A wind agreement in Montana must be both a "lease and easement" agreement. If it is not, the company probably has limited experience doing business in Montana.

"Option" means that the company offering the contract has a period of time in which they can decide whether they want to execute the contract or not. In this case, the wind company has a 7-year option, which is fairly long by industry standards

OPTION AND LEASE AND EASEMENT AGREEMENT

This Option and Lease and Easement Agreement (this "Agreement") is made, dated and effective as of _____, 2024 (the "Effective Date"), by and between _____ **[insert]** ("Landowner") and [redacted] ("Grantee"). Landowner and Grantee are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

STEP 1: When you get offered a contract, group up with your neighbors and decide what you want to do before singing the contract.
STEP 2: Hire a good lawyer and DO NOT go to the lawyer that the company recommends to you.

A. Landowner owns that certain real property located in Dawson County, Montana, and described on Exhibit A attached hereto and by this reference made a part hereof (the "Property").

B. Landowner desires to grant to Grantee an exclusive option to acquire a lease and certain easements on, over, and under the Property for the purposes of wind energy generation and transmission and related uses, upon the terms and conditions set forth in this Agreement.

AGREEMENT

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

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement as if fully set forth herein.

2. Definitions. Capitalized terms not otherwise defined in the body of this Agreement shall have the meanings ascribed to them in Schedule I attached hereto and by this reference made a part hereof.

3. Option.

3.1 Grant. Landowner hereby grants to Grantee an exclusive option to acquire the Lease and the Easements, as defined in Section 4, (the "Option") upon the terms and conditions set forth in this Agreement.

3.2 Option Term. The initial term of the Option shall commence on the Effective Date and shall end on the fifth (5th) anniversary of the Effective Date (the "Initial Option Term"). Each consecutive twelve (12) calendar month period (or portion thereof) during the Option Term, beginning with the Effective Date, is referred to herein as an "Option Year". Grantee may elect to extend the Option Term for two (2) additional periods of one (1) Option Year each (individually and collectively, the "Extended Option Term") by notifying Landowner in writing of Grantee's election to extend before the expiration of the Initial Option Term or the then current Extended

A quick note on eminent domain. Eminent domain would be very difficult for a company to do in Montana in the case of a wind farm or even transmission lines. Eminent domain laws in Montana require that property must be taken for the public good. If a developer threatens you with eminent domain, get a lawyer.

Option Term, as the case may be. The Initial Option Term and any Extended Option Terms are collectively referred to herein as the "Option Term".

3.3 Permitted Uses. During the Option Term, Grantee shall have a non-exclusive right upon the Property to conduct the Survey, as well as vehicular and pedestrian ingress to and egress from the Property, and the right of access over and across the Property, for purposes of the Survey. In the exercise of Grantee's rights hereunder, Grantee shall not unreasonably interfere with Landowner's uses of the Property.

3.4 Other Agreements. During the Option Term, Landowner shall not (i) enter into or grant any other agreements affecting the Property, including without limitation, leases, easements, options, rights of first offer or refusal or other right to any party to purchase, lease, license or acquire easements in the Property, or (ii) encumber the Property with any mortgage, deed of trust, or other security instrument, unless and until the holder thereof executes and delivers to Grantee a Consent.

3.5 Exercise. Grantee may exercise the Option as to all or any portion of the Property by giving written notice to Landowner at any time during the Option Term (the "Option Exercise Notice"). In the Option Exercise Notice, Grantee shall set forth the Commencement Date and shall describe and/or depict the Property, or portion thereof, so exercised. From and after the Commencement Date, the term "Property" in this Agreement shall mean the real property described and/or depicted in the Option Exercise Notice. Grantee may, at its expense, record the Option Exercise Notice in the County in which the Property is located. If Grantee obtains a surveyed legal description of the Property, it may, at any time and at its expense, record a notice containing such surveyed legal description in the County in which the Property is located.

3.6 Termination. If Grantee does not exercise the Option within the Option Term, then the Option shall automatically terminate upon the expiration of the Option Term. Further, at any time during the Option Term, Grantee may terminate the Option as to all or any portion of Property by written notice to Landowner, which notice shall describe and/or depict that portion of the Property so terminated.

4. Lease and Easements.

4.1 Effectiveness. Upon the Commencement Date, the Lease and the Easements shall automatically become effective without any further action by the Parties, and Grantee and Landowner shall be subject to all of the terms and conditions of this Agreement with respect to such Lease and the Easements and all rights and obligations relating thereto.

4.2 Lease. Upon the Commencement Date, Landowner leases to Grantee, and Grantee leases from Landowner, exclusive possession of the Property for Wind Project Purposes, in accordance with the terms and conditions of this Agreement (the "Lease").

4.3 Easements. Upon the Commencement Date, Landowner grants, conveys, and transfers to Grantee the following Wind Non-Obstruction Easement and Effects Easement (collectively, the "Easements") in accordance with the terms and conditions of this Agreement:

Lease applies to the land. Easement applies to the wind or air space.

4.3.1 Wind Non-Obstruction Easement. Landowner grants Grantee an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and undisturbed flow of wind over and across the Property. Landowner shall not engage in any activity on the Property or any other adjacent property owned by Landowner that might interfere with the free and undisturbed flow of wind, wind speed, or wind direction over any portion of the Property; cause a decrease in the output or efficiency of any Wind Turbines or Measurement Equipment; or otherwise interfere with Grantee's operation of the Project or exercise of any rights granted in this Agreement (collectively "Interference"). This grant of the easement expressly includes the right of Grantee to enforce Grantee's rights, including the physical removal of trees or structures causing Interference to the Project contemplated by Grantee.

4.3.2 Effects Easement. Landowner grants to Grantee an easement on, over, and across the Property and any adjacent properties owned by Landowner for electromagnetic, audio, visual, view, light, noise, vibration, electrical and radio interference, and any other effects attributable to the Project ("Effects Easement").

"Term" is the length of the contract. In this case, the term is 70 years which is long. This is important to note because you will be passing this contract on to the next generation. The contract stays with the land.

5. Term and Termination.

5.1 Term. The initial term of the Lease and the Easements ("Initial Term") shall commence on the Commencement Date and shall end on the fiftieth (50th) anniversary of the Commencement Date. Each consecutive twelve (12) calendar month period (or portion thereof) during the Term, beginning with the Commencement Date, is referred to herein as a "Term Year". Grantee may elect to extend the Term for two (2) additional periods of ten (10) Term Years each (individually and collectively, the "Extended Term"), by notifying Landowner in writing of Grantee's election to extend before the expiration of the Initial Term or the then current Extended Term, as the case may be. The Initial Term and any Extended Terms are collectively referred to herein as the "Term".

Notwithstanding anything to the contrary in this Agreement, the total Term (including the Initial Term and the Extended Term) shall not continue beyond the date of _____, 20___.

5.2 Termination. Subject to the rights of Grantee Mortgagees under Section 15, Grantee shall have the right to terminate this Agreement at any time as to all or any part of the Property, the Lease, or the Easements, effective upon written notice to Landowner.

6. Fees. In consideration for this Agreement, Grantee shall pay to Landowner fees in accordance with the Fee Schedule set forth in Schedule II, attached hereto and by this reference made a part hereof.

