

EXHIBIT 11



Max W. Meyer
MISO – Eagan MN Offices
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VIA E-MAIL DELIVERY (PAPER COPIES TO FOLLOW)

October 14, 2024

Mr. Steve Kahl
Director of Administration / Executive Secretary
North Dakota Public Service Commission
State Capitol Building
600 East Boulevard
Bismarck, North Dakota 58505-0480

Re: *In the Matter of Otter Tail Power Company's and Montana-Dakota Utilities Co.'s Joint Application for a Certificate of Public Convenience and Necessity for a 345 kV Transmission Line from Jamestown, North Dakota to Ellendale, North Dakota;*
Comments by the Midcontinent Independent System Operator, Inc.;
Case No. PU-24-091

Dear Mr. Kahl:

Enclosed regarding the above-captioned case, the Midcontinent Independent System Operator, Inc. ("MISO") provides comments concerning a transmission project that was identified as part of MISO's Long-Range Transmission Planning Tranche 1 portfolio. MISO is the Planning Coordinator for the MISO region, and the portfolio is part of a MISO Transmission Expansion Plan.

MISO respectfully requests that these comments be accepted by the North Dakota Public Service Commission for its consideration of the proposed Jamestown-Ellendale Transmission Project. The comments were prepared by MISO's Director for Cost Allocation and Competitive Transmission within MISO's Transmission Planning Department, and explain how the proposed facilities would provide substantial benefits to North Dakota.

An electronic copy of MISO's comments is being transmitted to you at skahl@nd.gov as well as to NDPSC@nd.gov. Paper copies will be sent to you by mail.

19 PU-24-91 Filed 10/14/2024 Pages: 9
Comments by the Midcontinent Independent System Operator, Inc. (MISO)
Midcontinent Independent System Operator, Inc. (MISO)
Max W. Meyer, MISO - Eagan MN Offices

Midcontinent Independent
System Operator, Inc.
317.249-5400
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720 City Center Drive
Carmel, Indiana 46032

2985 Ames Crossing Road
Eagan, Minnesota 55121

1700 Centerview Drive
Little Rock, AR 72211

Sincerely,

/s/ Max W. Meyer

Max W. Meyer

MISO – Eagan MN Offices

2985 Ames Crossing Road

Eagan, Minnesota 55121

mmeyer@misoenergy.org

Attached MISO Comments (paper copies to follow)

cc: molsen@otpc.com

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CERTIFICATE OF SERVICE

A true and correct copy of the Comments by the Midcontinent Independent System Operator, Inc., on this 14th day of October, 2024, has been transmitted to the North Dakota Public Service Commission via email (paper copies to follow). The Comments have also been served on the Service List on file with the North Dakota Public Service Commission.

/s/Adriana Rodriguez

Adriana Rodriguez

MISO

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Carmel, Indiana 46032

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Jeremiah Doner
Director, Cost Allocation and
Competitive Transmission
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VIA ELECTRONIC DELIVERY

October 14, 2024

Mr. Steve Kahl
Director of Administration / Executive Secretary
North Dakota Public Service Commission
State Capitol Building
600 East Boulevard
Bismarck, North Dakota 58505-0480

Re: Comments by the Midcontinent Independent System Operator, Inc. in the Matter of Otter Tail Power Company's and Montana-Dakota Utilities Co.'s Joint Application for a Certificate of Public Convenience and Necessity for a 345 kV Transmission Line from Jamestown, North Dakota to Ellendale, North Dakota (Case No. PU-24-091)

Dear Mr. Kahl:

I provide these comments to the North Dakota Public Service Commission on behalf of the Midcontinent Independent System Operator, Inc. ("MISO") in connection with Otter Tail Power Company's and Montana-Dakota Utilities Co.'s Joint Application for a Certificate of Public Convenience and Necessity for a 345 kV Transmission Line from Jamestown, North Dakota, to Ellendale, North Dakota (Case No. PU-24-091). I am the Director for Cost Allocation and Competitive Transmission within MISO's Transmission Planning Department, responsible for directing the teams focused on transmission planning across the MISO region. My comments address the justification and benefits of the proposed Jamestown – Ellendale 345 kV Transmission Project (the "Project" or "JETx Project"). While the JETx Project is a Multi-Value Project that provides multiple benefits, I have directed my comments on the key reliability and economic benefits of the JETx Project and the Long Range Transmission Planning ("LRTP") Tranche 1 portfolio.

The JETx Project will help ensure that the transmission system in North Dakota is able to continue operating reliably and economically well into the future. The MISO analyses of the existing transmission system during the 2021 MISO Transmission Expansion Plan ("MTEP21") identified numerous transmission facilities that will be loaded above safe operating levels and operate outside of acceptable voltage levels without the JETx Project. Additionally, the JETx Project will help realize the economic benefits of the entire LRTP Tranche 1 portfolio that was approved by MISO as part of MTEP21. As a result, customers in North Dakota and other states

in the MISO Midwest Subregion (Missouri and north extending to Canada and bounded by Michigan and eastern Montana) will not receive the multitude of benefits that are provided by the LRTP Tranche 1 portfolio without the JETx Project.

Reliability Benefits

The 230 kV transmission system in Eastern North Dakota and South Dakota is comprised of a network of 230 kV transmission lines owned by Otter Tail Power Company and Montana-Dakota Utilities Co. between Ellendale – Oakes – Forman – Hankinson – Wahpeton and between Big Stone – Browns Valley – New Effington – Hankinson. This 230 kV system extends into Western/Central Minnesota (Fergus Falls) and is heavily constrained for many different seasons throughout the year as it delivers energy across a large geographical area from generation that is usually transported out of North Dakota and South Dakota and into Minnesota. Transmission planning studies have shown that this existing 230 kV system is at capacity with many reliability concerns, not only for N-1 outages¹ but also for system intact situations. The JETx Project provides additional outlet capability for North Dakota and South Dakota by tying two existing 345 kV systems together (the existing Coyote – Center – Jamestown – Buffalo – Maple River 345 kV line and the Ellendale – Big Stone South 345 kV line). The addition of the JETx Project and the better utilization of these existing 345 kV lines have been shown to unload the existing 230 kV system of concern and improve reliability across the greater area of Eastern North Dakota, South Dakota, and Western/Central Minnesota.

The JETx Project, in conjunction with the Big Stone South – Alexandria – Big Oaks project (another LRTP Tranche 1 project described in the MTEP21 Report Addendum), addresses many thermal and voltage issues for Eastern North Dakota and South Dakota as well as Western/Central Minnesota. MISO studies show that facilities in this area experience heavy loading, and voltage depressions, for a wide geographical area along the North Dakota, South Dakota, and Minnesota borders (the Red River Valley Area). These two LRTP Tranche 1 projects provide significant reinforcements to the transmission system to improve thermal and voltage issues. Most notable, the 230 kV system owned by Montana-Dakota Utilities Co. and Otter Tail Power Company from Ellendale, North Dakota, to Fergus Falls, Minnesota, and from Big Stone, South Dakota to Hankinson, North Dakota is relieved of thermal overloads for numerous N-1 and N-1-1 outages. Without the JETx Project, these reliability issues will still be present on the local area transmission systems in the future and will need to be mitigated by local reliability projects with the costs borne by the local transmission pricing zones.

The JETx Project, along with the Big Stone South – Alexandria – Big Oaks 345 kV project, alleviates excessive thermal loading on 40 existing lines and transformers, as well as mitigating 100 voltage issues resulting from N-1 contingency events. These two projects also relieve thermal

¹ An “N-1” event includes NERC TPL Category P1, P2, P4, P5 and P7 contingencies and means that the grid experiences the outage of a single transmission line, cable, transformer, or generator. A “N-1-1” event includes NERC TPL Category P3 and P6 contingencies and means that a sequence takes place consisting of an initial loss followed by another loss of a single line, cable, transformer, or generator.

overloads on 80 existing lines and transformers and mitigates 99 voltage issues caused by N-1-1 contingencies.²

The highest N-1 thermal overloads located in North Dakota that are addressed by these two LRTP Tranche 1 projects were as follows:

- Wahpeton 230/115 kV Transformer,
- Forman 230/115 kV Transformer, and
- Forman 115kV Substation bus tie.

