

## PURCHASE AGREEMENT

**THIS PURCHASE AGREEMENT** ("Agreement") is made and entered into on this 18<sup>th</sup> day of September, 2013, by and between Bill Elder and Ellen Elder, husband and wife, with a post office address of ~~502~~<sup>518</sup> 2<sup>nd</sup> St. NE, Box 271, Hettinger, ND 58639 (hereinafter collectively referred to as "Seller") and Thunder Spirit Wind, LLC, a Delaware limited liability company authorized to do business in North Dakota, with a post office address of 103 Front St., Schenectady, NY 12305, (hereinafter collectively referred to as "Buyer").

The Seller, in consideration of the covenants and agreements hereinafter contained hereby sells and agrees to convey to Buyer, by warranty deed the real property lying and being in the County of Adams, State of North Dakota, legally described as: (1) Lot 1 of S19 T130 R95; and (2) E1/2 of NW1/4 of S10 T130 R95, collectively hereinafter referred to as the "Property".

The terms and conditions of sale and purchase are:

1. **Purchase Price and Payment Terms.** The purchase price for the Property is Nine Hundred Thousand Dollars (\$900,000.00) (the "Purchase Price") and shall be paid by wire transfer of immediately available funds at the time of closing.
2. **Deed/Marketable Title.** On the Closing Date and subject to the payment of the Purchase Price, Seller agrees to provide a transfer of title by warranty deed conveying good and marketable title to the Property, free and clear of all liens and encumbrances except for the general real estate taxes and installments for special assessments, if any, not yet levied and certified for collection, and except for all building and zoning laws, ordinances or statutes, protective covenants and restrictions of record, reservation of minerals of record and utility easements or other easements for right-of-way of record and the Permitted Encumbrances (as defined herein).
3. **Mineral Rights.** Buyer shall retain all rights to the oil, gas, casinghead gas and gasoline, condensate, and all other related hydrocarbons, sulphur, uranium, ferrous and non-ferrous metals and all other minerals on, in, and under or that may be produced from the above described property, together with the right of ingress and egress for the purpose of prospecting, drilling, and mining for and producing them, and saving, storing, transporting, and piping the same away.
4. **Real Estate Taxes.** Real estate taxes due and payable in the year of closing shall be prorated between Seller and Buyer on a calendar year basis to the actual Closing Date, on the basis of the actual taxes for the year 2014, if known, otherwise on the basis of taxes for the calendar year 2013. Real estate taxes payable in the years prior to closing shall be paid by Seller. Real estate taxes payable in the years subsequent to closing shall be paid by Buyer.
5. **Special Assessments.** All installments of special assessments certified for payment with the real estate taxes due and payable in the year of closing shall be prorated between Seller and Buyer on a calendar year basis to the actual Closing Date. Installments of special assessments payable in the years prior to closing shall be paid by Seller. Installments of special assessments payable in the years subsequent to closing shall be paid by Buyer.
6. **Damages to Property.** If there is any loss or damage to the Property between the date hereof and the Closing Date, for any reason, the risk of loss shall be on Buyer; provided, however, that Seller shall be required to maintain insurance covering the residence located on the Property equal to the

full appraised value of the residence and if Seller actually receives payment by its insurance carrier, if any, of any insurance proceeds based on such loss to the Property, at Closing and only upon receipt of the Purchase Price in full (as modified in this Section 6), the Purchase Price shall be reduced by the amount Seller received from Seller's insurance carrier. Should any such proceeds be received by Seller after the Closing, Seller shall forward the total amount to Buyer.

