

**AGREEMENT REGARDING EASEMENTS**

\_\_\_\_\_ **Property, County of Livingston, State of Illinois**

THIS AGREEMENT REGARDING EASEMENTS (this “Agreement”) is made, dated and effective as of May \_\_\_\_\_, 2014 (the “Effective Date”), between \_\_\_\_\_ (together with their successors, assigns and heirs, “Owner”), and **Invenergy Wind Development LLC** (together with its transferees, successors and assigns, “Grantee”), and in connection herewith, Owner and Grantee agree, covenant and contract as set forth in this Agreement. Owner and Grantee are sometimes referred to in this Agreement as a “Party” or collectively as the “Parties”.

**WITNESSETH:**

**WHEREAS**, Grantee is considering the development of a wind energy project (the “Project”) in Livingston County, Illinois;

**AGREEMENT:**

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

1. **Grant of Easement and Profits.** Upon the terms and conditions set forth in this Agreement, Owner hereby grants and conveys to Grantee an exclusive easement and lease to convert, maintain and capture the flow of wind and wind resources over across and through the surface estate of that certain real property of Owner located in the County of Livingston, State of Illinois and legally described on **Exhibit A** attached hereto and incorporated herein (the “Property”), together with the right to all rents, royalties, credits and profits derived from wind energy purposes upon, over, across and under the Property. The Property and the Owner-approved areas for siting wind turbines are outlined on the map attached as **Exhibit B** and incorporated herein.

2. **Easement.**

2.1 **Purpose of Easement.** The easement and grant of rents, royalties, credits and profits created by the Grant of Easements (collectively, the “Easement”) are solely and exclusively for wind energy purposes, and not for any other purpose, and Grantee shall have the exclusive right to use the Property for wind energy purposes and to derive all profits therefrom. For purposes of this Agreement, wind energy purposes means converting wind energy into electrical energy, and collecting and transmitting the electrical energy so converted, together with any and all activities related thereto (“Development Activities”), including, without limitation, (a) determining the feasibility of wind energy conversion and other power generation on the Property or on adjacent lands, including studies of wind speed, wind direction and other meteorological data, and extracting soil samples; (b) constructing, laying down, installing, using, replacing, relocating and removing from time to time, and maintaining and operating, wind

turbines, underground electrical and communications lines (“Underground Collection Facilities”), aboveground electrical and communications lines between Grantee’s substations and an energy distribution facility (such aboveground lines specifically not being permitted between the locations of wind turbine electricity generation and Grantee’s substation; “Aboveground Collection Facilities”; Aboveground Collection Facilities and Underground Collection Facilities are collectively referred to herein as the “Collection Facilities”), electric transformers, energy storage facilities, telecommunications equipment, power generation facilities to be operated in conjunction with large wind turbine installations, roads, meteorological towers and wind measurement equipment, and related facilities and equipment (collectively “Windpower Facilities”) on the Property; (c) undertaking any other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing, including without limitation, exercising the right of ingress to and egress from Windpower Facilities (whether located on the Property, on adjacent property or elsewhere) over and across the Property by means of roads and lanes thereon if existing, or otherwise by such route or routes as Grantee may construct from time to time, provided, however, that if any additional roads or lanes are proposed by Grantee after the site plan has been determined and incorporated into this Agreement, Grantee will consult in good faith with the Owner prior to the construction of such additional roads or lanes upon the terms and conditions set forth herein (“Access Rights”); (d) allowing the rotors of wind turbines installed on adjacent land to overhang the Property; (e) capturing, using and converting the unobstructed wind resources over and across the Property; and (f) permitting electromagnetic, audio, flicker, visual, view, light, noise, vibration, air turbulence, wake, electrical, radio interference, shadow or other effects attributable to the Windpower Facilities or any other operational or development activities.