The highest N-1-1 thermal overloads located in North Dakota that are addressed by these two LRTP Tranche 1 projects were as follows:

- Forman 230/115 kV transformer,
- Forman 115 kV bus tie,
- Mandan – Napoleon 230 kV line,
- Wahpeton 230/115 kV transformer,
- East Bismarck – Linton 115 kV line,
- Ellendale 230/115 kV transformer, and
- Hankinson – Wahpeton 230 kV line.

MISO examined five alternative sets of transmission projects to the approved JETx Project and the Big Stone South – Alexandria – Big Oaks 345 kV project to understand if any alternative set of transmission projects performed more effectively. The conclusion from this evaluation was that the JETx Project, in combination with the Big Stone South – Alexandria – Big Oaks 345 kV project, provides the best performance at the lowest cost to resolve the reliability issues in the area. The evaluation of these alternatives are discussed in more detail in the MTEP21 Report Addendum.³

Economic Benefits

The LRTP Tranche 1 portfolio will enable a more reliable and efficient delivery of energy from low cost, regionally sited generators than the existing transmission system. For example, the LRTP Tranche 1 portfolio results in an increase of transmission capacity that alleviates congestion for a more efficient dispatch of the energy market. In addition, the LRTP Tranche 1 portfolio provides for a more cost-effective regional build-out of generation resources that will not only better utilize the existing generation resources, but also allow for the continued interconnection of new generation resources in areas that offer higher capacity factors for intermittent resources, such as wind generation in North Dakota. MISO's analysis also included additional economic value from the LRTP Tranche 1 portfolio due to the ability to: (1) avoid future transmission investment

² The different values for the number of thermal and voltage violations in these comments from the description contained in the MTEP21 Report Addendum results from further review and validation after the MTEP21 Report Addendum was posted.

³ See MTEP21 Report Addendum, pg. 25.

that would have been needed without the LRTP Tranche 1 portfolio, (2) reduce resource adequacy requirements that defers capital investment in new generation resources, and (3) avoid load shedding that may arise due to severe winter weather events.

When the economic benefits of the LRTP Tranche 1 portfolio are compared to the present value of the revenue requirements, the portfolio produces total benefits between 2.6 to 3.8 times greater than the costs across the MISO Midwest Subregion on a present value basis over 20 years.⁴ On a more granular level, the benefit to cost ratio for Zone 1⁵ was between 2.8 to 4.0 times greater than the present value of the LRTP Tranche 1 portfolio costs.⁶

Consequences of Delay or Cancellation

The objective of the extensive planning functions of MISO is to derive the most cost-effective transmission expansion plan that will meet local and regional needs for reliability, optimize access to economic generation resources, and deliver other important economic values that benefit customers. The LRTP Tranche 1 portfolio was designed with these considerations in mind. The inability to construct just one project within the entire LRTP Tranche 1 portfolio, which was approved by the MISO Board of Directors for its reliability, economic, and other benefits, could result in a reduction of the effectiveness of the portfolio or worse yet, could lead to the development of less optimal solutions that would be needed to address reliability and economic concerns.

Not constructing the JETx Project will jeopardize the ability of the transmission system in North Dakota and the MISO Midwest Subregion to continue operating reliably and economically into the future. As described within these comments, the MISO analyses have shown that the JETx Project will alleviate excessive thermal loading on numerous existing lines and transformers, as well as mitigate several voltage issues resulting from N-1 and N-1-1 contingency events. In addition, customers in North Dakota and the other states in the MISO Midwest Subregion will not receive the multitude of benefits, provided by the LRTP Tranche 1 portfolio without the JETx Project. To the extent that the timeline for the in-service date of the JETx Project is delayed past

⁴ *Id.*, Executive Summary, pg. 4.

⁵ Zone 1 is comprised of MISO member companies within Minnesota, eastern Montana, North Dakota, South Dakota, and western Wisconsin.

⁶ *Id.* The LRTP Tranche 1: Detailed Business Case Analysis located at: <https://www.misoenergy.org/planning/long-range-transmission-planning/> (> under “Tranche 1 – Approved July 2022” and > “LRTP Tranche 1: Detailed Business Case Analysis”), its “Waterfall” tab, provides the reader with the ability to identify the contribution of each benefit metric to the overall benefits of the Tranche 1 portfolio. For example, excluding the decarbonization benefit metric for Zone 1 results in a benefit to cost ratio of between 2.6 and 3.0 and doing the same for the MISO Midwest Subregion results in total benefits of between 2.4 and 2.9 times the Tranche 1 portfolio costs. As another example, excluding decarbonization as well as the congestion and fuel savings benefit metrics for Zone 1 results in a benefit to cost ratio between 1.4 and 1.9.

2028, the realization of these benefits that are provided by the LRTP Tranche 1 portfolio could be delayed or diminished.

Conclusion

The JETx Project proposed by Otter Tail Power Company and Montana-Dakota Utilities Co. will provide substantial benefits to North Dakota and is necessary to alleviate excessive thermal loadings, mitigate voltage issues, minimize the risk of load shedding due to severe winter weather events, reduce congestion for a more efficient dispatch of generation, and avoid future transmission investment. This Project is a critical component of the larger MISO regional transmission plan for the continued development of a reliable and economic regional transmission system. This development will allow the LRTP Tranche 1 portfolio to deliver sizable net benefits across the MISO Midwest Subregion.

Sincerely,

/s/ Jeremiah Doner

Jeremiah Doner

Director, Cost Allocation and Competitive
Transmission

MISO Transmission Planning

720 City Center Drive

Carmel, Indiana 46032

jdoner@misoenergy.org

CERTIFICATE OF SERVICE

A true and correct copy of the Comments by the Midcontinent Independent System Operator, Inc., on this 14th day of October, 2024, has been transmitted to the North Dakota Public Service Commission via email (paper copies to follow). The Comments have also been served on the Service List on file with the North Dakota Public Service Commission.

/s/Adriana Rodriguez

Adriana Rodriguez

MISO

720 City Center Drive

Carmel, Indiana 46032

arodriguez@misoenergy.org

EXHIBIT 12

inmates, according to a news release.

NORTH DAKOTA Ellendale: Australia's Macquarie agreed to take a 15% stake in Applied Digital's high-performance computing business and invest up to \$5 billion in the company's artificial intelligence data centers amid booming AI demand. Macquarie's asset management arm has agreed to invest up to \$900 million in a data center campus that Applied Digital is developing in North Dakota.

OHIO Fayette County: As part of an initiative that will revamp Ohio's

EXHIBIT 13

SPECIAL MESSAGE TO PROPERTY OWNERS:

This is an important agreement our lawyers have drafted that will bind you and your land for up to fifty (50) years. We will give you enough time to study and thoroughly understand it. We strongly encourage you to hire a lawyer to explain this agreement to you. You may want to talk with your neighbors about the wind project to find out if they also received a proposed contract. You and your neighbors may choose to hire the same attorney to review the agreement and negotiate changes on your behalf.

Execution of Document:

North Dakota law requires that this document may not be executed by the parties until at least **10 business days** after it has been delivered to the property owner. The property owner acknowledges that the document was delivered, and if applicable executed, on the dates set forth below.

| | <u>Date/Days</u> | <u>Lessor Initials</u> |
|--|------------------|------------------------|
| <u>Date Lease delivered to Lessor</u> | _____, 20____ | |
| <u>Date Lease executed by Lessor</u> | _____, 20____ | |
| <u>Number of business days between delivery and execution (excluding holidays and weekends)</u> | | |

WIND FARM LEASE

THIS WIND FARM LEASE (hereinafter "**Lease**") is entered into as of the Effective Date, by and between EDF Renewables Development, Inc., a Delaware corporation, ("**Lessee**") and _____ ("**Lessor**"). Lessor and Lessee are also each hereinafter referred to individually as a "**Party**" or, collectively, the "**Parties**".

