hereof

Payments to Owner shall be mailed to Owner's address above and made out to Owner. Any party may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph. Any notice provided for herein shall become effective only upon actual receipt by the party to whom it is given, unless such notice is only mailed by certified mail, return receipt requested, in which case it shall be deemed to be received five (5) business days after the date it is mailed.

14.5 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Owner and Grantee respecting its subject matter. Any agreement, understanding or representation respecting the Property, the Easement, or any other matter referenced herein not expressly set forth in this Agreement or a subsequent writing signed by both parties is null and void. This Agreement shall not be modified or amended, except in writing signed by both parties. No purported modifications or amendments, including, without limitation, any oral agreement, course of conduct or absence of a response to a unilateral communication, shall be binding on either party. This Agreement amends and restates the Letter Agreement in its entirety, with effect from the Letter Agreement Effective Date.

14.6 Governing Law; Interpretation. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state or federal courts located in Peoria, Illinois. The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this Agreement, and is hereby waived. **Each party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this agreement shall be to the Court. In no event shall either party be liable under this Agreement for consequential, punitive, special, incidental or indirect damages.**

14.7 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. If the term of the Easement, the Access Easement, the Transmission Easement, or other right hereunder is found to be in excess of the longest duration permitted by applicable law, then the provisions hereof which specify such term of duration shall be severed from this Agreement, and the term instead shall expire on the latest date permitted by applicable law.

14.8 No Partnership. Neither the provisions of this Agreement, nor the provisions of any other agreements referenced herein, nor any acts of the parties, nor any other circumstances shall be deemed to create a partnership or joint venture between the parties with respect to the Property, the Windpower Facilities or the Transmission Facilities for any purposes whatsoever. Each party shall, in connection with this Agreement, the Property, the Windpower Facilities or the Transmission Facilities, take reasonable steps in dealing with third parties to negate any inference that such partnership or joint venture exists.

14.9 Memorandum. Neither Owner nor Grantee shall record this Agreement in its entirety. The parties agree that a Memorandum of this Agreement shall be recorded in the

County's Real Property Records at Grantee's expense, in a form reasonably acceptable to both parties, which form shall not contain any of the financial provisions hereof.

14.10 Illinois Renewable Energy Agricultural Impact Mitigation Act. Pursuant to the Renewable Energy Agricultural Impact Mitigation Act, 505 Ill Comp. Stat. 147, Grantee is required to enter into an agricultural impact mitigation agreement ("AIMA") with the Illinois Department of Agriculture (the "IDOA") pertaining to the construction and deconstruction activities associated with the Project. The required form of AIMA is posted on the IDOA website and is available for review by Owner and Grantee. Except for certain deconstruction and financial assurance terms that cannot be modified pursuant to applicable law or the terms of the AIMA (the "Mandatory Terms"), all terms of the AIMA are subject to modification through negotiation by the landowner and the owner of the wind project. Owner and Grantee hereby acknowledge and agree that this Agreement contains all standards, policies, terms, provisions and conditions relating to the Project and Grantee's construction, deconstruction and other obligations and responsibilities with regard thereto, that the parties desire to govern or otherwise be applicable to Grantee's use and enjoyment of the Property for wind energy and related purposes. Accordingly, the parties agree that this Agreement is intended to and shall modify and supersede in their entirety, all standards, policies, terms, provisions and conditions contained in the AIMA, other than the Mandatory Terms. Any matter addressed in the AIMA but not addressed in this Agreement has been intentionally omitted from this Agreement by the parties and Grantee shall not be required to comply with or be bound by any standards, policies, terms, provisions or conditions relating to any such omitted matter. In the event that Grantee or any utility provider is required to enter an AIMA with regard to any electric transmission line to be constructed on the Property, the provisions of this section shall likewise apply to that AIMA and this Agreement shall modify and supersede in their entirety, all standards, policies, terms, provisions and conditions contained therein, other than the Mandatory Terms.

14.11 Counterparts. This Agreement may be executed in multiple counterparts, no one of which need be executed by all parties hereto, each of which shall constitute an original. Counterparts thus executed shall together constitute one and the same instrument.

14.12 Tax Credits. If under applicable law Grantee becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Grantee's option, Owner and Grantee shall amend this Agreement or replace it with a different instrument so as to convert Grantee's interest in the Property to a substantially similar interest that makes Grantee eligible for such tax credit, benefit or incentive.