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

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

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

2.5 Project. The Parties acknowledge and agree that the Property, together with the other property included in the Project, will be interrelated and integrated in the operation of a larger wind energy conversion project. The easements and other rights granted herein are an integral part of the Project. So long as any Windpower Facilities in the Project are in commercial operation, the Property shall be deemed to be in commercial operation, notwithstanding whether Windpower Facilities are actually installed upon the Property.

3. Term. The initial term of the Easement (“Development Term”) shall commence on the Effective Date of this Agreement and shall continue until the earlier of (i) the date seven (7) years thereafter, as such period may be extended by mutual written agreement of the Parties, or (ii) the date on which Grantee begins selling electrical energy generated by all of the wind turbines to be included in the Project to a third party power purchaser, regardless of whether Windpower Facilities are installed on the Property (the “Operations Date”). Upon expiration of the Development Term this Easement shall automatically be extended for an additional twenty-five (25) years (“First Extended Term”). Grantee shall also have the preferential right, upon written notice to Owner prior to the expiration of the First Extended Term to extend the term for an additional period of ten (10) years (“Second Extended Term”). With respect to the Second Extended Term, Owner and Grantee shall execute in recordable form, and Grantee shall then record, a grant or extension of easement evidencing the Second Extended Term, satisfactory in form and substance to Owner and Grantee. The Development Term, First Extended Term, and Second Extended Term are herein collectively referred to as the “Term”.

4. Payments.

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

4.2 Crop Compensation. Grantee shall pay Owner one time compensation for any and all portions of the Property that are taken out of commercial crop production during the construction of the Windpower Facilities, and any and all crops that are removed or damaged as a direct result of Grantee’s construction of the Windpower Facilities on the Property (“Initial Crop Damage Compensation”). Portions of the Property shall be deemed to have been taken out of commercial crop production only to the extent that Grantee’s construction of Windpower Facilities on the Property materially interferes with Owner’s ability to farm such portions of the Property during the growing season in which such construction occurs, assuming that Owner was actually farming such portions of the Property immediately prior to Grantee’s commencing construction of the Windpower Facilities on the Property. After construction is complete, Grantee shall be responsible for paying Owner any losses of income, rent, business opportunities, profits or other losses arising out of the damage by the Grantee of any crops growing on the Property as a result of the existence or operations of the Windpower Facilities to the extent, but only to the extent that such damage occurs outside the boundaries of the access roads and Windpower Facilities installed on the Property pursuant to this Agreement or otherwise outside the graveled area surrounding the base of any Windpower Facilities installed on the Property (“Incidental Crop Damage Compensation”), it being the intention of the Parties that payments on account of the existence or operation of Windpower Facilities inside such areas on the Property includes a payment for crop damage incidental to such existence and operation. Initial Crop Damage Compensation or Incidental Crop Damage Compensation shall be equal to the fair

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

4.3 Compaction Compensation. In addition to payments owed pursuant to Section 4.2, Grantee shall pay Owner for areas determined to have significant soil compaction directly caused by Grantee's activities on the Property ("Compaction Compensation"); provided, however, Grantee shall have the right to de-compact such areas first before any payments are due, and to complete such decompaction within three (3) months of construction on the Property. Compaction Compensation shall be equal to an amount that is quadruple the value calculated under Section 4.2 for the area compacted. In consideration of this payment, no additional damages shall be paid in future years for that incident of soil compaction. The Parties shall try in good faith to agree to the extent of damage and acreage affected. If the Parties cannot agree, the Parties shall have the area measured and the extent of damage assessed by an impartial party chosen by mutual agreement of the Parties, such as a crop insurance adjuster.

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

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

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

5. **Ownership of Windpower Facilities.** Owner shall have no ownership, lien, security or other interest in any Windpower Facilities installed on the Property and expressly waives, relinquishes and quitclaims any lien or security interest in and to the Windpower Facilities or any other real or personal property of the Grantee at law or in equity (including, without limitation, any rights of Owner pursuant to 735 ILCS 5/9-301 et seq., and any similar statute), or any profits derived therefrom, and Grantee may remove any or all Windpower Facilities at any time. Except for the payments described in Section 4 above, Owner shall not be entitled to any other payments or benefits accrued by or from the Project, including renewable energy credits, environmental credits or tax credits.