7. Landowner's Representations, Warranties, and Covenants. As of the Effective Date, and as of the Commencement Date, Landowner represents, warrants, and covenants as follows:

7.1 Authority. Landowner is the sole owner and holder of fee simple title to the Property, including all of the oil, gas and other minerals that may be produced therefrom, and has the full power and authority to enter into this Agreement, to grant to Grantee the Option, the Lease, the Easements, and all other rights granted in this Agreement, and to perform its obligations hereunder, in each instance without the consent or approval of any other party. The execution and

delivery of this Agreement, and the performance of the obligations hereunder, do not violate any provision of, or constitute a default under, any indenture, mortgage, lease or other agreement binding on Landowner or the Property, or any valid order of any court, regulatory body or governmental entity to which Landowner or the Property is subject. All necessary actions have been taken to authorize Landowner to execute this Agreement, and each person signing this Agreement on behalf of Landowner is authorized to do so. When signed by Landowner, this Agreement constitutes a valid and binding agreement enforceable against Landowner in accordance with its terms.

7.2 Encumbrances. Landowner's fee simple title to the Property is free and clear of all easements, leases, options, preferential rights, liens, mortgages, deeds of trust, mineral or oil and gas rights, or other encumbrances (each, an "Encumbrance"), except as disclosed in the real property records of the County in which the Property is located. In the event Grantee determines that any Encumbrances upon the Property interfere, either currently or prospectively, with Grantee's rights under this Agreement, then Landowner shall fully cooperate with and assist Grantee in obtaining a Consent from any holder of an interest therein. If a Consent is unable to be obtained, then Grantee may, at its option, make any payments to such interest holder in fulfillment of Landowner's liabilities under such Encumbrance and may offset such amounts from payments due to Landowner under this Agreement. If Landowner is notified of any past due payments under a mortgage, deed of trust, or other security instrument encumbering Landowner's interests in the Property, then Landowner shall, within five (5) business days of its receipt of such notice, notify Grantee and all Financing Parties of such past due payment notice, including a copy thereof.

7.3 Hazardous Materials. To the best of Landowner's knowledge, there are no Hazardous Materials on the Property; the Property is not and has not been in violation of any Environmental Laws; the Property has not been used for the generation, treatment, storage, or disposal of any Hazardous Materials; there are no underground storage tanks on the Property nor have any been located on the Property in the past; and Landowner has not received any notice or other communication from any governmental authorities alleging that the Property is in violation of any Environmental Laws. Landowner shall not violate, and shall indemnify, defend, and hold Grantee harmless from and against all Liabilities arising from any past, present, or future violation by Landowner (or anyone acting by or through Landowner) of any Environmental Laws in, on, under or about the Property.

7.4 Condemnation and Litigation. There are no pending or, to Landowner's knowledge, threatened condemnation or similar proceedings, lawsuits or other claims that affect or may affect the Property. Landowner agrees to notify Grantee promptly if any of the foregoing arise.

7.5 Cooperation. Landowner shall assist and fully cooperate with Grantee in applying for, complying with, or obtaining any land use permits and approvals, tax-incentive or tax-abatement program approvals, building permits, environmental reviews, or any other permits or approvals deemed necessary or desirable by Grantee in connection with the exercise of its rights under this Agreement upon the Property, including, without limitation, signing any applications for such approvals in Landowner's name. Landowner agrees not to directly or indirectly oppose any such application with, or the approval thereof by, the applicable governing agency or body. Further, Landowner shall cooperate with the transmission service provider ("TSP") that Grantee is working with for the Project if it becomes necessary for the Landowner to grant easements for

access, transmission of electricity, telecommunication, and/or other utilities on the Property for the benefit of the TSP and the Project. Grantee shall reimburse Landowner for all reasonable and actual out-of-pocket expenses directly incurred in connection with the cooperation required under this Section.

7.6 Additional Documents. Landowner shall cooperate with Grantee in the execution and delivery of such consents, estoppel certificates and other documents as an actual or proposed Financing Party, Grantee Mortgagee, power purchaser, investor, assignee or title insurance company (collectively "Requestor") may request from time to time, including, without limitation, any instruments required to evidence such Requestor's rights under this Agreement. Landowner shall, within ten (10) days after receipt of Grantee's written request therefor, deliver to Grantee an estoppel certificate addressed to Grantee and/or to any Requestor (as specified by Grantee), certifying to such matters as the following: (a) this Agreement is in full force and effect and has not been modified (or, if the same is not true, stating the current status of this Agreement), (b) to the best of Landowner's knowledge, there are no uncured events of default under this Agreement (or, if any uncured events of default exist, stating with particularity the nature thereof), and (c) any other certifications as may reasonably be requested by Grantee or a Requestor. Without limitation of Grantee's rights and remedies arising out of Landowner's failure to timely provide an estoppel certificate, any such failure by Landowner shall be conclusive evidence that (i) this Agreement is in full force and effect, without modification except as may be represented by Grantee, and (ii) that there are no uncured defaults by Grantee or Landowner hereunder.

7.7 Landowner's Reserved Uses. Landowner reserves and retains the right to use the Property for purposes not granted to Grantee in this Agreement, including, without limitation, hunting, recreation, agriculture, ranching, and the exploration and development of minerals; subject to the following conditions, requirements and limitations:

7.7.1 Interference. In its exercise of its retained rights upon the Property, Landowner shall not, and shall not allow any other party to, (i) interfere with or impair the free and complete use and enjoyment by Grantee of its rights under this Agreement, (ii) interfere with the flow of wind, wind speed, or wind direction over the Property, (iii) take any action which will in any way interfere with or impair the transmission of electric, electromagnetic or other forms of energy to or from the Project, (iv) take any action which will interfere with or impair Grantee's access to the Property, the Project, and the Improvements for the purposes specified in this Agreement, or (v) enter into any portions of the Property around which Grantee has installed security fencing (such as a substation, operations and maintenance building, laydown yard, and batch plant).

7.7.2 Hunting. Landowner expressly reserves the right to hunt or to allow its invitees and licensees to hunt on the Property; provided, however, such hunting activities are not permitted to interfere with Grantee's use of the Property, damage any Improvements or other property belonging to Grantee or a Grantee Party, or endanger or injure any Grantee Party. Landowner shall indemnify Grantee from any such interference, damage, or injury. Notwithstanding the foregoing, upon Grantee's request, Landowner shall not permit any hunting within a safety buffer during construction and maintenance activities conducted by Grantee on the Property. The location and extent of such safety buffer, along with the duration of the hunting cessation, shall be as reasonably determined by the Parties, based on Landowner's covenants and

Whenever you see the words "indemnify," be careful. Call your lawyer.

Indemnify means to compensate (someone) for harm or loss. This is very important to pay attention to. In the case of this hunting clause, the company is asking for the landowner to pay for any damage that may occur during hunting. Keep in mind, wind turbines cost between $2-4 million. Landowners need to be careful to put a cap on indemnity. Indemnification can lead to losing your farm or ranch.

commitments herein. At Grantee's request, Landowner shall cooperate with Grantee to prepare reasonable hunting rules designed for the protection of Grantee's Improvements, Grantee, and Grantee Parties.

7.7.3 Minerals. Landowner shall inform Grantee of the status and location of all oil, gas, and mineral exploration and production activities on the Property. Any new oil, gas, or mineral leases or renewals of existing oil, gas, or mineral leases entered into by Landowner must include a surface use agreement that will prevent the oil, gas, and mineral exploration and production activities from interfering with Grantee's use of the Property.

7.8 Quiet Use and Enjoyment. Grantee shall have the quiet use and enjoyment of the Property in accordance with the terms and conditions of this Agreement, without any interference of any kind by Landowner or any person claiming through Landowner.

7.9 Fences and Gates. If Landowner maintains locks on any gates at points of entry and exit utilized by Grantee, then Landowner shall provide Grantee with keys and combinations to all such locks. Landowner will cooperate with Grantee to avoid pasturing animals on or near the Improvements during periods of construction, maintenance or removal activity by Grantee to minimize the need for temporary fencing.

When you sit down to negotiate, you can bring a map and mark where you do not want turbines. You can protect your neighbors, yourself and your viewshed in the negotiations. You can also request setbacks.