1. **Definitions.** The following terms shall have the following meanings when capitalized in this Lease:

| | | |
|-------|-----------------------------|--|
| 1.1. | Access Easement Payment | As defined in Section 4.3. |
| 1.2. | Anniversary Year | Each yearly anniversary date commencing with the Effective Date (defined below). |
| 1.3. | Business Day | All days other than Saturdays, Sundays and federal holidays. |
| 1.4. | Calendar Quarter | January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31. |
| 1.5. | Calendar Year | January 1 through December 31. |
| 1.6. | Claims | As defined in Section 11.1. |
| 1.7. | Collection Easement Payment | As defined in Section 4.3. |
| 1.8. | County | Dickey County, State of North Dakota. |
| 1.9. | Credits | As defined in Section 4.10. |
| 1.10. | Effective Date | Last date of full execution of this Lease. |
| 1.11. | Extension Option Notice | As defined in Section 3.2. |
| 1.12. | Force Majeure | As defined in Section 23. |
| 1.13. | Form W-9 | As defined in Section 4.13. |
| 1.14. | Hazardous Materials | As defined in Section 6.4. |
| 1.15. | Lender | As defined in Section 14.1 |

| | | |
|-------|-------------------------------|---|
| 1.16. | Lessee's Address | 15445 Innovation Drive San Diego, California 92128 Attn: Corporate Real Estate Telephone: (858) 521-3300 |
| 1.17. | Lessee Parties | As defined in Section 11.1. |
| 1.18. | Lessee Party | As defined in Section 11.1. |
| 1.19. | Lessor's Address | _____ _____ Telephone: _____ |
| 1.20. | Lessor Parties | As defined in Section 11.1. |
| 1.21. | Lessor Party | As defined in Section 11.1. |
| 1.22. | Memorandum of Lease | As defined in Section 6.3. |
| 1.23. | Met Tower | A meteorological tower. |
| 1.24. | Obligor | As defined in Section 14.1. |
| 1.25. | Pre-Operating Period | A period commencing on the Effective Date and continuing until the earlier of (i) the Wind Farm Operations Date or (ii) the earlier termination of this Lease as set forth herein. |
| 1.26. | Pre-Operating Period Payments | Years 1 through 7*: \$10.00 per acre per year. *or until the Wind Farm Operations Date. |
| 1.27. | Project | As defined in Section 2.2. |
| 1.28. | Property | APN: _____ That certain land located in the County, described in <u>Exhibit A</u> hereto and incorporated herein by this reference, containing approximately _____ acres (as such acreage may be adjusted in accordance with the terms of this Lease). Such acreage shall be used to determine the Pre-Operating Period Payments and Quarterly Operating Payments. |

| | | |
|-------|-------------------------------|--|
| 1.29. | Quarterly Operating Payments | <p>The following payments shall be paid in quarterly installments as further provided in Section 4.2:</p> <p>(i) Fifteen Thousand Dollars (\$15,000.00) per year per installed WTGs on the Property; or</p> <p>(ii) Thirty-Five Dollars per acre per year for Property without a WTG installed on the Property.</p> <p>Commencing on the first anniversary of the Wind Farm Operations Date and continuing through the end of the Term, the annual payment of Quarterly Operating Payments shall increase at the rate of two percent (2%) per annum.</p> |
| 1.30. | Regulated Utility | An electrical corporation or an electricity service provider who sells power to retail customers and is regulated by the state utility commission or its equivalent. |
| 1.31. | Restoration | As defined in Section 5.3. |
| 1.32. | Restoration Costs | As defined in Section 5.3. |
| 1.33. | Restoration Period | As defined in Section 5.3. |
| 1.34. | Storage Facility | As defined in Section 2.3. |
| 1.35. | Substation | As defined in Section 4.9. |
| 1.36. | Term | As defined in Section 3. |
| 1.37. | Transmission Easement Payment | As defined in Section 4.3. |
| 1.38. | Transmission Facilities | As defined in Section 2.4. |
| 1.39. | Wind Farm | As defined in Section 2.2. |
| 1.40. | Wind Farm Operations | As defined in Section 2.2. |
| 1.41. | Wind Farm Operations Date | As defined in Section 4.5. |
| 1.42. | WTG | As defined in Section 2.1. |
| 1.43. | WTG Related Improvements | As defined in Section 2.1. |

2. **Agreement to Lease.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, for the Term, the Property for the following rights and purposes:

2.1 The exclusive right to the free and unobstructed flow of wind to and across the Property, together with the exclusive right to use the Property for the following purposes: (a) wind resource evaluation, using, converting, maintaining and capturing the wind, wind energy development, energy collection, and related wind energy development uses, including, but not limited to, the development, erection, installation, construction, improvement, reconstruction, enlargement, removal, relocation, replacement and repowering, and the use, maintenance, repair and operation, of the following, as Lessee determines: (i) anemometers; (ii) meteorological towers and other wind and weather measurement, monitoring and recording equipment and facilities; and (iii) wind turbine generators and their associated towers and foundations (each such wind turbine generator being referred to herein as a "WTG"); and (b) the development, erection, installation, construction, improvement, reconstruction, enlargement, removal, relocation, replacement and repowering, and the use, maintenance, repair and operation of power generation facilities to be operated in conjunction with the WTG installations (all of the foregoing in clauses (a) and (b) of this Section 2.1, whether located on the Property or located on nearby lands as part of a single integrated project, collectively, the "**WTG Related Improvements**");

2.2 The non-exclusive right to install, construct, remove, relocate, replace, use, maintain, repair and operate: (i) roads, bridges, culverts and erosion control facilities; (ii) staging and laydown areas; (iii) signs; (iv) fences to surround the WTGs and/or transformers; (v) gates; (vi) other safety and protection facilities; and (vii) any other improvements, fixtures, facilities, appliances, machinery and equipment, whether temporary or permanent, that are related thereto or associated therewith (all of the foregoing, whether located on the Property or located on nearby lands as part of a single integrated project, collectively with the WTG Related Improvements, a "**Wind Farm**" or "**Wind Farm Operations**" or "**Project**");

2.3 An exclusive right for the construction, operation, maintenance, repair, replacement, relocation within the Property and removal of a battery energy storage system that will store electricity along with related equipment, fixtures, appliances, appurtenances and improvements related thereto (collectively, the "**Storage Facility**") on, under, over and across a portion of the Property;

2.4 An exclusive right for the development, erection, installation, construction, improvement, interconnection, reconstruction, enlargement, removal, relocation, replacement and repowering, and the use, maintenance, repair and operation of, facilities for the storage, collection, distribution, step-up, step-down, wheeling, transmission and sale of electricity and for communications in connection with the WTGs, including, without limitation, the following, at such locations as Lessee shall determine, that are developed, constructed and/or operated on the Property and/or on property to be acquired by leasehold or by fee purchase, by or on behalf of Lessee: (i) underground and/or overhead distribution, collection and transmission lines; (ii) underground and/or overhead control, communications and radio relay systems and telecommunications equipment; (iii) energy storage facilities; (iv) interconnection and/or switching facilities, circuit breakers and transformers; (v) cables, wires, fiber, conduit, footings, foundations, towers, poles, crossarms, guy lines and anchors; and (vi) any related or associated improvements, fixtures, facilities, appliances, machinery and equipment to grant access to third parties for transmission access (together with the Storage Facility, collectively, the "**Transmission Facilities**");

2.5 A non-exclusive easement for vehicular and pedestrian access, ingress and egress to, from and over the Property twenty-four (24) hours a day, seven (7) days a week, without prior notice to Lessor, at such locations as Lessee shall determine, for the benefit of and all purposes related to or associated with the Wind Farm, the Storage Facility and/or the Transmission Facilities installed or to be installed on the Property, or for promotional or marketing purposes and a non-exclusive easement on adjacent property or elsewhere; which, without limiting the generality of the foregoing, shall entitle Lessee to use and improve any existing and future roads and access routes (a) from time to time located on or providing access to the Property, (b) across any other property owned by Lessor and (c) across any roads, access routes or rights-of-way over which Lessor has the right to travel;

2.6 A non-exclusive right to enter the Property from time to time with personnel, vehicles, materials and equipment twenty-four (24) hours a day, seven (7) days a week for the purposes permitted hereunder, and to excavate and/or fill areas on the Property, all to such extent as Lessee deems reasonably necessary; together with the right to use construction staging and laydown areas and operate cranes and other heavy-duty equipment in locations on the Property at all times as shall be reasonably necessary for installing, using, maintaining, repairing, replacing, improving, removing, repowering and relocating the Wind Farm, the Storage Facility and/or the Transmission Facilities on the Property;

2.7 A non-exclusive right to extract soil samples, perform geotechnical tests, and conduct such other tests, studies, inspections and analysis of or on the Property as Lessee deems necessary, useful or appropriate; and

2.8 undertaking any other lawful activities, whether accomplished by Lessee or a third party authorized by Lessee, that Lessee determines are necessary, helpful, appropriate or convenient in connection with, incidental to or to accomplish any of the foregoing purposes.