6. **Taxes.** Owner shall pay all taxes, assessments, or other governmental charges that shall or may during the Easement Term be imposed on, or arise in connection with the Property itself; provided that during the Easement Term Grantee shall be responsible for any incremental increase in such taxes, assessments, or other governmental charges directly resulting from the presence of the Windpower Facilities on the Property ("Windpower Facilities Incremental Property Tax"). To the extent the applicable taxing authority provides a separate tax bill for the Windpower Facilities Incremental Property Tax to Grantee, Grantee shall pay such Windpower Facilities Incremental Property Tax directly to the applicable taxing authorities prior to the date such Windpower Facilities Incremental Property Tax becomes delinquent. If a separate tax bill for the Windpower Facilities Incremental Property Tax is not provided to Grantee, Grantee shall pay the Windpower Facilities Incremental Property Tax within thirty (30) days following receipt of written demand from Owner of the amount of the Windpower Facilities Incremental Property Tax with a copy of the applicable tax bill. At Grantee's election, Grantee shall either pay the applicable taxing authority directly, in which case it will promptly provide Owner evidence of such payment, or Grantee shall make such payment directly to Owner. If Grantee pays taxes, assessments, and/or real property taxes on behalf of Owner that are Owner's obligation hereunder, Grantee may offset the amount of such payments against amounts due Owner under this Agreement.

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

7.1 **Minimal Impacts.** Grantee agrees to conduct its Development Activities and to locate and operate its Windpower Facilities in such a way as to reasonably minimize impacts to the Property and to Owner's activities on the Property, to the extent practical, without negatively impacting the Windpower Facilities. Prior to the construction of the Windpower Facilities on the Property, Grantee shall provide Owner with a site plan indicating the approximate proposed location of wind turbines and access roads. Grantee shall consider in good faith any suggestions or concerns Owner may have with the siting of such wind turbines

and access roads. If Grantee thereafter changes the site plan to move any wind turbines or access roads by more than one hundred (100) feet, Grantee shall repeat the foregoing review process. Grantee shall take commercially reasonable steps to minimize dust generated by its construction traffic. Grantee shall operate and maintain the Windpower Facilities in good order and repair throughout the term of this Agreement. Grantee shall not store materials, vehicles or equipment on the Property, except to the extent that such materials, vehicles and equipment are directly connected with the construction, operation or maintenance of the Windpower Facilities. If Owner's Property is fenced, all newly constructed access roads located on the Property shall be gated by Grantee at Grantee's expense, and Owner shall be furnished with keys or other ability to open and close such gates. Grantee shall maintain such gates as part of the Windpower Facilities.

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

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

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

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

7.6 Hazardous Materials. Neither Grantee, or its Related Persons (as defined in Section 13.15 below), shall violate any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations, on or under the Property ("Hazardous Material"). Grantee shall indemnify Owner against any such violation that is caused by Grantee or Grantee's Related Persons and occurs after the commencement of construction of the Windpower Facilities. Grantee shall promptly notify Owner of any such violation.

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

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

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

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

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

renewals and or extensions of existing leases, options to lease, seismic operations, or any other agreement made by Owner with a third party regarding the Property (including any of the foregoing related to water, oil, gas or other minerals) shall contain language that states that such third party shall not exercise any of its rights that would preclude, destroy or impair the use or operations by Grantee, or its assignees, as applicable, under this Agreement or the Easement on that part of Property covered by the Agreement and the Easement. Notwithstanding Section 8.2(i) to the contrary, Owner shall have the right to erect new buildings and other structures provided such buildings and other structures (i) are located adjacent to, or within 100 feet of, buildings existing as of the date of execution of this Agreement, and (ii) do not exceed 50 feet of the height, as of the date of execution of this Agreement, of the existing buildings