This clause here waives your rights to setbacks.

7.10 Waiver of Setbacks. Landowner waives any and all rights to seek enforcement of any setbacks and setback requirements, imposed by any law or rule or by any person or entity, including any applicable setbacks in the zoning ordinances of the county in which the Property is located, or in any governmental authority or entitlement or permit issued for the Project. If requested by Grantee, Landowner shall promptly, execute, and if appropriate cause to be acknowledged and recorded, any setback waiver or other document or instrument required by any governmental authority without the payment of additional consideration from Grantee.

7.11 Confidentiality. LANDOWNER SHALL MAINTAIN IN THE STRICTEST CONFIDENCE, AND SHALL NOT PUBLISH OR OTHERWISE DISCLOSE, CONFIDENTIAL AND PROPRIETARY INFORMATION RELATING TO GRANTEE AND THE PROJECT, INCLUDING WITHOUT LIMITATION, INFORMATION PERTAINING TO THE FINANCIAL TERMS OF OR PAYMENTS UNDER THIS AGREEMENT, GRANTEE'S SITE DESIGN, METHODS OF CONSTRUCTION OR OPERATION, POWER PRODUCTION OR AVAILABILITY OF THE IMPROVEMENTS, AND THE LIKE, WHETHER DISCLOSED BY GRANTEE OR DISCOVERED BY LANDOWNER, IN EACH CASE UNLESS SUCH INFORMATION EITHER (A) IS IN THE PUBLIC DOMAIN BY REASON OF PRIOR PUBLICATION THROUGH NO ACT OR OMISSION OF LANDOWNER OR ITS EMPLOYEES OR AGENTS, OR (B) WAS ALREADY KNOWN TO LANDOWNER AT THE TIME OF DISCLOSURE AND WHICH LANDOWNER IS FREE TO USE OR DISCLOSE WITHOUT DEFAULT OF ANY OBLIGATION TO ANY PERSON OR ENTITY. NOTWITHSTANDING THE FOREGOING, LANDOWNER MAY DISCLOSE SUCH INFORMATION TO LANDOWNER'S LENDERS, ATTORNEYS, ACCOUNTANTS AND OTHER PERSONAL ADVISORS; ANY PROSPECTIVE PURCHASER OF THE PROPERTY; OR PURSUANT TO LAWFUL PROCESS, SUBPOENA OR COURT ORDER; PROVIDED LANDOWNER IN MAKING SUCH DISCLOSURE ADVISES THE PARTY RECEIVING THE INFORMATION OF THE CONFIDENTIALITY OF THE INFORMATION AND OBTAINS

VERY IMPORTANT: the confidentiality clause only applies when you sign the contract. When facing any sort of development in your area, GROUP UP. If you get offered a contract, get with your neighbors. Hire a good lawyer. Grouping up gives the landowner leverage and ensures that everyone gets the same protections.

Some contracts have clauses that every landowner will receive the most lucrative deal that the developer signs with any landowner on the project. This contract does not contain one of those clauses.

THE AGREEMENT OF SAID PARTY NOT TO DISCLOSE THE INFORMATION, OR, IF IN RESPONSE TO LEGAL PROCESS, LANDOWNER GIVES GRANTEE PROMPT NOTICE AND ALLOWS GRANTEE THE OPPORTUNITY TO SEEK A PROTECTIVE ORDER.

8. Grantee's Representations, Warranties, and Covenants. As of the Effective Date, and as of the Commencement Date, Grantee represents, warrants, and covenants as follows:

Making sure that the company is properly insured is extremely important. What does that mean? Say a wind turbine falls and causes a fire that spreads onto BLM land. The BLM sues you for the damage done. A fire can cause a lot more damage than the $3,000,000 in insurance listed here. That could make you liable and is a way you could lose the ranch. You can insert a clause that would make the company fully liable in case of a fire.

8.2 Insurance. Grantee shall, at its sole cost and expense, obtain and maintain in effect throughout the Option Term and the Term, commercial general liability insurance, including bodily injury and property damage coverage (the "Insurance"). The Insurance shall have a combined single limit of not less than (i) $1,000,000 per occurrence during the Option Term, and (ii) $3,000,000 per occurrence during the Term. Grantee may utilize any combination of primary and/or excess insurance to satisfy this requirement. Upon a written request by Landowner, Grantee shall name Landowner as additional insured on such Insurance policy, or policies, and provide Landowner with a certificate evidencing such insurance.

8.3 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 for Grantee's use or benefit. If such a lien does arise, then Grantee shall not be considered in default of this Section if, within sixty (60) days after it receives notice of such lien, Grantee either bonds around such lien or otherwise removes such lien from the Property pursuant to applicable law.

8.4 Compliance with Laws. Grantee, at its expense, shall comply in all material respects with all valid federal, state, and local laws, ordinances, statutes, orders, codes, rules and regulations of any governmental entity now or hereafter applicable to Grantee's Project and its use of the Property and the Improvements. Grantee shall have the right to contest the validity or applicability thereto of any laws, ordinances, statutes, orders, codes, rules, regulations, taxes, and assessments now or hereafter made, issued, or imposed by any governmental entity. Any such contest shall be controlled by Grantee and Landowner shall reasonably cooperate with Grantee in such contest, at no expense to Landowner.

8.5 Siting and Construction. Prior to commencement of initial construction of the Improvements, Grantee shall provide a preliminary site plan to Landowner depicting the proposed locations of the Improvements on the Property. The final location of the Improvements shall be in Grantee's sole discretion. Following construction of the Project, and upon Landowner's request, Grantee shall provide Landowner with an "as-built" survey showing all constructed Improvements upon the Property. In the construction and operation of its Project, Grantee will make commercially reasonable efforts not to unreasonably interfere with Landowner's agricultural activities or any other rights of use reserved to Landowner on the Property.

8.6 Removal of Improvements. Upon the expiration or termination of this Agreement, Grantee shall promptly remove all above-ground improvements installed by Grantee on the

Note here: this contract says nothing about restoration. Many contracts have a restoration clause that requires the wind company to restore the impacted area to the original condition. A clause might read "reclaim and restore the land surface of the portions of the Property from which Windpower Facilities are removed pursuant hereto, to a condition and forage density reasonably similar to its original condition and forage density (as documented pursuant to Section 7.8) by reseeding any disturbed soil surface with suitable flora and restoring the terrain and soil surface, and as reasonably required, all leveling, terracing, mulching and other reasonably necessary steps to prevent soil erosion, to ensure the establishment of suitable grasses. Requirements for restoration and reclamation pursuant to this Agreement shall be reasonably construed and shall take into account inclement weather, drought conditions, or other climatic conditions;" This restoration is also contigent on a range assessment completed by wind company prior to consturction.

Property to a depth required by applicable law, and restore the surface of the Property utilized by Grantee to substantially the same physical condition that existed immediately prior to Grantee's use thereof, normal wear and tear excepted. Subject to any requirements of applicable law or of any governing contract, including preconditions to any bond release, at Landowner's request, Grantee shall not remove, and shall leave in place, all or any part of the roads or roadway improvements installed by Grantee on the Property.

8.7 Care and Appearance. In the exercise of its rights under this Agreement, Grantee shall maintain the Improvements in a reasonably neat and clean condition, and shall keep the Property free of trash and debris created by Grantee or any Grantee Party.

8.8 Road Maintenance. Any new roads installed by Grantee on the Property shall be maintained by Grantee in the condition necessary for Grantee's use thereof. Any existing roads utilized and/or improved by Grantee shall be maintained by Grantee in at least the condition that existed prior to Grantee's use and/or improvement, including repair of any damage caused by Grantee or a Grantee Party; provided, however, Grantee shall have no responsibility to repair damage to such roads caused by parties other than Grantee or a Grantee Party.