7. **Examination of Title.** Seller agrees to provide the Buyer with a continued abstract of title to the Property showing the title to be in the name of the Seller and in good and marketable condition, free of all liens and encumbrances as of the date of this Agreement except for the general real estate taxes and installments for special assessments, if any, not yet levied and certified for collection, and except for all building and zoning laws, ordinances or statutes, protective covenants and restrictions of record, reservation of minerals of record and utility easements or other easements for right-of-way of record (collectively, the "Permitted Encumbrances"). The cost of providing an updated abstract of title shall be the cost of the Seller and the cost of examination of such abstract shall be the cost of the Buyer. The Seller, at Seller's option, may provide to Buyer an owner's policy of title insurance in an amount equal to the Purchase Price of the Property herein stated; provided that this option does not modify or affect Seller's obligation to provide Buyer with a continued abstract of title to the Property as described above in this Section 7. In the event an examination of the abstract or the title insurance policy commitment reveals any title defects or deficiencies deemed objectionable to Buyer, the Seller agrees, at Seller's own cost, to remedy and remove such title defects and deficiencies therein existing. Seller shall have, at a minimum, thirty (30) days to cure such title defects.

8. **Closing Costs.** Seller shall be responsible for the following closing costs: preparation of warranty deed and preparation of and recording expense of all releases, satisfactions and corrective documents. Buyer shall be responsible for recordation of warranty deed to Buyer, and the closing fee of title company that is mutually acceptable to both Buyer and Seller. Any closing cost not specifically enumerated herein shall be the responsibility of the party ordering such item or contracting therefor. In the special event that Buyer or Buyer's lender requires title insurance, the cost of a lender's policy shall be entirely paid by Buyer with the exception of the furnishing of a continued abstract by Seller.

9. **Closing; Possession.**

a. Closing on the sale of the Property shall occur on or before October 1, 2014 (the "Outside Date"), or such other date as agreed upon by the parties (such date of the actual closing, the "Closing Date") and at the location of the title company mutually selected by Buyer and Seller; provided, however, if a Buyer Party (as defined herein) obtains the Funding earlier than the Closing Date, Buyer shall use its best efforts to close as promptly as possible after the Funding.

b. Upon receipt of the Purchase Price, Seller shall deliver possession of the Property to Buyer on the Closing Date.

10. **Buyer Contingency.** Buyer's obligation to close is subject to Buyer or any one or combination of (i) Buyer, (ii) Buyer's direct or indirect parent, (iii) any Buyer subsidiary, affiliate, shareholder, member or similar party, (iv) any direct or indirect (whether by merger, operation of law or otherwise) successor, transferee or assignee of Buyer, (v) or such other entity or person (collectively, the "Buyer Parties") that may be acting on behalf of or for the benefit of the purposes of Buyer's intended wind energy project, energy conversion facility or such similar project, in or around the County of

Adams, in the State of North Dakota (any such activity referred to herein as a "Project"), obtaining equity, equity commitments, financing, or financing commitments in the amount equal to or greater than Fifty Million Dollars (\$50,000,000.00) (the "Funding") by the Closing Date. In the event no Buyer Party obtains the Funding on or prior to the Closing Date, Buyer may terminate this Agreement; for the sake of clarity, Buyer acknowledges and agrees that it may not terminate this Agreement any earlier than the day after the Outside Date unless the parties agree to a later date than the Outside Date in which case Buyer may not terminate this Agreement pursuant to this Section 10 until the day after such later date.

11. **Go-Shop.**

a. Notwithstanding anything to the contrary herein, Buyer acknowledges and agrees that Seller at any and all times during this Agreement may:

i. directly or indirectly engage, solicit, initiate or encourage the submission of a proposal or agreement for the sale and purchase of the Property to an entity or person other than Buyer (such transaction, an "Alternative Transaction"); and

ii. directly or indirectly participate in discussion or negotiations regarding, and furnish to any person information with respect to, and take any other action to facilitate any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, an Alternative Transaction.

b. Seller may enter into and consummate an Alternative Transaction to sell the Property to any individual or entity other than a Buyer Party (an "Alternative Transaction") and terminate this Agreement in connection with the closing of an Alternative Transaction up to and until the closing of this transaction and the receipt by Seller of the Purchase Price. For the avoidance of doubt; this Agreement shall remain in full force and effect including, without limitation, during the pendency of an Alternative Transaction until (i) the closing of such Alternative Transaction and (ii) Seller's receipt of any related closing payment therewith, at which time this Agreement shall automatically terminate without any further action by either Seller or Buyer.