8.3 Liens and Tenants. Except as disclosed by Owner in writing to Grantee, Owner represents that there are no mortgages, deeds of trust, or similar liens or security interests encumbering all or any portion of the Property. If any recorded or unrecorded liens, encumbrances, leases, mortgages, deeds of trust, or other exceptions (collectively, "Liens") arise that create an unpaid monetary obligation for Owner, and may, in Grantee's reasonable determination, interfere with the Project, then Owner shall remove or bond over any such Liens in amounts reasonably approved by Grantee, and Owner shall fully cooperate and assist Grantee, at no out-of-pocket expense to Owner, in obtaining a consent to the granting of the Easement, if necessary, and a non-disturbance agreement from each party that holds 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 the Easement so long as Owner is not entitled to terminate this Agreement under the provisions hereof. Grantee shall promptly reimburse Owner for any actual reasonable expenses incurred by Owner in connection with such cooperation and assistance.

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

8.5 Hazardous Materials. Neither Owner, nor its Related Persons or licensees shall violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of Hazardous Material. Owner shall indemnify Grantee against any such violation that is caused by: (i) any person and exists as of the Effective Date or occurs on or before the commencement of construction of the Windpower Facilities; or (ii) Owner or Owner's agents and occurs after the commencement of construction of the Windpower Facilities. The Owner shall promptly notify the Grantee of any such violation. To the best of Owner's knowledge, (i) no underground tanks



are now located or at any time in the past have been located on the Property or any portion thereof, (ii) no Hazardous Material has been generated, manufactured, transported, produced, used, treated, stored, released, disposed of or otherwise deposited in or on or allowed to emanate from the Property or any portion thereof other than as permitted by all health, safety and other laws (each, an "Environmental Law") that govern the same or are applicable thereto and (iii) there are no Hazardous Materials in, on or emanating from the Property or any portion thereof which may support a claim or cause of action under any Environmental Law. Owner certifies it has never received any notice or other communication from any governmental authority alleging that the Property is or was in such violation of any Environmental Law.

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

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

8.8 Setback Waivers. To the extent permitted by law, Owner hereby waives enforcement of any applicable setback and setback requirements enforceable by Owner on the Property whether imposed by applicable law or by any person or entity (including any setback requirements described in governing zoning ordinances or in any governmental entitlement or permit heretofore or hereafter issued to Grantee) respecting the Windpower Facilities to be placed on the Property or any such facilities to be placed upon property near or adjacent to the Property. Such waiver includes setback and setback requirements related to the location of a residence on the Property. Further, if so requested by Grantee, Owner shall, without demanding additional consideration therefor, (i) execute (and if appropriate cause to be acknowledged) any setback waiver, setback elimination or other document or instrument reasonably requested by Grantee or such governing authority in connection therewith and (ii) return the same thereto within ten (10) days after such request.

## 9. Assignment.

9.1 Assignments. Grantee shall have the right, without obtaining the consent of Owner, to do any of the following with respect to all or any portion of the Property: finance Windpower Facilities; grant co-easements, separate easements, subeasements, licenses or similar rights (however denominated) to one or more persons (an "Assignee"); or sell, convey, lease, assign, mortgage, encumber, hypothecate, pledge or transfer to one or more Assignees the Easement, or any or all right or interest in the Easement or in this Agreement, or any or all right or interest of Grantee in the Property or in any or all of the Windpower Facilities that Grantee or any Assignee party may now or hereafter install on the Property (each an "Assignment"). Grantee shall notify Owner in writing of any such Assignment, and any such Assignee shall assume in writing the obligations of Grantee under this Agreement which Grantee will no longer be fulfilling pursuant to the terms and conditions of such Assignment with respect to the

Property assigned under such Assignment. Failure of Grantee to give notice of any such Assignment shall not constitute a default under this Agreement and shall not invalidate such Agreement but shall solely relieve Owner of its notice obligations to such Assignee. To the extent provided for in each Assignment, an Assignee shall have all of the rights and benefits of Grantee under and pursuant to this Agreement, and Grantee shall be relieved of all of its obligations under this Agreement upon the sale, conveyance, lease, assignment or transfer (“Transfer”) of its entire interest hereunder or, if only a partial interest is Transferred and such Transfer is to an affiliate of Grantee, Grantee shall be relieved of only those obligations under this Agreement relating to the partial interest Transferred to its affiliate.