8.9 Hazardous Materials. Grantee shall indemnify, defend, and hold Landowner harmless from and against any violation by Grantee or a Grantee Party, of any Environmental Laws relating to the manufacture, generation, distribution, use, treatment, storage, discharge, disposal, transportation, handling, reporting, permitting, investigation or remediation of any Hazardous Materials in, on, under, or about the Property. Notwithstanding anything in this Section to the contrary, Grantee's indemnity shall not be applicable to claims based upon Hazardous Materials (i) not discharged by Grantee or a Grantee Party, (ii) located in, on, under or about the Property prior to the Commencement Date, (iii) brought upon the Property by Landowner or any party acting by or through Landowner, or (iv) that have migrated onto the Property from other properties. Should the activities of Grantee or a Grantee Party cause the discharge of Hazardous Materials upon the Property in violation of Environmental Laws, then Grantee shall, at its sole cost and expense, take any removal and remediation actions required by applicable Environmental Laws.

8.10 Fences, Gates & Cattle Guards. At Landowner's request, any fences, gates or cattle guards that were damaged or removed in connection with Grantee's activities on the Property, shall be replaced or repaired by Grantee. Any such repair or replacement will be with materials of comparable quality. Fences replaced pursuant to this Section shall be rebuilt by Grantee at its expense in mutually agreeable locations. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Landowner.

9. Ownership of Improvements and Incentives. Landowner shall have no ownership, lien, security, or other interest in or to any Improvements or the Project, any profits derived therefrom, or any local, state, or federal environmental attributes or tax incentives (whether now or hereafter existing) attributable to or generated by the Improvements, the Project, or the electric energy, capacity or other generator-based products produced therefrom, including without limitation, any and all credits, incentives, rebates, subsidies, benefits, reductions, offsets and allowances of any kind, howsoever entitled, the title to which shall at all times lie with Grantee. Landowner hereby waives any liens or claims to liens on the Improvements or the Project that it may have or be

entitled to by law. Grantee may remove any or all Improvements at any time. No part of the Project installed by Grantee on the Property shall be considered part of the Property, a fixture, or an improvement to real property.

10. No Requirement to Install or Operate. Nothing contained in this Agreement shall be interpreted to require Grantee to install or operate the Improvements or the Project, or any part thereof, on the Property, which Grantee may elect to do, or not, at any time or from time to time, in its sole discretion, in accordance with this Agreement.

11. Taxes.

11.1 Responsibility. Grantee shall be responsible for (i) all personal property taxes, assessments, and charges levied against the Property that are attributable to the Improvements or any Project on the Property, and (ii) any increase in the real property taxes levied against the Property caused by the Improvements, a Project on the Property, or a reclassification of the tax treatment of the Property caused by the Lease or the Easements ("Grantee's Taxes"). Landowner shall be responsible for all other taxes, assessments, and charges levied against the Property, including without limitation, those attributable to Landowner's improvements or to the underlying value of the Property ("Landowner's Taxes"). Grantee's Taxes and Landowner's Taxes are collectively referred to herein as the "Taxes".

11.2 Payment. Landowner and Grantee shall use commercially reasonable efforts to cause the taxing authority to issue separate property tax bills to Landowner and to Grantee. Upon receipt of separate tax bills, each of Landowner and Grantee shall pay, prior to delinquency, their portion of the Taxes directly to the taxing authority. Unless and until separate tax bills are issued, Landowner shall, prior to delinquency, pay all Taxes to the taxing authority. If Landowner fails to do so, Grantee shall be entitled, but not obligated, to make such payment and offset any amounts attributable to Landowner's Taxes, including any late fees or penalties, from any amounts due to Landowner hereunder. Grantee shall reimburse Landowner for any Grantee's Taxes paid by Landowner to the taxing authority so long as Landowner provides Grantee the tax bill within six (6) months after Landowner receives the same from the taxing authority. Notwithstanding anything to the contrary herein, Grantee shall have the right at any time to pay Grantee's Taxes directly to the taxing authority.

12. Mutual Indemnity. Subject to the limitation set forth in Section 13, each Party (the "Indemnifying Party") shall defend, indemnify, protect, and hold the other Party (the "Indemnified Party") harmless from and against all liabilities, expenses (including without limitation all reasonable attorneys' fees, court costs, and expert fees), losses, damages, claims, demands, suits and actions (collectively, the "Liabilities") resulting from the negligence, willful misconduct, or default of this Agreement by the Indemnifying Party, its agents, contractors or employees, invitees, licensees or permittees, except to the extent such Liabilities are caused by negligence or willful misconduct of the Indemnified Party, its agents, contractors or employees, invitees, licensees or permittees.

A good contract will limit the landowner's liability. For example, it might limit a landowner's liability to $1 million. The logic is that if you do something stupid, you should have to pay to a point, but you should not lose the farm or the ranch.

13. Limitation of Liability. Notwithstanding anything to the contrary contained in this Agreement, neither Party shall be liable in an action initiated by one against the other for special, punitive, indirect or consequential damages of any kind resulting from or arising out of this

Agreement, including, without limitation, loss of value, loss of production, loss of financial advantage, loss of rent, loss of profit or business interruptions, however the same may be caused.

14. Assignment.

14.1 Right to Assign. Grantee may, at any time and without Landowner's consent, assign all or any part of Grantee's right, title or interest in and to the Property, the Lease, the Easements, this Agreement, and the Improvements (collectively, the "Grantee Property") to one or more parties at any time, including, without limitation, the right to grant co-tenancy or sub-easement interests, licenses, leases, easements or similar rights (however denominated); or to sell, convey, lease, transfer, assign, or encumber the Grantee Property, or any portion thereof. Any assignment hereunder shall release Grantee from all obligations accruing after the date that liability for such obligations is assumed by the assignee. Grantee or the assignee shall notify Landowner of any such assignment, including the address of the assignee for purposes of notices under Section 18, provided that failure to give such notice shall not constitute a default under this Agreement and shall only have the effect of not binding Landowner with respect to such assignment and assignee until such notice has been given.

14.2 Right to Cure Defaults. To prevent termination of this Agreement or any partial interest herein, 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 Grantee or any assignee hereunder or necessary to prevent the termination of this Agreement or any partial interest herein. If Grantee or an assignee holds an interest in less than all of the Grantee Property, any default under this Agreement shall be deemed remedied, as to Grantee's or such assignee's partial interest, and Landowner 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 Grantee Property in which Grantee or the assignee, as the case may be, holds an interest.

14.3 Partial Assignment. If Grantee desires to assign this Agreement as to less than all of the Grantee Property, then Landowner shall, within ten (10) business days following a request by Grantee, and without demanding any additional consideration, execute and deliver to Grantee (i) a new agreement, and a memorandum thereof, as to that portion of the Property to be included in the partial assignment, each on the same terms as this Agreement and the Memorandum, except for any requirements that have been fulfilled by Grantee prior to the execution of such new agreement, and (ii) an amendment to this Agreement to remove from the legal description of the Property in Exhibit A attached hereto that portion to be included in the partial assignment, and any other modifications that may be required to properly account for the removal of such portion of the Property. This Agreement and any new agreements created under this Section 14.3 shall be independent agreements containing independent lease and/or easement estates, which, for the avoidance of doubt, shall not be cross-defaulted. Grantee shall reimburse Landowner for its reasonable costs and expenses incurred in connection with delivering the documents required hereunder.