12. **Representations, Warranties and Covenants of Seller.** Seller does hereby represent, warrant and covenant to Buyer as follows:

a. Seller has and will convey good, marketable, and insurable title to the Property free and clear of all liens, encumbrances, claims and charges; subject only to Permitted Exceptions;

b. that to the best of Seller's knowledge, there is no litigation pending, investigation, condemnation or proceeding of any kind pending against the Seller which may have a material adverse effect upon the Property;

c. that to the best of Seller's knowledge, there are no violations of any city, county, state, federal, land use, fire, health, safety, environmental, hazardous materials or other laws, rules, regulations, ordinances or orders with respect to the Property. Seller has not received any notices from any

governmental agency regarding violations of state, federal or local laws in relation to the condition or use of the Property; and

d. Seller agrees that so long as Buyer has not violated any provision of this Agreement that Seller will not, and Seller shall cause its attorneys and agents on Seller's behalf not to, directly or indirectly (either as an individual, sole proprietor, partner, partner with another, director or officer of a corporation, agent, employee, broker or as a joint venture or otherwise) engage in or solicit others to engage in, any opposition whatsoever, whether in public or of a public official, which seeks to delay or prevent the permitting, general development, financing or construction of the Project currently in development by Buyer known as Thunder Spirit Wind.

13. **Representations, Warranties and Covenants of Buyer.** Buyer does hereby represent, warrant and covenant to Seller as follows:

a. Buyer has the full power to enter into and perform this Agreement, and the performance by Buyer of the transaction contemplated herein is duly authorized;

b. Buyer has received no notice of any action, litigation, investigation or proceeding of any kind pending against the Buyer or the Property, nor to the best of Buyer's knowledge is any action, litigation, investigation or proceeding pending or threatened against the Buyer. Buyer will promptly provide Seller written copies of any such notices received;

c. Buyer, on the Closing Date, will have complied with all of its obligations hereunder, unless such compliance has been waived in writing by Seller, and all representations and warranties made hereunder shall be true and correct on said date; and

d. During the term of this Agreement, Buyer shall not assign any permit, certificate, authorization or such similar grant from the North Dakota Public Service Commission issued for the purposes of any Project to any third-party, including any Buyer Party (other than Buyer), without the consent of Seller, which shall not be unreasonably withheld conditioned or delayed, without assigning this Agreement and all of the rights and obligations of Buyer hereunder pursuant to Section 16.c. If Buyer fails to comply with this Section 13.d, Buyer shall be obligated to immediately proceed to close this transaction as promptly as possible and the contingency in Section 10 shall be deemed automatically fulfilled and completed in all respects.

14. **Obligations of Seller at Closing.** Subject to the full, complete, and timely performance by Buyer of Buyer's obligations under the provisions of this Agreement, Seller shall perform the following:

a. Deliver to Buyer a warranty deed duly executed and acknowledged by Seller, in recordable form, conveying to Buyer good and marketable title to the Property.

b. Deliver to the title insurer any and all documentation which may be required by the terms and conditions of this Agreement so that the title insurer may issue the owner's title insurance as described in this Agreement, if elected by Seller.

c. Deliver possession of the Property free and clear of all liens and encumbrances except for the Permitted Encumbrances.

15. **Obligations of Buyer At Closing.** Subject to the full, complete, and timely performance by Seller of Seller's obligations under the provisions of this Agreement, Buyer shall deliver to Seller the Purchase Price in the manner set forth in Section 1.

16. **Miscellaneous Provisions.**

a. **Survival.** All of the warranties, representations and covenants of the Agreement shall survive and be enforceable after the closing for a period of three (3) months.

b. **Entire Agreement; Modification.** This Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver of any of its terms will be effective unless in writing executed by the parties.

c. **Successor and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns. Buyer shall not, without Seller's consent, assign this Agreement, including, but not limited to, any Buyer Party. If Seller consents to an assignment such assignee must enter into a written agreement with the Seller to be bound by the provisions of this Agreement in all respects and to the same extent as the Buyer is bound and provided further that the Buyer shall continue to be bound by all the obligations hereunder as if such assignment had not occurred and perform such obligations to the extent that such assignee fails to do so.

d. **Counterparts/Facsimile Signatures.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one, complete Agreement. A copy of this Agreement containing a facsimile or portable document format (.PDF) of a party's signature shall be deemed such party's original, binding signature.


