

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.

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.

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