15. Financing by Grantee.

15.1 Grantee Mortgage. Grantee may, at any time and without Landowner's consent, enter into one or more mortgages, deeds of trust, or other security instruments by which Grantee's interest in all or any portion of the Grantee Property is collaterally assigned, mortgaged, pledged or otherwise encumbered to secure a debt or other obligation to a Financing Party (collectively, a "Grantee Mortgage"). The term "Financing Party" means any person or entity (including any trustee or agent thereof) providing debt or other financing of any kind to or for the benefit of Grantee. A Financing Party who provides written notice to Landowner of its Grantee Mortgage and of its address for purposes of notice under this Agreement shall be deemed a "Grantee Mortgagee" and shall be entitled to the following protections:

15.1.1 Rights. Each Grantee Mortgagee shall have the right, in its sole discretion and without the consent of Landowner, to do any of the following: (i) assign its Grantee Mortgage; (ii) enforce the lien created by its Grantee Mortgage; (iii) acquire title to all or any portion of the Grantee Property by any lawful means (including without limitation by foreclosure or by an assignment in lieu of foreclosure); (iv) take possession of and operate all or any portion of the Grantee Property; (v) perform any obligations, and exercise any rights, of Grantee under this Agreement, or to cause a receiver to be appointed to do so; or (vi) assign or transfer all or any portion of its rights under this Agreement.

15.1.2 Liability. No Grantee Mortgagee shall have any liability or obligation to Landowner under this Agreement unless and until such Grantee Mortgagee acquires absolute title to an interest in this Agreement. Further, a Grantee Mortgagee shall be liable to perform obligations under this Agreement only for and during the period it directly holds such absolute title.

15.1.3 Notice of Default. As a precondition to Landowner exercising any rights or remedies related to any Grantee Default, Landowner shall deliver a Default Notice to each Grantee Mortgagee concurrently with its delivery of such Default Notice to Grantee.

15.1.4 Cure Period. Each Grantee Mortgagee shall have the right, but not the obligation, within the Cure Period (as herein defined) to cure, or caused to be cured, any Grantee Default. Each Grantee Mortgagee may exercise the rights, and perform the obligations, of Grantee under this Agreement for purposes of curing such Grantee Default, and Landowner expressly agrees to accept such exercise and performance. The term "Cure Period" means the later of (i) the last day of the applicable cure period for Grantee as set forth in Section 16.1, or (ii) sixty (60) days after Grantee Mortgagee's receipt of the Default Notice from Landowner; provided, however, if any Grantee Default cannot be cured without a Grantee Mortgagee obtaining possession of all or any part of the Grantee Property, then the Cure Period shall be extended for such additional time as Grantee Mortgagee may reasonably require to obtain possession of the Grantee Property, or any portion thereof, including possession by a receiver, and to thereafter complete the cure of such Grantee Default with reasonable diligence. Landowner shall not exercise any rights or remedies related to any Grantee Default under this Agreement prior to the expiration of the Cure Period available to a Grantee Mortgagee as set forth above.

15.1.5 New Agreement. If this Agreement terminates as a result of any default, foreclosure or assignment in lieu of foreclosure, or a rejection or disaffirmation pursuant to bankruptcy law or other law affecting creditors' rights, and, within ninety (90) days after such

termination, rejection, or disaffirmation, Grantee or any Grantee Mortgagee or other purchaser at a foreclosure sale shall have arranged to the reasonable satisfaction of Landowner for the cure of all defaults under this Agreement that are susceptible of cure, including the payment of all rent, fees and other charges and amounts due and payable by Grantee to Landowner through the date of such termination, rejection, or disaffirmation, then Landowner shall execute and deliver to Grantee or such Grantee Mortgagee or other purchaser at a foreclosure sale, or to a designee of one of these parties, as the case may be, a new agreement ("New Agreement") which (i) shall commence on the date of termination, rejection, or disaffirmation and shall be for a term equal to the remainder of the Term of this Agreement before giving effect to such termination, rejection, or disaffirmation; (ii) shall contain the same covenants, agreements, terms, and conditions as this Agreement (except for any requirements that have been fulfilled by Grantee or any Grantee Mortgagee or other purchaser at a foreclosure sale prior to such termination, rejection, or disaffirmation); and (iii) shall include that portion of the Grantee Property in which Grantee or such Grantee Mortgagee or other purchaser at a foreclosure sale had an interest on the date of termination, rejection, or disaffirmation. Landowner shall execute and deliver such New Agreement within thirty (30) days after receipt by Landowner of written notice of the election to enter into a New Agreement by Grantee or such Grantee Mortgagee or other purchaser at a foreclosure sale, or to a designee of one of these parties, as the case may be. If more than one Grantee Mortgagee makes a written request for a New Agreement, then such New Agreement shall be delivered to the Grantee Mortgagee whose Grantee Mortgage is senior in priority. This Section shall survive the termination, rejection or disaffirmation of this Agreement and, from the effective date of such termination, rejection or disaffirmation until the earlier of (i) ninety (90) days thereafter, or (ii) the effective date of the New Agreement, such Grantee Mortgagee or other purchaser at a foreclosure sale shall have the quiet use and enjoyment of the Property.

15.1.6 Amendment or Termination. So long as any Grantee Mortgage remains in effect, this Agreement shall not be amended, and Landowner shall not accept a surrender or release of any of the Grantee Property or a termination of this Agreement by Grantee prior to expiration of the Term, without the prior consent of the Grantee Mortgagee holding such Grantee Mortgage.

15.1.7 Third Party Beneficiary. Each Grantee Mortgagee is a third party beneficiary of this Agreement to the extent of their respective rights hereunder. The rights and protections in this Section 15 are enforceable by each Grantee Mortgagee as if it were a named party in this Agreement.

15.2 Investors. Grantee may, at any time and without Landowner's consent, sell or otherwise assign, transfer, or convey, directly or indirectly, any membership or other equity interests in Grantee to one or more persons or entities (including any trustee or agent thereof) (each, an "Investor"). Any Investor who provides written notice to Landowner of its interest in Grantee and of its address for purposes of notice under this Agreement shall be considered a "Grantee Mortgagee" under Sections 15.1.1 through 15.1.7, above, for the purposes of conferring such rights and remedies upon such Investor.

16. Defaults and Remedies.

16.1 Grantee Default. Grantee shall be in default of this Agreement if it (i) fails to pay any amounts set forth in Schedule II as and when due to Landowner and such failure is not cured

within sixty (60) days from Grantee's receipt of a Default Notice from Landowner ("Monetary Default"), or (ii) fails to meet any of its non-monetary obligations under this Agreement and such failure is not cured within ninety (90) days from Grantee's receipt of a Default Notice from Landowner (or if such failure cannot be cured through the exercise of reasonable diligence within such ninety (90) day period, if Grantee fails to commence corrective action within such ninety (90) day period and thereafter diligently prosecute same to completion) ("Non-Monetary Default"). The terms Monetary Default and Non-Monetary Default are collectively referred to herein as a "Grantee Default". After the occurrence of a Monetary Default, and subject to Section 15, Landowner may terminate this Agreement effective upon written notice to Grantee. Landowner hereby waives all other rights it may have, in law or in equity, to terminate this Agreement prior to the expiration of the Term. Subject to Section 15, and except for the termination rights herein waived by Landowner, Landowner shall have all other rights and remedies available to it at law and in equity for any Grantee Default.

16.2 Landowner Default. Landowner shall be in default of this Agreement if it fails to meet any of its obligations under this Agreement and such failure is not cured within thirty (30) days after Landowner's receipt of a Default Notice from Grantee (or if such failure cannot be cured through the exercise of reasonable diligence within such thirty (30) day period, if Landowner fails to commence corrective action within such thirty (30) day period and thereafter diligently prosecute same to completion) ("Landowner Default"). Grantee shall have all rights and remedies available to it at law and in equity for any Landowner Default.