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

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

## 10. Collection Facilities.

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

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

10.3 Assignment in Connection with Collection Facilities Lines. In connection with the exercise of the rights of Grantee hereunder and to facilitate Development Activities, Grantee shall have the right to grant to any utility or other duly authorized entity the right to construct, operate and maintain underground electric transmission and distribution, interconnection and switching facilities on the Property; provided, such utility is subject to the terms and conditions set forth herein, including the payment provisions.

10.4 Term; Assignment. The term of any Collection Facilities Easement shall be the same as the term of the Easement unless termination by Grantee of the Collection

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

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

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

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

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

(b) The Easement Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Grantee after Grantee's receipt of notice of default, plus, in each instance, the following additional time periods: (i) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any monetary default; and (ii) sixty (60), for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any non-monetary default, provided that such 120-day period shall be

extended for the time reasonably required to complete such cure, including the time required for the Easement Mortgagee to perfect its right to cure such non-monetary default by obtaining possession of the Property (including possession by a receiver) or by instituting foreclosure proceedings, provided the Easement Mortgagee acts with reasonable and continuous diligence. The Easement Mortgagee shall have the absolute right to substitute itself for the Grantee and perform the duties of Grantee hereunder for purposes of curing such defaults. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Easement Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of the original Grantee hereunder. Owner shall not take any action to terminate the Easement at law or in equity prior to expiration of the cure periods available to an Easement Mortgagee as set forth above.

(c) During any period of possession of the Property by an Easement Mortgagee (or a receiver requested by such Easement Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by an Easement Mortgagee, the Easement Mortgagee shall pay or cause to be paid the Operating Fees and all other monetary charges payable by Grantee hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Grantee's easement estate by the Easement Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, the Easement and this Agreement shall continue in full force and effect and the Easement Mortgagee or party acquiring title to Grantee's easement estate shall, as promptly as reasonably possible, commence the cure of all defaults hereunder and thereafter diligently process such cure to completion, whereupon Owner's right to terminate the Easement based upon such defaults shall be deemed waived.

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

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

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

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

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

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

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

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

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

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

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

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

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

## 12. Default and Termination.

12.1 Grantee's Right to Terminate and Remedies. Grantee shall have the right to terminate the Easement and this Agreement as to all or any part of the Property at any time and without cause, effective upon 30 days' written notice to Owner from Grantee. In the event any such notice is delivered to Owner by Grantee after Windpower Facilities have been installed on the Property, such notice shall be accompanied by a statement by Grantee setting forth how Grantee shall comply with the provisions of Section 12.3. Grantee further has the right, upon default by Owner hereunder, at its option and without further notice to exercise any remedy available at law or equity, all of which remedies shall be cumulative, including, without limitation, the right to enforce this Agreement by a suit for specific performance of any obligations of Owner set forth in this Agreement or any appropriate injunctive or other equitable relief. In the event of any breach or threatened breach by Owner, Grantee shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically to enforce the provisions of this Agreement.

12.2 Owner's Right to Terminate and Remedies. Owner shall have the right to terminate the Easement if Grantee has not commenced construction of Windpower Facilities for the Project on or near the Property within seven (7) years of the Effective Date. Should Grantee

default hereunder and should such default remain uncured after Owner notifies Grantee in writing of the default, which notice sets forth in reasonable detail the facts pertaining to the default, and such default shall not have been remedied within 60 days after Grantee receives the written notice, or, if cure will take longer than 60 days, Grantee has not begun diligently to undertake the cure within the relevant time period and thereafter prosecutes the cure to completion, then, subject to Easement Mortgagee Protections in Section 11, Owner shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative, including the right to enforce this Agreement by injunction, specific performance or other equitable relief. Notwithstanding, if any of Grantee's Windpower Facilities are then located on the Property and Grantee defaults on any of its non-monetary obligations hereunder, then Owner shall be limited to pursuing damages and Owner shall not commence any action to terminate or cancel this Agreement.