3. Term.

3.1 Generally. The term of this Lease (the "**Term**") begins on the Effective Date and terminates upon the earlier of: (a) forty (40) years after the Effective Date or (b) the date this Lease is terminated as permitted herein or by operation of law. This Lease shall not terminate solely because of abandonment or nonuse except as provided herein.

3.2 Renewal Terms. Lessee may extend the Term of this Lease by up to two (2) additional consecutive five (5) year terms commencing on the last day of the initial forty (40) year term or the first extended term, as the case may be, by giving Lessor written notice of such extension (each, an "**Extension Option Notice**") on or prior to expiration of the then-current term. The terms and conditions set forth in this Lease shall continue and remain in effect during each extension term. Notwithstanding the foregoing, in no event shall the term of this Lease be longer than the longest period permitted by applicable law. Although the giving of an Extension Option Notice shall by itself (without the requirement of any other writing) conclusively cause the applicable extended Lease term to become effective on the specified commencement date, if Lessee so requests, the Parties shall promptly execute and Lessee shall be entitled to record a memorandum evidencing such extension, which memorandum shall be reasonably satisfactory in form and substance to Lessee, but which shall not alter the terms and conditions of this Lease unless the Parties agree to do so.

3.3 Early Termination by Lessee. This Lease shall not terminate solely because of abandonment or nonuse except as provided herein. Lessor may terminate this Lease pursuant to N.D.C.C. §17-04-06(1)(h) only if the Project has not operated for a period of three (3) years after the Wind Farm Operation Date and Lessor has not received the payments set forth in Section 4.5 of this Agreement during such period of non-operation.

4. Payments to Lessor.

4.1 Pre-Operating Period Payments. As consideration for this Lease, Lessee shall pay to Lessor within sixty (60) days after the Effective Date, the Pre-Operating Period Payment for the first full year of the Pre-Operating Period, and thereafter (with respect to the Pre-Operating Period), Lessee shall divide the amount of the applicable Pre-Operating Period Payments for the applicable Anniversary Year into four (4) equal quarterly installments to be paid to Lessor within sixty (60) days after the end of each Calendar Quarter to which such Pre-Operating Period Payment pertains, and continuing until the Wind Farm Operations Date or the earlier termination of this Lease as set forth herein. If, on the date any Pre-Operating Period Payment would be due, there exist any liens for which subordination agreements to be obtained pursuant to Section 6.2 have not been obtained, Lessee may withhold such Pre-Operating

Period Payment until all such subordination agreements have been obtained and delivered to Lessee whereupon such Pre-Operating Period Payment shall promptly be paid to Lessor without interest.

4.2 Quarterly Operating Payments. Commencing on the Wind Farm Operations Date, Lessee shall make Quarterly Operating Payments to Lessor. Quarterly Operating Payments shall be paid in arrears sixty (60) days after the end of each Calendar Quarter during which Wind Farm Operations are conducted following the Wind Farm Operations Date.

4.3 Easement Payments. In the event Lessee installs any of the following easements on the Property, within thirty (30) days after the Wind Farm Operations Date, Lessee shall pay Lessor a one-time payment as follows:

(a) Access Easement Payment. One Dollar (\$1.00) per linear foot of permanent roads installed on the Property (the "**Access Easement Payment**").

(b) Collection Easement Payment. Fifty Cents (\$0.50) per linear foot of collection facilities installed on the Property that does not contain any installed WTGs on the Property (the "**Collection Easement Payment**").

(c) Transmission Easement Payment. Sixty Thousand Dollars (\$60,000.00) per mile of overhead transmission lines installed on the Property (the "**Transmission Easement Payment**").

4.4 Audit. At its option, Lessor may conduct, at Lessor's sole cost and expense and with reasonable diligence, at any reasonable time during Lessee's normal business hours, but to occur no more than once per year, upon ten (10) Business Days advance written notice, an audit of Lessee's business records relating to the Quarterly Operating Payments paid to Lessor for the immediately preceding Calendar Year. Lessor must elect to conduct its audit within twelve (12) months following Lessor's receipt of the applicable Quarterly Operating Payment being audited. Lessor must utilize its own qualified employees or employ a qualified accountant or professional to conduct the audit (and Lessor may not have a contingent fee arrangement with the person or firm engaged to perform the audit). The audit shall be conducted at an office designated by Lessee. Lessor and Lessor's auditors shall be required to execute a confidentiality letter in form reasonably satisfactory to Lessor and Lessee, the effect of which will require Lessor and Lessor's auditors to refrain from divulging the contents and results of the audit to any third person, except and to the extent that disclosure is required to potential lenders, partners or assignees of Lessor, governmental agencies or in the event of litigation, subpoena or governmental compliance. If Lessor disputes the Quarterly Operating Payment, then Lessor shall provide Lessee with a complete copy of the audit report. Upon Lessee's verification of and agreement with Lessor's audit, (i) if such audit discloses an overpayment by Lessee to Lessor, then within thirty (30) days Lessor shall pay Lessee the amount of any such overpayment, and (ii) if such audit discloses an underpayment by Lessee to Lessor, then within thirty (30) days Lessee shall pay Lessor the amount of any such underpayment. If Lessee disagrees with Lessor's audit, Lessor shall have the right to cause another review of that portion of Lessor's audit to be made by Lessee's accountant, at Lessee's sole cost and expense. In the event of a disagreement between Lessee's and Lessor's accountants, the review of Lessor's accountant shall be deemed to be correct and shall be conclusively binding on both Lessor and Lessee; provided, however, that Lessor's accountant is a member of a firm of independent certified public accountants of national standing and otherwise satisfies the criteria set forth in this Section. In the event that the audit reveals that the total Quarterly Operating Payments for the period at issue have been understated by more than five percent (5%), then Lessee shall reimburse Lessor for the reasonable and actual cost of Lessor's audit within thirty (30) days.

4.5 Wind Farm Operations Date. For purposes of this Lease, the "**Wind Farm Operations Date**" shall mean the date upon which the Project achieves "**Commercial Operation**" or the "**Commercial Operation Date**" (or the substantive equivalent, however defined) under the "**Generation**

Interconnection Agreement(s)" (or the substantive equivalent, however defined) for the Project that provides for the electrical interconnection of the energy generated from the Project to the US electrical grid and electricity is regularly generated by the Project to the US electrical grid. Notwithstanding anything to the contrary in this Lease, Quarterly Operating Payments shall no longer be due and payable if Wind Farm Operations cease; provided, however, that the Minimum Annual Operating Payment shall continue to be due. This Lease shall not be construed as imposing upon Lessee any obligation to commence or continue generating any particular quantity of electricity or derive any particular amount of receipts therefrom at any time. Notwithstanding anything to the contrary in this Lease, Lessor: (i) acknowledges that Lessee shall have no obligation to construct any Wind Farm related improvements on the Property; and (ii) acknowledges that any estimates of Wind Farm related improvements that may be installed on the Property given by Lessee are for informational purposes only and shall not be relied on by Lessor in executing this Lease. OTHER THAN THOSE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN, LESSEE HAS NEITHER MADE NOR MAKES, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES VERBALLY, IN ANY SUCH WRITTEN ESTIMATES OF PRODUCTION, IN THIS LEASE OR OTHERWISE CONCERNING THE LIKELIHOOD THAT LESSEE WILL INSTALL WIND FARM RELATED IMPROVEMENTS ON THE PROPERTY.

4.6 Payment Prorations. Lessee agrees that the Pre-Operating Period Payments shall not be prorated and therefore once made shall not be refundable, in whole or in part if Lessee elects not to construct or operate a Wind Farm on the Property. In the event the Wind Farm Operations Date occurs on a day other than the first day of any Calendar Year or if this Lease terminates on a day other than the last day of any Calendar Year, Quarterly Operating Payments shall be pro-rated based upon a 365-day year.

4.7 MET Tower. Lessor grants Lessee the right to install, operate and maintain a Met Tower on the Property to collect wind data. If Lessee elects to install and operate a Met Tower on the Property, Lessee shall pay Lessor, as additional rent, a fee of One Thousand Dollars (\$1,000.00) per year for each year the Met Tower is in operation. If a Met Tower is installed on the Property, Lessee shall pay the first installment of additional rent in connection with the Met Tower at the same time as the next applicable Pre-Operating Period Payment or Quarterly Operating Payment, and thereafter on a yearly basis, at the same time as the first Pre-Operating Period Payment or Quarterly Operating Payment, as applicable, of the following Calendar Year until such time as Lessee ceases operating the Met Tower. Payment of additional rent for the Met Tower, if any, shall be prorated based upon a 365-day year.