17. Condemnation. If all or part of the Property is proposed to be taken as a result of any action or proceeding in eminent domain, or is proposed to be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (collectively, a "Taking"), Landowner shall provide Grantee with reasonable advance notice of any impending proceeding or meeting related to such Taking and shall not settle with the Taking authority or agree on compensation for such Taking without the consent of Grantee. This Agreement shall terminate as to any portion of the Property so condemned or taken. If a Taking affects a portion of the Property and Grantee determines, in Grantee's sole discretion, that use of the Property for the Project is thereafter not viable or feasible with respect to the balance of the Property not subject of the Taking, then Grantee may elect to terminate this Agreement effective upon written notice to Landowner. Subject to any applicable law or regulation, any award or other compensation ("Award") payable as a consequence of such Taking shall be paid as follows:

17.1 Landowner shall be entitled to receive out of the Award the value of Landowner's fee interest in the Property, valued as if no Improvements were on the Property;

17.2 Grantee shall be entitled to receive out of the Award: (A) the value of the Improvements installed on the Property; (B) any other compensation or benefits payable by law as a consequence of the loss or interruption of Grantee's business and the other costs and expenses incurred by Grantee as a consequence of the Taking; and (C) the remaining present value of Grantee's interest in the Property (determined at the time of the Taking), including the value of Grantee's interests under this Agreement;

17.3 Landowner shall be entitled to receive out of the Award, taking into account the leasehold and easement estates created by this Agreement, the estimated amounts that would have been paid by Grantee hereunder; and

17.4 Landowner shall be entitled to any remainder of the Award.

18. Notices. All notices required or permitted to be given in this Agreement shall be in writing and shall be deemed given when (i) personally delivered, (ii) two (2) days after deposit in the United States mail, first class, postage prepaid, registered or certified, return receipt requested, or (iii) twenty-four (24) hours after delivery to an overnight courier service, in each instance addressed by name and address to the party or persons specified herein below. Either Party may change its address for purposes of this Section by giving written notice of such change to the other Party.

19. Miscellaneous.

19.1 Force Majeure. If performance of this Agreement or of any obligation under this Agreement is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, 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. Further, at Grantee's option, the Term of this Agreement shall be extended for the duration of the Force Majeure event. Provided, however, nothing in this Section shall relieve Grantee of its obligations to pay any amounts due to Landowner, or of any other monetary obligation of Grantee, pursuant to this Agreement. The affected party shall use its reasonable efforts to avoid or remove such causes of non-performance, and shall continue performance under this Agreement when such causes are removed.

19.2 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon Landowner and Grantee and their respective heirs, transferees, successors and assigns. This Agreement shall burden the Property and shall be deemed a covenant running with the Property.

19.3 Memorandum. Grantee may record an abstract or memorandum of this Agreement ("Memorandum") in the public records of the County in which the Property is located, which Memorandum shall be in form and substance satisfactory to the Parties, and shall not contain any of the financial terms of this Agreement. This Agreement shall not be recorded or filed publicly of record, except through the Memorandum.

19.4 Entire Agreement. This Agreement and the attached Exhibits and Schedules constitute the entire agreement between Landowner and Grantee with respect to the subject matter contained herein and supersedes all prior agreements, negotiations, or understandings of the Parties pertaining to such subject matter. This Agreement shall not be modified or amended except in writing and signed by both Parties.

19.5 Further Assurances. Each Party shall use commercially reasonable efforts to implement the provisions of this Agreement. In furtherance thereof, at the request of a Party, the other Party will, without further consideration, promptly execute and deliver, or cause to be executed and delivered, such assignments, consents or any other instruments in addition to those required by this Agreement, in form and substance satisfactory to the Parties, as the requesting Party may reasonably deem necessary or desirable to implement any provision of this Agreement.

19.6 Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Montana. The Parties agree that any unresolved dispute between the Parties shall be resolved in the United States District Court for the State of Montana, in Billings, or, if the United States District Court lacks or fails to exercise jurisdiction, in the State District Court for the County in which the Property is located. The prevailing party in any action or proceeding, including alternative dispute resolution, initiated to enforce of any terms of this Agreement shall be entitled to recover its reasonable costs and expenses incurred in such proceeding, including reasonable attorneys' fees, from the non-prevailing party. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

Waives the right to a jury trial. Not necessarily a bad thing, but something that you should be aware of.

19.7 Severability. 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.

19.8 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, Landowner 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. Provided, however, such amendment shall not materially diminish the rights, or increase the obligations, of Landowner under this Agreement.

19.9 Survival. Upon the expiration or termination of this Agreement, the Parties shall be relieved of all further rights and obligations under this Agreement (and if a partial termination, the Parties shall be relieved of all further rights and obligations relating to that portion of the Property

so terminated), except for the following, which shall survive such expiration or termination: (i) the obligation to pay any amounts that accrued prior to, but remain unpaid as of, the date of termination, (ii) any removal and restoration obligations, (iii) obligations under all provisions of this Agreement regarding removal and restoration, indemnification, warranty, liability and limits thereon, and confidentiality, and (iv) any other obligations that are expressly stated to survive the termination or expiration of this Agreement.

19.10 Counterparts. This Agreement may be executed in multiple, and separate, counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

20. Compliance with Montana's Wind Energy Rights Act, § 70-17-401 et seq. ("Wind Energy Act"). It is the specific intent of the Parties to comply with the Wind Energy Act in connection with this Agreement insofar as this Agreement constitutes or includes a "wind option agreement" or a "wind energy agreement" under the Wind Energy Act, and to that end, the Parties agree as follows:

20.1 Compliance with § 70-17-405(1)(a) and § 70-17-406(1)(a): The names and addresses of the Parties are stated in Section 18 of this Agreement.

20.2 Compliance with § 70-17-405(1)(b) and § 70-17-406(1)(b): A legal description of the real property subject to this Agreement is attached hereto as Exhibit A.

20.3 Compliance with § 70-17-406(1)(c): Consistent with Section 4.3.1 of this Agreement, and notwithstanding anything to the contrary herein, Landowner is obligated to ensure the undisturbed flow of wind on and over Landowner's Property, which obligations include, but are not limited to, the following: Landowner shall not place, grow, install, construct, or build any vegetation, structures, and other objects that would impair or obstruct the wind flow on and over Landowner's Property without Grantee's prior written consent, which consent shall not be unreasonably conditioned, delayed, or denied. As used in this Section, and notwithstanding anything to the contrary, "structures" do not include equipment necessary to access minerals as they relate to the rights belonging to or the dominance of the mineral estate pursuant to § 70-17-408, Mont. Code Ann.

20.4 Compliance with § 70-17-405(1)(c) and § 70-17-406(1)(d): The specified term of the Option, referred to herein as the Option Term, is found in Section 3.2. The specified term of the wind energy agreement, including any extensions, and the date certain beyond which it shall not continue, is found in Section 5.1 of this Agreement.

20.5 Compliance with § 70-17-405(1)(d) and § 70-17-406(1)(e): Provisions to compensate the Landowner for the Option and the wind energy agreement are found in Schedule II to this Agreement.

20.6 Compliance with § 70-17-405(1)(e): All other terms and conditions between Landowner and Grantee are contained within this Agreement.

20.7 Compliance with § 70-17-406(1)(f): Consistent with Section 11, and notwithstanding anything to the contrary, Landowner shall not be liable for any property tax associated with any Project of Grantee's on the Property or any equipment related to the development thereof. For clarification purposes, and consistent with Section 11 of this Agreement, Landowner shall be liable for property taxes associated with all real and personal property owned by Landowner, but shall not be liable for any increases in such property taxes by virtue of any improvements, including any wind power facilities or transmission facilities, constructed by Grantee on Landowner's Property.