12.3 Effect of Termination. Upon termination of the Easement, Grantee shall, as soon as practicable thereafter, but in no event later than twelve (12) months after such termination, remove above-ground and below-ground (to a depth of four (4) feet below grade) Windpower Facilities from the Property. All Property disturbed by Grantee shall be restored to a condition reasonably similar to its original condition. Reclamation shall include, as reasonably required, leveling, terracing, mulching and other reasonably necessary steps to prevent soil erosion. If Grantee fails to remove such Windpower Facilities within twelve (12) months of termination of the Easement, or such longer period as Owner may provide by extension, Owner may do so, in which case Grantee shall reimburse Owner for reasonable and documented costs of removal and restoration incurred by Owner.

12.4 Security for Removal of Windpower Facilities. On or by the fifteenth (15<sup>th</sup>) anniversary of the Operation Date, Grantee shall obtain and deliver to Owner a letter of credit, or similar financial assurance, in form and substance reasonably satisfactory to Owner securing performance of Grantee's obligation to remove the Windpower Facilities located on the Property (the "Removal Security"). The Removal Security shall be equal to the estimated amount, if any, (the "Net Removal Costs") by which the cost of removing the Windpower Facilities exceeds the salvage value of such Windpower Facilities. To the extent that the Net Removal Costs are zero (or negative), the Removal Security shall not be required on the part of the Grantee, provided, however that Grantee shall re-evaluate the need for the Removal Security at least annually after the fifteenth (15<sup>th</sup>) anniversary of the Operations Date. Grantee shall not be required to deliver such Removal Security to Owner if Grantee (i) is in the process of repowering or otherwise redeveloping the power generating units on the Property with new power generating units (or commits in writing with notice to Owner to do so within two (2) years after the fifteenth (15<sup>th</sup>) anniversary of the Operations Date, or (ii) has delivered such Removal Security, or similar financial assurance, in connection with the permitting of the Property or any other portion of the Windpower Facilities for Grantee's wind turbines. Once in place, Grantee shall keep such Removal Security, or similar financial assurance, in force throughout the remainder of the Term. The Net Removal Costs shall be determined by the Grantee acting in good faith. If any requirement or right provided in this Section 12.4 contradicts or opposes any state or local laws, such state or local laws shall take precedence over this provision and such requirement or right shall be invalidated.

13. **Miscellaneous.**

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

13.2 **Confidentiality.** To the full extent allowed by law, Owner shall maintain in the strictest confidence, and Owner shall require each of its Related Persons to maintain in the strictest confidence, for the sole benefit of Grantee, all information pertaining to the financial terms of or payments under this Agreement, Grantee's site or product design, methods of operation, methods of construction, power production or availability of the Windpower Facilities, and the like, whether disclosed by Grantee or discovered by Owner, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Owner or its Related Persons, or (ii) was already known to Owner, at the time of disclosure and which Owner is free to use or disclose without breach of any obligation to any person or entity. To the full extent permitted by law, Owner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Owner may disclose such information to any auditor or to Owner's family members, lenders, attorneys, accountants and other personal advisors; any prospective purchaser of the Property; or pursuant to lawful process, subpoena or court order; provided Owner in making such disclosure advises the party receiving the information of the confidentiality of the information and obtains the agreement of said party not to disclose the information.

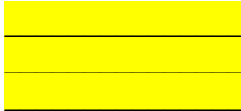
13.3 **Successors and Assigns.** The Easement shall inure to the benefit of and be binding upon Owner and Grantee and, to the extent provided in any assignment or other transfer under Section 9 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming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

13.4 **Grant of Easements.** Owner and Grantee acknowledge that the terms and conditions of this Agreement are in addition to the terms and conditions of the Grant of Easements, which such terms and provisions are incorporated into this Agreement by reference. The Grant of Easements has been executed concurrently herewith in recordable form. Owner hereby consents to the recordation of the interest of an Assignee in the Property and no further action by Owner shall be required to affect such recordation.