4.8 Substation. Lessee shall be permitted to construct, reconstruct, operate, maintain, control, use, repair, replace, relocate and remove a substation ("**Substation**") on the Property and any and all other fixtures, appliances and appurtenances related to such substation. If a substation (a "**Substation**") is constructed on the Property, Lessor will receive a one-time payment of Twenty Thousand Dollars (\$20,000.00) (for up to five (5) acres of land), within thirty (30) days of commencement of construction of the Substation. Furthermore, if a Substation is constructed and in operation on the Property, commencing on the Wind Farm Operations Date, Lessee shall pay as additional rent (at that same time as Lessee pays Lessor the applicable Quarterly Operating Payment): (x) the amount of Seven Hundred Fifty Dollars (\$750.00) per Calendar Quarter (i.e., Three Thousand Dollars (\$3,000.00) per year) for years one (1) through fifteen (15) that the Substation is in operation; and (y) the amount of One Thousand One Hundred Twenty-Five Dollars (\$1,125.00) per Calendar Quarter (i.e., Four Thousand Five Hundred Dollars (\$4,500.00) per year) for years (16) through the end of the Term during which the Substation is in operation. Payment of additional rent for the Substation, if any, shall be prorated based upon a 365-day year.

4.9 Disclaimer. It is understood by Lessor that any estimates, projections or other data regarding the megawatt capacity of a proposed Wind Farm that include the Property are not and shall not be deemed to be or include any representations or warranties of Lessee, its successors or assigns (including any representation that the Wind Farm or any part thereof will be constructed), and Lessor

acknowledges that Lessor is not relying on any such estimates, projections or other data. Nothing expressly or impliedly contained in this Lease shall be construed to require Lessee to undertake construction or installation of the Wind Farm on the Property; to continue operation of any part of the Wind Farm from time to time located on the Property or elsewhere; or to generate or sell any minimum or maximum amount of electrical energy from the Wind Farm; and the decision if, when and to what extent that construction and generation will occur shall be solely in Lessee's discretion.

4.10 Credits. Lessee shall be exclusively entitled to apply for, collect, receive, and obtain the benefit of all credits, set-offs, payments or other consideration arising out of the electrical energy generated by the Wind Farm and the sale, transportation and distribution of such energy including, without limitation, (i) federal, state and local production tax credits (including credits under Section 45 of the Internal Revenue Code), governmental subsidies, production incentive payments and other renewable energy credits, (ii) green pricing programs, green tags, renewable energy credit trading programs, or proceeds received from the sale of environmental attributes (e.g., renewable energy or carbon credits) and (iii) environmental air quality credits, emission credits, greenhouse gas reduction credits, environmental set-offs and similar benefits (collectively "**Credits**"). Lessor shall reasonably assist Lessee in applying for and receiving such Credits.

4.11 Crop Damage. If Lessee's construction, operations or maintenance activities on the Property are the direct cause of damage or destruction to crops then being grown on the Property, Lessee agrees to pay to Lessor an amount equal to the revenue that Lessor or its agricultural tenant would have received on the open market for said crops during the growing season in which such crops were damaged or destroyed; provided, however, that Lessee may request that Lessor and its agricultural tenants not grow crops within reasonable areas around existing or planned WTGs or transmission facilities (including, without limitation, the WTG Related Improvements, the Storage Facility, the Transmission Facilities, the Substation and the Met Tower; and including any laydown or staging areas), and after such request no payments shall be owed with respect to crops damaged or destroyed within such areas. Lessee shall pay such amount within sixty (60) days after Lessor provides Lessee with reasonable evidence of the cause and extent of such damage or destruction.

4.12 Grazing Rights. If Lessor has grazing animals on the Property, including, without limitation, cattle, horses and sheep, the Parties agree to cooperate and install such measures, at Lessee's expense, as reasonably necessary (such as erecting fences or other barriers on the Property) to prevent damage to the Wind Farm Operations caused by grazing animals. If Lessee's construction, operations or maintenance activities on the Property are the direct cause of damage or destruction to such animal(s) despite such measures, Lessee agrees to pay to Lessor an amount equal to the revenue that Lessor would have received on the open market for said animal(s) during the season in which such animal(s) were damaged or destroyed. Lessee may take any reasonable additional steps to mitigate future damages as a result of the grazing activities. Damage to the Wind Farm Operations caused by such animals, which result in loss of energy production, may be classified as a Force Majeure event. In the event that the governmental or regulatory authority concerning the Wind Farm shall adopt as a condition of continued operation, a restriction or prohibition regarding grazing animals, Lessee shall provide Lessor with a thirty (30) day notice of such restriction or prohibition and grazing, and thereafter Lessor shall promptly comply with such restriction or prohibition.

4.13 IRS Form W-9. Simultaneously with the execution of this Lease, Lessor shall deliver to Lessee a fully completed and executed Form W-9 (Request for Taxpayer Identification Number and Certification) (the "**Form W-9**"); provided, further, that Lessor shall deliver to Lessee fully completed and executed updates to the Form W-9 as may be reasonably requested by Lessee within fifteen (15) days following any such request (including, without limitation, in order for Lessee to process Lessor's change of address).

5. **Use of the Property and Location of Turbine Sites.**

5.1 **Lessee's Rights to Use the Property.** Lessee shall retain title to all buildings, improvements and equipment that comprise the Wind Farm, the Storage Facility, the Met Tower, the Substation and the Transmission Facilities, and shall have the right to remove any or all of them from the Property at any time. Lessee shall have the right to select the location for the WTGs, the WTG Related Improvements, the Storage Facility, the Met Tower, the Substation, the Transmission Facilities, service roads, and associated Wind Farm buildings and equipment on the Property; provided, however, Lessee shall, upon Lessor's specific request, consult with Lessor and attempt to incorporate any requests made by Lessor into the planning and location of facilities but Lessee shall not be obligated to incorporate Lessor's requests into Lessee's development plans if incorporating such requests would, in Lessee's sole discretion, burden the development, maintenance or operation of the Wind Farm. Lessee shall have the right to emit or cause the emission of noise, vibration, air turbulence, wake, and electromagnetic and frequency interference and to permit wind turbulence, to overhang, cast shadows, or cause flicker onto the Property and/or to impact Lessor's views of and from the Property. Nothing in this Lease shall be construed as requiring Lessee to construct or operate a Wind Farm or any other business or use on the Property or to commence or continue the operation of a Wind Farm or any portion thereof if it is so constructed.

5.2 **Ingress and Egress.** This Lease includes the right of ingress to and egress from the Wind Farm over, under, and along the Property by means of any existing roads and lanes thereon, and by such other route or routes as Lessee may construct on the Property from time to time, for the benefit of and for purposes incidental to the Wind Farm Operations on the Property and to the WTG Related Improvements that are developed, constructed and/or operated on the Property, and on other property to be acquired by leasehold, easement or by fee simple purchase, by or on behalf of Lessee, as a single integrated Wind Farm to generate and deliver electrical power to purchasers of such power, and for the benefit of and for purposes incidental to the Wind Farm Operations, activities and projects on lands other than the Property.

5.3 **Removal and Restoration.** No later than ninety (90) days prior to the expiration of the Term, Lessee shall present a decommissioning plan for the Wind Farm to Lessor. The decommissioning plan shall include the removal of all physical material related to the Wind Farm to a depth of thirty-six (36) inches and restoration of the surface of the land to substantially the same condition it was in at the Effective Date (reasonable wear and tear, condemnation, casualty damage and acts of God excepted), including returning the land to the same grade as of the Effective Date (reasonable wear and tear, condemnation, casualty damage and acts of God excepted) (all hereinafter referred to as "**Restoration**"). Lessee shall not have any obligation to remove any cables, lines or conduit which is buried thirty-six (36) inches or more below-grade. The Restoration shall be at Lessee's expense and shall be completed within nine (9) months after presentation of the decommissioning plan to Lessor (the "**Restoration Period**"). During the Restoration Period, Lessee shall continue to have rights of access to the Property and all other rights reasonable and necessary for Lessee to complete the Restoration until such Restoration has been completed in accordance with the decommissioning plan.