20.8 Compliance with § 70-17-406(1)(g): Provisions addressing Landowner's and Grantee's obligations and liability during the construction and operation phases of any Project are found in various Sections throughout this Agreement, including, without limitation, Sections 7 through 10.

20.9 Compliance with § 70-17-406(1)(h): As stated in Section 8.4 of this Agreement, Grantee will comply with federal, state, and local laws and regulations applicable to this Agreement.

20.10 Compliance with § 70-17-406(1)(i): Conditions upon which the wind energy agreement may be terminated prior to its expiration are found in, among other Sections, Section 5.2 of this Agreement.

20.11 Compliance with § 70-17-405(2) and § 70-17-406(2): This Agreement is properly and lawfully notarized.

The Parties represent and warrant to each other, upon which representations and warranties the Parties have also relied, that this Agreement complies in all respects with each specific requirement of § 70-17-405 and § 70-17-406 of the Wind Energy Act, and includes a legally binding and enforceable "wind option agreement" as well as a legally binding and enforceable "wind energy agreement" as contemplated by the Wind Energy Act. The Parties, for themselves and their heirs, successors and assigns, hereby waive and release any and all claims, challenges, and arguments that this Agreement does not fully and completely comply with all of the requirements of the Wind Energy Act.

[Signatures on Following Pages]

The Parties have executed this Agreement to be effective as of the Effective Date.

Landowner:

_____

[Insert]

STATE OF _____)
:ss
COUNTY OF _____)

[**Use this notary form if Landowner is an individual person:** This instrument was acknowledged before me on _____, 20__, by _____ _____.]

[**Use this notary form if Landowner is an entity:** This instrument was acknowledged before me on _____, 20__, by [*insert officer's name*], as [*insert title*] of [*insert Grantor's Entity*].

(SEAL)

_____
Notary Signature

_____

Grantee:

[redacted]

ACKNOWLEDGMENT

[redacted]

(NOTARY SEAL) _____
(Signature of Notary)

_____
(Name of Notary Typed, Printed, or Stamped)

Personally Known___X_____ OR Produced Identification_____
Type of Identification Produced_____N/A_____

EXHIBIT A

Description of the Property

Total Acres: [insert]

All that certain real property located in [insert] County, Montana, described as follows:

[Insert Legal Description and APN]

Note: we have blacked out all of the specific finances offered in this contract. However, getting a lawyer with experience in wind development is important. There is a sweet spot when it comes to the financials - you should be compensated adequately, however be careful if they come in offering tons of money above the market. That could be a sign that they are inexperienced or will not stay in business. You want a company that is going to be around in 20-30 years.

SCHEDULE I

Definitions

"Commencement Date" means the effective date of the Lease and the Easements, as set forth in the Option Exercise Notice.

"Commercial Operations Date" means the date upon which the Project begins delivering commercial quantities of electricity to the utility grid.

"Consent" means a subordination agreement, non-disturbance agreement, or other commercially reasonable agreement in the form prepared and provided by Grantee, pursuant to which the holder of an interest in an Encumbrance consents to this Agreement and agrees to subordinate its interest in such Encumbrance to this Agreement and/or to not disturb Grantee's rights under this Agreement.

"Default Notice" means a written notice setting forth in reasonable detail the facts pertaining to the alleged default under this Agreement and specifying the method of cure.

"Environmental Laws" means any federal, state, or local law, statute, code, ordinance, rule, or regulation relating to the protection of the environment and/or human health or safety, including those relating to the manufacture, generation, distribution, use, treatment, storage, discharge, disposal, transportation, handling, reporting, permitting, investigation or remediation of any Hazardous Materials.

"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, theft, epidemic or pandemic, power failure or surge, the cutting of power, transmission or other lines, wires or cables to any of the Project, civil strife or other violence, strikes or labor disputes, any change in applicable law, order, proclamation, regulation, or ordinance, any action or inaction, demand or requirement of any government agency or utility, litigation challenging the validity or content of any Project permits, litigation by Landowner, nearby landowners or third party interest groups challenging the validity or content of this Agreement or any aspect of the Project, or any other act or condition beyond the reasonable control of a party hereto.

"Grantee Party" means Grantee's employees, agents, representatives, contractors, subcontractors, licensees, and invitees.

"Hazardous Materials" means any substance or material, which is now or hereafter classified as hazardous or toxic, or which can give rise to liability, under any Environmental Law.

"Improvements" means:

1. Meteorological and energy resource measuring equipment, including without limitation, anemometer towers, LiDAR, and SODAR and all necessary and proper appliances and fixtures for use in connection therewith, used to determine the feasibility

of energy generation, conversion, and/or storage on the Property or adjacent properties ("Measurement Equipment");

2. Wind turbines and other devices and improvements designed for the generation of electrical power from wind and its currents, including without limitation, towers, blades, structures, concrete pads, foundations, supports, and braces ("Wind Turbines");

3. Batteries and other devices and improvements designed for the storage of electrical energy, including without limitation, containers, buildings, structures, foundations, supports, and braces;

4. Overhead and underground electrical transmission facilities and communication facilities for the collection and/or transmission of electrical energy and for communication purposes, including, without limitation, poles, towers, guys, wires, cables, conduits, transformers, splice boxes, and all necessary foundations, footings, crossarms and other equipment and fixtures for use in connection therewith ("Transmission Facilities");

5. One or more substations or interconnection or switching facilities and related improvements and equipment, including without limitation Transmission Facilities, meters, monitoring and control equipment, enclosures, fencing, security devices, and parking areas;

6. Roadway improvements, including asphalt, gravel or other roadway materials, road signs, culverts, bridges, drainage ditches, gates, and cattle guards;

7. Control buildings, maintenance yards, laydown yards, staging and parking areas; and

8. All equipment and improvements of every kind and character that Grantee deems necessary or desirable in connection with the Project.

"Project" means a wind powered electrical generation and transmission project or projects developed, constructed, and operated by or on behalf of Grantee, located in whole or in part on the Property, and consisting of the Lease, the Easements, and the Improvements.

"Survey" means all surveys, investigations, and inspections of the Property as Grantee may determine are necessary or desirable in connection with the Option, the Wind Project Purposes, or the Project, including, without limitation, (i) wildlife, environmental, and cultural resource studies, (ii) drilling, excavation, and other geotechnical and soil tests, and (iii) the construction, installation, operation, maintenance, repair, replacement, relocation, and removal from time to time of Measurement Equipment.

"Wind Project Purposes" means:

1. Use and possession of the Property in connection with the Project;

2. Conducting the Surveys;

3. Construction, installation, operation, maintenance, repair, replacement, improvement, enlargement, relocation, and removal from time to time of all or any portion of the Project or the Improvements;

4. Capture and conversion of all of the wind resources of the Property;

5. Overhang onto the Property of the rotors of Wind Turbines located on adjacent properties;

6. Vehicular and pedestrian access and ingress to and egress from the Property, the Project and the Improvements (whether located on the Property or on adjacent properties), and any public roadways, including the right to utilize and improve any existing or future roads or paths, as well as the right to construct, maintain, and utilize new roads or paths from time to time;

7. Storage of Improvements, materials, and equipment during the installation, construction, maintenance, and repair of the Improvements;

8. Site tours of the Project for visitors and other interested parties; and

9. Undertaking such other activities on the Property that Grantee deems necessary or desirable in connection with the Project.

SCHEDULE II

Fee Schedule

The payments set forth in this Schedule II are full consideration for this Agreement and all rights and benefits conveyed to Grantee pursuant thereto, including, without limitation, the Option, the Lease and each of the Easements.