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

If to Owner:



If to Grantee:

Attn: General Counsel  
c/o Invenergy Wind Development LLC  
One South Wacker Drive, Suite 1900  
Chicago, Illinois 60606

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

13.6 Entire Agreement; Amendments. Except as provided in Section 13.4 hereof, this Agreement, with all exhibits attached hereto, constitutes the entire agreement between Owner and Grantee respecting its subject matter, and supersedes any and all other oral or written agreements. Any agreement, understanding or representation respecting the Property, the Easement, or any other matter referenced herein not expressly set forth in this Agreement or a subsequent writing signed by both parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. No purported modifications or amendments, including without limitation any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either Party. Provided that no material default in the performance of Grantee's obligations under this Agreement shall have occurred and remain uncured, Owner shall cooperate with Grantee in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of any Assignee or Easement Mortgagee; provided that so such amendment shall materially decrease Owner's rights hereunder, or materially increase Owner's obligations hereunder, and Grantee shall reimburse Owner for reasonable attorneys fees incurred for the same.

13.7 Legal Matters. 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 courts located in the county in which the Property is situated. The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is hereby waived.

13.8 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this Agreement, the parties agree that in

no event shall the term of this Agreement, the Easement, any Collection Facilities Easement or any Access Easement be longer than, respectively, the longest period permitted by applicable law.

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

13.10 Right to Record. Owner and Grantee agree that Grantee has the ongoing and continuous right to record this Agreement, at Grantee's sole discretion, in the public records of Livingston County, Illinois. No further action by Owner shall be required to affect such recordation.

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

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

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

13.14 No Partnership. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more Parties in this Agreement.

13.15 Indemnity.

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

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

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

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

(iv) the presence or release of Hazardous Materials (as defined in Section 7.6 above) in, under, on or about the Property, which are or were brought or permitted to be brought onto the Property by the Indemnifying Party or any Related Person thereof;

(v) the violation of any Environmental Law (as defined in Section 8.6 above) by the Indemnifying Party or any Related Person thereof, or

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

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

(c) The reference to property damage in this Section 13.15 above does not include the loss of:

(i) (a) rent;

(ii) (b) business opportunities;

(iii) (c) profits and the like; or

(iv) (d) crops or other damages specifically addressed in this agreement, that may result from Grantee's exercising its rights granted pursuant to this Agreement (any such losses shall be compensated solely through the provisions of Section 4).

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

(e) As used herein the term for Grantee, "Related Person" shall mean any affiliates, contractors, lessees, and sublessees of a Party, and each of their respective, principals, officers, employees, servants, agents, representatives, subcontractors, licensees, invitees, and/or

guests, but explicitly excluding the other Party and its Related Persons. For Owner, “Related Person” shall mean (i) any affiliates of Owner, and each of Owner’s respective, principals, officers, employees, servants, and/or agents, and (ii) such third party contractors, lessees, licensees, invitees, and guests that are covered by Owner’s insurance policy (unless Owner fails to carry liability insurance in which case it shall include all of Owner’s third party contractors, lessees, licensees, invitees and guests), but “Related Person” shall explicitly exclude the other Party and its Related Persons.

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

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

[EXECUTION PAGE FOLLOWS]

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

“Owner”

[NAME]

[NAME]

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF LIVINGSTON    )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014,  
\_\_\_\_\_, who executed the foregoing instrument, and acknowledged  
the same.

(S E A L)

Name: \_\_\_\_\_  
Notary Public, State of Illinois  
My Commission Expires: \_\_\_\_\_

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

“Grantee”

**Invenergy Wind Development LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2014, \_\_\_\_\_, the Vice President of Invenergy Wind Development LLC, a limited liability company, who executed the foregoing instrument, and acknowledged the same, on behalf of **Invenergy Wind Development LLC**.