(a) If Lessor requires a decommissioning surety, Lessor shall give Lessee written notice no earlier than ten (10) years after the Wind Farm Operations Date that Lessor requires Lessee to provide Lessor with (or access to) a bond or letter of credit in the amount of the estimated restoration costs. Within no less than one hundred eighty (180) days after the receipt of the written notice, Lessor and Lessee shall determine the cost of the Restoration (the "**Restoration Costs**") as follows:

(i) Lessee shall obtain an estimate of the Restoration Cost (including, but not limited to, soil and water testing) from a qualified contractor licensed in the state in which the Property is located and Lessee shall notify Lessor of the name and address of the contractor which Lessee has selected. The Restoration Cost shall be the difference between the estimated cost to perform the Restoration set forth in this Section 5.3, and the salvage value of the Wind

Farm facilities to be removed from the Property. The Restoration Cost shall be established within ninety (90) days after appointment of the contractor. Lessee shall provide the estimate of the Restoration Cost to Lessor. If Lessor disagrees with Lessee's estimate, Lessor may, at Lessor's own cost and expense, obtain Lessor's own estimate within thirty (30) days of Lessee presenting Lessee's estimate to Lessor. If the two bids are within a ten percent (10%) difference of the cost of each other, Lessee shall be entitled to use the bid from Lessee's contractor as the basis for the Restoration Cost. If the bids are more than ten percent (10%) different in cost, a third contractor shall be selected by the existing two contractors. If the existing two contractors cannot agree upon such third contractor within a sixty (60) day period, the third contractor shall be selected by an Arbitrator of the American Arbitration Association for the County in which the Property is located upon application of either Party. The costs and expenses of the third contractor shall be shared equally between Lessee and Lessor. Within thirty (30) days of the appointment of the third contractor, the three contractors shall meet and exchange their estimates of the Restoration Cost and the Restoration Cost shall be the average of the estimates of the three contractors.

(ii) The bond/letter of credit shall remain in force until the completion of Restoration. Upon written request, no more than once in any Calendar Year, Lessor may request Lessee provide Lessor with information and documentation to confirm the existence and maintenance of such security in favor of Lessor.

(b) Notwithstanding any of the foregoing provisions, if Lessee is a Regulated Utility, no bond or other undertaking for the Restoration Costs/decommissioning costs shall be required and any existing bonds or other undertakings for said Restoration/decommissioning and reclamation costs shall be released. Furthermore, the surety amount shall be reduced by the amount of bond or other security, if any, that Lessee is required to post by applicable governmental authorities for Restoration/reclamation and decommissioning associated with the project improvements on the Property.

5.4 Lessor's Rights to Use the Property. So long as and to the extent the same do not impair, affect or conflict with any of the rights granted to Lessee in this Lease, Lessor may use, lease, convey and encumber the Property for any lawful purpose, including, without limitation, agriculture and grazing, and Lessor and its tenants and licensees may make improvements to the Property if such improvements will not negatively impact wind generated electricity production on the Property in the sole determination of Lessee. Lessee agrees that it shall not unreasonably withhold its consent to such improvements and/or uses by Lessor. Lessor shall not be responsible or liable to Lessee or Lessee's agents, affiliates or successors in interest for damages to the Wind Farm caused by grazing animals, including, without limitation, cattle, horses and sheep. Lessee shall be solely responsible for taking such measures, such as erecting fences or other barriers on the Property, as Lessee may deem reasonably necessary to prevent damage to the Wind Farm caused by grazing animals, including, but not limited to, cattle, horses and sheep. Subject to Section 4.12, Lessee shall not be responsible for any injuries to grazing animals resulting from Lessee taking any such measures. The right of Lessor to graze animals shall also be subject to the provisions of Section 4.12 above.

5.5 Soil Erosion and Weed Control. During the construction of any road or Wind Farm on the Property by Lessee and so long as such road is used by Lessee or such Wind Farm remains on the Property, Lessee shall, at its expense, take such measures as may be reasonably necessary to prevent its road or Wind Farm from increasing the erosion of soil on the Property and shall have the right, at its expense, to take such measures as may be deemed necessary or desirable by Lessee to prevent or control any weeds growing within ten (10) feet of any of its WTGs. If Lessor believes Lessee is not complying with any requirements to control erosion of soil on the Property Lessor shall give Lessee written notice thereof which identifies such failure and the related locations with sufficient detail to enable Lessee to cure the same. If Lessee does not commence such cure within thirty (30) days after such written notice is given and continues to pursue the same thereafter with due diligence, Lessor may, as its sole remedy for any alleged breach of the terms of this Section by Lessee, take such actions as may

reasonably be required to perform such obligations and all of the undisputed reasonable costs and expenses paid by Lessor to unrelated third parties in doing so shall be reimbursed to Lessor by Lessee within thirty (30) days after receiving Lessor's written demand and a copy of the related invoice or other appropriate evidence of payment.

5.6 Other Existing Uses. Lessor agrees to provide Lessee with current information concerning the status and location of all other land uses occurring on the Property (including, without limitation, agricultural use, industrial use and oil and gas exploration and production activities). Any new leases or renewals and or extensions of existing leases, options to lease, seismic operations, or any other agreement made by Lessor 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 disturb, interfere with, preclude, or destroy Lessee's rights hereunder.

5.7 No Interference. Lessor shall not interfere with and shall not allow any other party to interfere with, the free, unobstructed and natural wind flow, wind speed or wind direction over and across the Property. This restriction shall extend to any improvements or obstructions that may reduce, reflect or divert wind in any location within the boundaries of the Property; provided, however, that trees, structures and improvements located on the Property as of the Effective Date shall be allowed to remain, and they may be maintained, repaired or replaced so long as they do not exceed the size or materially deviate from their location as of the Effective Date. Lessor shall not conduct any activity, nor grant any rights to any third party, whether on the Property or elsewhere, that would interfere in any way with Lessee's use of the Property or the rights granted under this Lease.

6. Representations and Warranties.

6.1 Authority and Execution. Each person executing this Lease on behalf of Lessor represents and warrants that such person is duly and validly authorized to do so and that Lessor has the full right and authority to enter into this Lease, perform all of its obligations hereunder and grant the interests herein granted.

6.2 Covenants of Title. Without limiting the obligations set forth in Section 7, Lessor represents and warrants to Lessee that Lessor owns the Property in fee simple, including the subsurface estate thereof, subject to no liens or encumbrances except as disclosed in writing to Lessee prior to the execution of this Lease and listed on Exhibit B attached hereto and incorporated herein by this reference. Lessor shall assist and cooperate fully with Lessee with all reasonable efforts by Lessee to cure, correct or otherwise remove or mitigate defects, liens, encumbrances or other matters that may affect the title to the Property. All persons having any ownership or possessory interest in the Property (including spouses) are signing this Lease. Each spouse signing this Lease agrees that any rights of community property, homestead, dower, contribution, if applicable, and the like shall be subject and subordinate to this Lease and the easements and other rights granted hereby. Lessee may obtain a current preliminary title report for the Property at Lessee's expense showing all liens and other exceptions to title to the Property. At the request of Lessee, Lessor shall obtain executed and acknowledged instruments and such other documents as the title company or Lessee may require to confirm Lessor's ownership of the Property or to complete or evidence the full granting of the leasehold interest in the Property as intended by this Lease. Lessor shall cooperate with Lessee to obtain a subordination agreement from each lienholder (recorded or unrecorded) which provides on terms reasonably acceptable to Lessee that the lien and rights of the lienholder shall be subordinate to this Lease. Lessor will also obtain any necessary consent and/or subordination agreement in favor of Lessee and on terms reasonably acceptable to Lessee from any and all entities having a possessory interest in the Property.

6.3 Recording. Lessor shall not record this Lease. Lessee may record a memorandum of this Lease in the form attached hereto as Exhibit C (the "**Memorandum of Lease**") in the official records of the County in which the Property is located. Simultaneously with the execution of this Lease, the

Parties shall execute (in the presence of a notary) the Memorandum of Lease. In the event Lessee elects to record the Memorandum of Lease, Lessee shall cause the Memorandum of Lease to be recorded in the official records of the County in which the Property is located at Lessee's expense. If the Memorandum of Lease has been recorded, then following the expiration of or earlier termination of this Lease by Lessee, Lessee shall cause to be recorded a termination or release of the Memorandum of Lease in the official records of the County in which the Property is located at Lessee's expense.