17. **Time is of the Essence.** TIME IS OF THE ESSENCE FOR ALL PROVISIONS OF THIS CONTRACT.

18. **Confidentiality.** Prior to closing, no party shall disclose this Agreement or any aspects of this transaction except to its legal and accounting advisors, or as may be required by any applicable law.

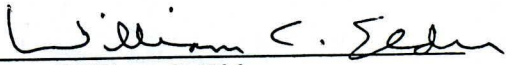
IN WITNESS WHEREOF, the parties have signed this Agreement as of the first date and year set forth above.

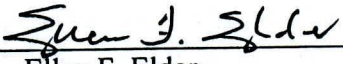
**BUYER**

**THUNDER SPIRIT WIND, LLC**

By:   
Name: Ingo Stuckmann  
Its: Authorized Signatory

**SELLER**

By:   
Name: William C. Elder

By:   
Name: Ellen F. Elder

## AMENDMENT TO PURCHASE AGREEMENT

THIS AMENDMENT TO PURCHASE AGREEMENT ("Agreement") is made and entered into on this 30<sup>th</sup> day of September, 2013, by and between Bill Elder and Ellen Elder, husband and wife, with a post office address of 502 2<sup>nd</sup> St. NE, Box 271, Hettinger, ND 58639 (hereinafter collectively referred to as "Seller") and Thunder Spirit Wind, LLC, a Delaware limited liability company authorized to do business in North Dakota, with a post office address of 103 Front St., Schenectady, NY 12305, (hereinafter collectively referred to as "Buyer").

### RECITALS

A. Seller and Buyer are parties to a Purchase Agreement, dated September 18, 2013, for Seller's sale to Buyer of real property lying and being in the County of Adams, State of North Dakota, legally described as: (1) Lot 1 of S19 T130 R95; and (2) E1/2 of NW1/4 of S10 T130 R95, collectively hereinafter referred to as the "Property".

B. Section 3 of the September 18, 2013, Purchase Agreement included a scrivener's error that provided Buyer the right to retain the mineral rights to the Property despite the mutual understanding and intent of the parties that Seller shall retain all mineral rights to the Property

### AGREEMENT

In consideration of the foregoing and the covenants and agreements set forth herein, the parties agree as follows:

1. **Amendment to Purchase Agreement.** Section 3 of the Purchase Agreement is amended and restated to read in its entirety as follows:

**Mineral Rights.** Seller shall retain all rights to the oil, gas, casinghead gas and gasoline, condensate, and all other related hydrocarbons, sulphur, uranium, ferrous and non-ferrous metals and all other minerals on, in, and under or that may be produced from the above described property, together with the right of ingress and egress for the purpose of prospecting, drilling, and mining for and producing them, and saving, storing, transporting, and piping the same away. Recognizing that the mineral estate is the dominant estate under North Dakota law, development of minerals on, in, or underlying the Property shall occur according to state and local law so as to minimize impacts to the Project, as is herein defined."

2. **Counterparts/Facsimile Signatures.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one, complete Agreement. A copy of this Agreement containing a facsimile or portable document format (.PDF) of a party's signature shall be deemed such party's original, binding signature.

3. **Effect.** Except as expressly amended by this Agreement, the Purchase Agreement remains in full force and effect and are the legal and binding obligations of the parties thereto.

[SIGNATURE PAGE TO FOLLOW]

[SIGNATURE PAGE TO AMENDMENT TO PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the first date and year set forth above.

**BUYER**

**THUNDER SPIRIT WIND, LLC**

By: \_\_\_\_\_  
Name: Ingo Stuckmann  
Its: Authorized Signatory

**SELLER**

By: William C. Elder  
Name: William C. Elder

By: Ellen F. Elder  
Name: Ellen F. Elder