(S E A L)

Name: \_\_\_\_\_  
Notary Public, State of Illinois  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**The Property**

Schedule of Locations:

<u>Parcel Number</u>	<u>County</u>	<u>Township/ Range</u>	<u>Section</u>	<u>Acreage</u>
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**Total**

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Legal Description:

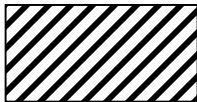
**EXHIBIT B**

**Property Map**

The attached map is for ease of reference only. At all times, the Legal Description in Exhibit A shall prevail.

Legend:

 --- Indicates Owner's property lines and is used for reference only. The legal description for purposes of this Agreement is described in Exhibit A.

 --- Indicates Owner approved areas for siting wind turbines.



**EXHIBIT C**  
**Financial Terms**

## EXHIBIT D

### Exceptions and Special Conditions

- Exception #1:** The access road(s) elevation shall not exceed one (1) foot above ground level unless agreed upon by Owner.
- Exception #2:** Notwithstanding Section 7.2 to the contrary, after construction is complete, Grantee shall provide written notice to Owner as to whether there is any excess dirt or topsoil on the Property from Construction. Owner, within ten (10) business days shall instruct Grantee in writing either to remove such excess dirt and/or topsoil or to leave it on the Property. If Owner instructs Grantee to remove any such excess dirt or topsoil, Grantee shall do so at its sole expense.
- Exception #3:** Grantee shall consider in good faith any suggested tile repair contractors proposed by the Forrest-Chatsworth Wind Study Group or as mutually agreed upon by the Owner and Grantee. The Grantee approved tile contractor shall be an agricultural tile repair contractor and not a union drainage expert.
- Exception #4:** In the event the underground collection system crosses an existing waterway, Grantee shall work closely with the Owner to preserve the integrity of the waterway.
- Exception #5:** Notwithstanding anything in the Agreement to the contrary, Grantee shall periodically remove weeds from access roads and the areas cleared around the bases of wind turbines.
- Exception #6:** Grantee shall work in good faith (i) to remedy radio, television (including cable and satellite), and phone (including cellular) interference caused by the Windpower Facilities, (ii) to ensure the decibel levels of noise from the Windpower Facilities are below the maximum levels permitted by the Illinois Pollution Control Board for such facilities, and (iii) to prevent excessive flicker and/or shadow effects upon Owner's residence that are attributable to the Windpower Facilities.
- Exception #7:** Notwithstanding Section 8.2(i) to the contrary, Owner shall have the right to erect new buildings and other structures provided such buildings and other structures (i) are located within 100 feet of buildings existing as of the date of execution of this Agreement, and (ii) do not exceed the height, as of the date of execution of this Agreement, of the existing buildings.

**Exception #8:** All payments issued hereunder will be paid to the Owner, as set forth in this Agreement, or its permitted successors and assigns. If Owner is comprised of more than one person or entity, then all payments will be issued by a single check payable to all such persons or entities, unless otherwise indicated below. Each person or entity holding record title to the Property hereby acknowledges and agrees that all payments are legally permitted to be made as set forth below and that no other party shall have any right to such payments or to contest the payments and allocations as set forth below. Each person receiving payment hereunder agrees to fully indemnify and hold harmless Grantee against claims by any third party in connection with its payments hereunder to the person/entities set forth herein. **Check one below:**

- A single check should be issued payable to all persons/entities comprising the Owner.
- Separate checks should be issued to each Owner as set forth below:

<b>Owner:</b>			
Payment Allocation:	%	%	%

**Exception #9:** All above-ground transmission facility poles will be monopole structures.

**Exception #10:** During the Term of this lease, Grantee shall provide Owner a current Certificate of Insurance pursuant to Section 7.3 in the amount as set forth in said Section, or as required from time to time by the County of Livingston, naming Owner as an Additional Insured thereon.