6.4 Hazardous or Toxic Substances or Materials.

(a) Lessor represents and warrants to Lessee that no Hazardous Materials exist on the Property. Furthermore, Lessor covenants and agrees that (i) Lessor shall not use, store, dispose of or release any Hazardous Materials on the Property, and (ii) Lessor shall not cause or permit to exist or be used, stored, disposed of or released on the Property any Hazardous Materials except in such quantities as may be required in Lessor's agricultural use of the Property and only if such use is not harmful to Lessee or Lessee's employees and is in full compliance with all applicable laws. "**Hazardous Materials**" is defined as a "hazardous substance", "hazardous material", "toxic substance" or "solid waste" in any federal, state or local law, statute, regulation or ordinance. Should any claim or action be brought against Lessor or in connection with the Property with respect to any of the foregoing, Lessor shall immediately notify Lessee and shall indemnify, defend, protect and hold the Lessee Parties harmless from and against all Claims resulting or associated therefrom.

(b) Lessee covenants and agrees that it shall not (i) use, store, dispose of or release on the Property or (ii) cause or permit to exist or be used, stored, disposed of or released on the Property as a result of Lessee's Wind Farm Operations, any Hazardous Materials, except in such quantities as may be required in its normal business Wind Farm Operations and only if such use is not harmful to Lessor or Lessor's employees and is in full compliance with all applicable laws. Should any claim or action be brought against Lessee in connection with its Wind Farm Operations with respect to any of the foregoing, Lessee shall immediately notify Lessor and shall indemnify the Lessor Parties from all Claims resulting or associated therefrom. No liability shall arise in Lessee from the mere discovery of facts or conditions existing or pertaining to the Property.

6.5 No Litigation. Lessor is not a party to any, and there are no pending or threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any kind or nature whatsoever against Lessor: (i) challenging the validity or propriety of this Lease, and/or the transactions contemplated in this Lease; or (ii) which could reasonably be expected to have a material adverse effect on the ownership or operation of the Property or any part thereof or interest therein.

6.6 Compliance. Lessee shall comply in all material respects with all federal, state and local laws and regulations applicable to the development and operation of the Project and Transmission Facilities, but shall have the right, in its sole discretion and at its sole expense, in its name or in Lessor's name, to contest the validity or applicability of any law, ordinance, order, rule or regulation of any governmental agency or entity. Lessee shall control any such contest and Lessor shall reasonably cooperate with Lessee in such contest, at no out-of-pocket expense to Lessor.

7. Further Assurances; Cooperation.

7.1 Lessor shall fully support and cooperate with Lessee in connection with the conduct of Lessee's operations and the exercise of Lessee's rights under this Lease (including, without limitation, with Lessee's efforts to (a) obtain from any governmental authority or any other person or entity any environmental impact review, permit (including, without limitation, building permits, development permits, construction permits, subdivision and platting permits), entitlement, approval, authorization or other rights or (b) sell any portion of the Wind Farm, assign or otherwise transfer all or any part of or interest under this Lease or obtain any financing), and Lessor shall perform all such acts (including executing

and delivering maps, instruments and documents within ten (10) days after receipt of a written request made from time to time by Lessee) as Lessee may reasonably specify to fully effectuate each and all of the purposes and intent of this Lease. Without limiting the generality of the foregoing, within ten (10) days after receipt of a written request made from time to time by Lessee, Lessor shall: (i) enter into any reasonable amendment hereto to correct an error in this Lease or to amend the legal description attached hereto, including replacing said legal description with a revised description prepared or provided by Lessee's surveyor or title company; (ii) execute and deliver to Lessee any owner's affidavit or estoppel reasonably requested by any title company or attorney reviewing title to the Property; (iii) enter into any reasonable consent and subordination and nondisturbance agreement with any Lender, as defined in Section 14.1, stating that Lessor shall recognize the rights of the Lender and not disturb the Lender's possession of the Property so long as the Lender is not in default under this Lease, and stating such other things as such Lender may reasonably request; (iv) join with Lessee in the signing of any protest, petition, appeal or pleading that Lessee may deem advisable to file or in requesting any and all zoning changes or any waivers, variances, land use permits and/or approvals, in each case as Lessee may deem necessary or desirable for Lessee's development and use of the Property as contemplated by this Lease; and (v) if because of the nature of this Lease Lessee is unable to qualify for any tax credit or similar benefit associated with the Wind Farm or in connection with Lessee's operations, amend this Lease to assist Lessee in receiving such credits and benefits (but only if such amendment does not materially adversely affect Lessor). Without limiting the generality of the foregoing, Lessor shall not oppose, in any way, whether directly or indirectly, any application by Lessee for any permit, approval or entitlement at any administrative, judicial, legislative or other level.

7.2 Lessor hereby authorizes Lessee, or Lessee's successors and assigns, to act as Lessor's agent and on Lessor's behalf in applying to (including for any necessary consents) any public agency for land use entitlements or permits necessary or convenient for the construction, operation and maintenance of wind energy producing facilities on the Property, including, but not limited to, general plan amendments, specific plans, zone changes, tentative and final maps, conditional use permits, variances, rights of way, or any kind of environmental permit, as well as well permits, grading permits, foundation permits, building permits, storm water drainage permits, driveway entrance permits or similar construction permits. Furthermore, Lessor hereby agrees to cooperate with Lessee and Lessee's successors and assigns in connection with all Lessee's and Lessee's successors and assigns applications in furtherance of the Wind Farm whether or not such applications are expressly specified herein.

7.3 Lessor further consents to a zero (0) set back requirement for turbines installed on the Property and/or placed on parcels adjacent to all or any portion of the Property in connection with the development of a wind energy project on the Property by Lessee or Lessee's successor(s) or assignee(s).

7.4 Lessor further authorizes the County, and the County's agents, consultants and employees to enter the Property for the purpose of making inspections necessary or convenient to the issuance of land use entitlements or permits for the construction, operation, and maintenance of wind energy producing facilities on the Property. The rights and agreements set forth in this paragraph shall automatically expire upon the expiration or sooner termination of this Lease.

8. **Requirements of Governmental Agencies.** Lessee shall comply in all material respects with all valid laws applicable to the Wind Farm, but shall have the right, in Lessee's sole discretion and at Lessee's sole expense, in Lessee's name or in Lessor's name, to contest the validity or applicability of any law, ordinance, order, rule or regulation of any governmental agency or entity. Lessee shall control any such contest and Lessor shall cooperate with Lessee in every reasonable way in such contest, at no out-of-pocket expense to Lessor.

9. **Liens.** Lessor and Lessee shall keep the other's interest in the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies and equipment

furnished in connection with Lessor's or Lessee's (as applicable) use of the Property, subject to Lessor's and Lessee's (as applicable) right to contest such liens and claims. If Lessor or Lessee (as applicable) wishes to contest any such liens or claims, such Party shall, within sixty (60) days after it receives notice thereof, provide a bond or other security as the other Party may reasonably request, or remove any such liens from the Property pursuant to applicable law.

10. **Confidentiality.** Lessor and Lessee shall maintain in the strictest confidence, for their mutual benefit all information pertaining to the terms and conditions of this Lease, including, without limitation, the financial terms, Lessee's site design and product design, methods of operation and methods of construction and power production of the Wind Farm, except to the extent as may be required by subpoena or court order, provided that applicable Party provides, to the extent reasonably possible, the other Party a reasonable opportunity to review the disclosure before it is made and to impose such Party's own objection to the disclosure. Without first obtaining written permission from Lessee, Lessor shall not issue any statements or press releases or respond to any inquiries from the news media regarding such matters. Nothing in this Section shall prohibit any Party from sharing or disclosing information with such Party's counsel, accountants, or current or prospective investors, purchasers or lenders with a bona fide need to know such confidential information provided that the Party sharing or disclosing such confidential information requires the recipient to maintain the confidentiality of such disclosed information. This Section shall survive the termination or expiration of this Lease.