1. Option Fee. During the Option Term, Grantee shall pay Landowner an annual option fee (the "Option Fee") in the amount of [redacted] per acre of Property described in Exhibit A. The first Option Fee shall be paid within sixty (60) days of the Effective Date. All subsequent Option Fees shall be paid on or before each anniversary of the Effective Date during the Option Term. If Grantee exercises the Option, then the Option Fee paid by Grantee shall be prorated on a daily basis for such partial Option Year, and the excess shall be credited against Grantee's next payments due under this Agreement.

2. One-Time Fee. Grantee shall pay Landowner a one-time installation fee of [redacted] per Wind Turbine installed on the Property (the "One-Time Fee"). The One-Time Fee shall be payable to Landowner in the following manner: (i) within sixty (60) days of the Commencement Date, Grantee shall pay one-half (1/2) of the estimated One-Time Fee related to Grantee's contemplated installation activities on the Property, and (ii) within sixty (60) days of the Commercial Operations Date, Grantee shall pay the remaining One-Time Fee based on the actual installed improvements as set forth in Grantee's as-built survey. Any One-Time Fee for Wind Turbines installed after the Commercial Operations Date are payable within sixty (60) days after Grantee's completion of installation of such Wind Turbines.

3. Operations Rent. In the event Grantee exercises the Option, then, during the Term, Grantee shall pay Landowner annual rent in an amount equal to the following, as applicable (the "Operations Rent"):

(a) If an Improvement or Improvements are installed on the Property, then Operations Rent shall be the greater of (i) [redacted] per megawatt of nameplate capacity of the Wind Turbines, if any, installed on the Property, or (ii) [redacted] per acre of the Property; OR

(b) If no Improvements are installed on the Property, then Operations Rent shall be the greater of (i) [redacted] per acre of the Property, or (ii) the flat fee of [redacted].

The first Operations Rent payment shall be paid within sixty (60) days of the Commercial Operations Date. All subsequent Operations Rent payments shall be paid on or before each anniversary of the Commercial Operations Date during the Term.

Operations Rent shall escalate by [redacted] per annum, with the first escalation occurring with the second Operations Rent payment to come due after the Commercial Operations Date.

4. Laydown Yard Rent. In the event Grantee constructs a laydown yard on the Property, then Grantee shall pay Landowner annual rent in the amount of [redacted] per acre of laydown yard on the Property (the "Laydown Yard Rent"). The first Laydown Yard Rent payment shall be paid within sixty (60) days of the Commercial Operations Date. All subsequent Laydown Yard Rent payments shall be paid on or before each anniversary of the Commercial Operations Date during the Term until Grantee ceases use of the laydown yard and removes all Improvements comprising the laydown yard from the Property, after which time no further Laydown Yard Rent shall be due.

5. Measurement Equipment Rent. Grantee shall pay Landowner annual rent in an amount equal to (i) [redacted] if an anemometer tower or other meteorological tower is installed on the Property, or (ii) [redacted] annually if a SODAR or LiDAR is installed on the Property (the "Measurement Equipment Rent").

The first Measurement Equipment Rent payment shall be paid within sixty (60) days of the completion of installation thereof. All subsequent Measurement Equipment Rent payments shall be paid on or before each anniversary of such first payment date during the Option Term or the Term, as applicable, until Grantee ceases use of such Measurement Equipment and removes the same from the Property, after which time no further Measurement Equipment Rent shall be due.

In the event the applicable Measurement Equipment is installed, or still installed, as the case may be, on the Property upon the Commercial Operations Date (if the same occurs), then Grantee may elect, at any time thereafter and in its sole discretion, to make subsequent Measurement Equipment Rent payments simultaneously with its payment of each Operations Rent payment; provided, however, that no further Measurement Equipment Rent shall be due after Grantee ceases use of such Measurement Equipment and removes the same from the Property.

Measurement Equipment Rent shall escalate by [redacted] per annum, with the first escalation occurring with the second Measurement Equipment Rent payment to come due.

6. Crop Compensation. Grantee shall compensate Landowner or Landowner's tenant, as applicable, for its Harvest Damages (as defined herein) and Compaction Damages (as defined herein), which damages in each case are caused by Grantee's initial construction of the Project, after which Grantee will not be responsible to pay Landowner or Landowner's tenant for any loss of income, rent, business opportunities, profits or other losses arising out of an inability to grow crops or otherwise use Landowner's real property. Harvest Damages and Compaction Damages shall be paid simultaneously, within sixty (60) days of mutual determination of the amounts thereof pursuant to the calculations set forth below.

6.1 The term "Harvest Damages" means damages resulting from the destruction of planted but unharvested crops located on the Property and which are caused by Grantee's initial construction of the Project. Harvest Damages will be calculated by the following formula: Unit Price X Unit Yield Per Acre X Affected Acreage = Harvest Damages.

"Unit Price" for damaged or destroyed crops will be based on the average of the last previous March 1st and September 1st Chicago Board of Trade prices for the crop. If the

crop is not traded on the Chicago Board of Trade, the price shall be based on the dominant trading exchange for that crop, but the formula shall remain the same.

"Unit Yield Per Acre" will be the average of the previous three (3) years' yields according to Landowner's or Landowner's tenant's records, as applicable, for the smallest parcel of land that includes the damaged area. If Landowner does not have yield records available, the parties will use National Agriculture Statistic Services ("NASS") records or other commonly used yield information available for the area.

As to "Affected Acreage", the parties shall try in good faith to agree to the extent of damage and acreage affected. If the parties cannot agree, then they shall have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent.

6.2 In the event Grantee's initial construction of the Project causes severely compacted soils upon any portion of the Affected Acreage located outside of the boundaries of the Property ("Compacted Acreage"), and such severe soil compaction prevents, or is reasonably expected to prevent, Landowner or Landowner's tenant from harvesting crops upon such Compacted Acreage in the manner they were harvested immediately prior to the Commencement Date, then, as full and final compensation for any damages that Landowner or Landowner's tenant incurred, or is reasonably expected to incur, in connection therewith ("Compaction Damages"), Grantee shall pay Landowner a lump sum amount calculated by the following formula: Compacted Unit Price X Compacted Unit Yield Per Acre X Compacted Acreage = Compaction Damages

"Compacted Unit Price" is equal to 75% of the Unit Price utilized in Section 6.1, above.

"Compacted Unit Yield Per Acre" is equal to 75% of the Unit Yield Per Acre utilized in Section 6.1, above.

As to "Compacted Acreage", the parties shall try in good faith to agree to the extent of damage and acreage affected. If the parties cannot agree, then they shall have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent.

7. Attorney's Fees. Grantee shall reimburse Landowner for attorney's fees incurred in the review of this Agreement, up to a maximum reimbursement [redacted]. Reimbursement shall be made within sixty (60) days of Grantee's receipt of an invoice evidencing such attorney's fees.

8. Payees.

8.1 Payments by Grantee under this Fee Schedule shall be made as follows: [insert payee name(s) and %].

8.2 Landowner shall be solely responsible to notify Grantee in writing of any change in ownership of the Property or any portion thereof. Until such notice is received, Grantee shall have no duty to any successor to landowner, and Grantee shall not be in default under this

Agreement if it continues to make all payments as required under this Section before notice of change in ownership is received by Grantee.

8.3 No payments shall be due and payable from Grantee hereunder unless and until a completed W-9 form is delivered to Grantee for each payee.

9. Termination. Notwithstanding anything contained herein to the contrary, Grantee shall have no further liability to make any payments under this Agreement including this Schedule II following termination of this Agreement, except to the extent such payment obligations accrued prior to the date of termination.

10. Late Payments. Any payments not paid or tendered when due under this Schedule II shall bear interest at a rate equal to the lesser of: (i) the prime interest rate at JP Morgan Chase & Co. (or its successor), or (ii) the maximum rate allowed by applicable law.

SCHEDULE II