11. **Indemnity.**

11.1 **Indemnity by Lessee.** Lessee shall defend, indemnify, protect and hold harmless Lessor, and Lessor's affiliates, agents, partners, directors, members, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Lessor (each, including Lessor, a "**Lessor Party**" and collectively, including Lessor, the "**Lessor Parties**") from and against all claims, demands, liabilities, losses, damages, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "**Claims**") suffered or incurred by any of the Lessor Parties as a result of or arising out of: (a) any acts, omissions, negligence or default of Lessee, Lessee's affiliates, agents, partners, directors, members, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Lessee (each, including Lessee, a "**Lessee Party**" and collectively, including Lessee, the "**Lessee Parties**") in connection with Lessee Parties' uses of or operations on the Property, except to the extent any such Claim is caused by the negligence or willful misconduct of a Lessor Party; or (b) a breach of this Lease by Lessee that remains uncured after any applicable notice and cure period. Notwithstanding the foregoing, Lessor Parties hereby waive any Claims against the Lessee Parties for damage or injury suffered by the Lessor Parties arising as a result of any audible or electromagnetic noise, vibration, alleged nuisance, electrical interference and radio frequency interference attributable to the Lessee Parties' operations on the Property or any other property, provided that nothing herein shall be deemed to release Lessee from its obligation to defend, indemnify, protect and hold harmless the Lessor Parties from third party claims under the first sentence of this Section 11.1. The Lessee Parties shall not be liable for losses of rent, business opportunities, profits or any other special, incidental, exemplary, indirect or consequential damages that may result from the conduct of Lessee Parties' activities on the Property or otherwise as a result of any exercise by Lessee of its rights under this Lease.

11.2 **Indemnity by Lessor.** Lessor shall defend, indemnify, protect and hold harmless the Lessee Parties from and against any and all Claims suffered or incurred by any of the Lessee Parties as a result of or arising out of: (a) any acts, omissions, negligence or default of any of the Lessor Parties in connection with Lessor Parties' uses of or operations on the Property, except to the extent any such Claim is caused by the negligence or willful misconduct of a Lessee Party; (b) the condition of the Property, except to the extent any such Claim is caused by the negligence or willful misconduct of a Lessee Party; or (c) a breach of this Lease by Lessor that remains uncured after any applicable notice and cure period.

12. **Lessee's Insurance.** At all times during which Lessee is conducting any activities on the Property, and at all times during the Term, Lessee shall, at its own cost and expense, obtain and maintain in effect (1) Commercial General Liability insurance, including bodily injury and property damage coverage with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate and (2) Umbrella Liability Insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) aggregate. Lessee shall upon reasonable written request from Lessor provide to Lessor a certificate evidencing such coverage. In the event Lessee is a Regulated Utility, any or all insurance required of Lessee by this provision may be provided by self-insurance or through a program of self-insurance.

13. **Successors and Assigns; Lessor's Transfer Rights; No Severance of Wind Rights; Division of Lease.**

13.1 This Lease shall inure to the benefit of, and be binding upon, Lessor and Lessee, and their respective heirs, successors and assigns. Lessee may freely sell, assign, sublet, or otherwise transfer or encumber all or any portion of its interests under this Lease, and may sell, assign, sublet, or transfer or encumber all or any portion of its interest in the improvements (including, without limitation, WTGs, WTG Related Improvements, Transmission Facilities, the Storage Facility, the Met Tower and the Substation) that Lessee may install on the Property, without obtaining the consent of Lessor.

13.2 In the event of an assignment of Lessee's entire interest in this Lease, Lessee (including a successor Lessee by assignment) shall be released of all further liability under this Lease, provided that the assignee shall assume all of Lessee's obligations under this Lease.

13.3 If Lessee shall have assigned an interest with respect to all or a portion of the Property or the Wind Farm, and the terms of such assignment require the assignee to make payments at least equal to the payments required pursuant to this Lease and to otherwise comply with the terms of this Lease, no such assignment shall be affected by a cancellation or termination of this Lease, and Lessor shall recognize the rights of the assignee hereunder, provided only that such assignee attorn to Lessor upon Lessor's request. Lessor shall enter into a nondisturbance and attornment agreement, in form and substance reasonably acceptable to Lessor, Lessee and such assignee, upon the request of the assignee under any assignment.

13.4 Lessee also shall have the right to grant subleases, licenses, easements or similar rights (however denominated) to one or more persons or entities with respect to any portion of its interests under this Lease, without obtaining the consent of Lessor.

13.5 **Lessor's Transfer Rights.** Lessor may sell, mortgage, transfer or lease the Property to others; provided, however, any such sale, mortgage, transfer or lease by Lessor shall be subject to this Lease and any modifications or amendments thereof granted to Lessee prior to or after such sale, mortgage, transfer or lease. Lessor shall be obligated to inform any heirs, successors, transferees and assigns (of all or any portion of its interest in the Property) of the existence of this Lease. Further, any transfer of any portion of the surface rights of the Property shall automatically transfer with it the right to receive payments under this Lease in direct proportion to the fraction of the surface rights to the Property that have been transferred (without regard to the presence or lack of Wind Farm improvements); it being expressly understood and agreed by the Parties however, that Lessee shall have no obligation to make any payments hereunder to any person or entity other than Lessor unless and until Lessee receives written notice from Lessor of the transfer of all or any portion of Lessor's interest in the Property and the right to receive payments under this Lease in proportion thereto. This Lease shall burden the Property as the servient tenement and shall run with the Property.

13.6 **No Severance of Wind Rights.** Lessor shall not assign or otherwise transfer the surface rights separate and apart from the wind rights. Furthermore, Lessor shall not separately sell, assign, transfer or convey the rights to receive payments from Lessee pursuant to this Lease separate and apart

from the fee title to the Property. Any attempted transfer or assignment by Lessor of this Lease or the payment rights, separate and apart from the Property, or any attempted transfer of the wind rights or severance of the wind rights from the surface rights by Lessor is strictly prohibited and such transfer or assignment shall be void and shall have no effect.

13.7 Division into Separate Leases. Lessee may divide the Property into two (2) or more separate wind energy projects or phases of development if such division becomes necessary to further the development of the Wind Farm. If Lessee elects to divide the Property into two (2) or more wind energy projects or phases of development, then Lessor shall, within twenty (20) days after written request from Lessee, and without demanding any additional consideration, bifurcate this Lease by entering into and delivering to Lessee new stand-alone leases (as many as are necessary for each division) (which shall supersede and replace this Lease) that provide Lessee with separate leasehold estates in different portions of the Property, as designated by Lessee. Each of such new leases shall: (i) specify the portion(s) of the Property to be covered thereby (and the term "Property", as used therein, shall refer only to such portion(s)); (ii) contain the same terms and conditions as this Lease (except for any requirements that have been fulfilled by Lessee, any successor or assign of Lessee, or any other person or entity prior to the execution of such new leases, and except for any modifications that may be required to ensure that Lessee's and Lessor's respective combined obligations under such new leases do not exceed their respective obligations under this Lease) and be in a form reasonably acceptable to Lessee and Lessor; (iii) be for a term equal to the then-remaining Term of this Lease; (iv) contain a grant of access, transmission, communications, utility and other easements for the benefit of the bifurcated leasehold estates, covering such portion or portions of the Property as Lessee may designate (but only to the extent permitted in this Lease); (v) require payment to Lessor of only an acreage-proportionate part of the amounts hereof; and (vi) to the extent permitted by law, enjoy the same priority as this Lease over any lien, encumbrance or other interest against the Property. If Lessee elects to divide the wind energy projects or phases, then Lessee shall reimburse Lessor for Lessor's actual reasonable attorney's fees incurred for the review of each new lease by an attorney of Lessor's choosing.

14. Leasehold Financing.

14.1 Right to Encumber. Lessee, any successor or assignee of Lessee, or any holder of a sublease or license (each hereinafter sometimes referred to as an "**Obligor**") may at any time mortgage, pledge, or encumber to any entity (herein, a "**Lender**") all or any portion of the Obligor's rights and interests under this Lease or such sublease or license, in each case without the consent of Lessor. For purposes of this Lease, each entity which now or hereafter is the recipient or beneficiary of any such mortgage, pledge, or encumbrance and whose lien or encumbrance is now or hereafter recorded in the official records of the County in which the Property is located, shall constitute a "**Lender**" for purposes of this Lease.

14.2 Covenants for Lenders' Benefit. Lessee and Lessor expressly agree between themselves and for the benefit of any Lenders, that if an Obligor mortgages, pledges, or encumbers any of its rights and interests as provided in Section 14.1 above, then notwithstanding any other provision of this Lease to the contrary:

(a) Lessor and Lessee will not terminate, suspend, amend or modify, or take any action causing, consenting to, acquiescing in, or accepting the termination, suspension, amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Lender hereunder or impair or reduce the security for any lien held by such Lender, without such Lender's consent.

(b) Each Lender shall have the right, at its discretion, to take, or cause to be taken, any action required to be performed under this Lease by the Obligor that is party to such Lender's mortgage, pledge or encumbrance, and any such action performed by such Lender shall be as effective

to prevent or cure a default under this Lease and/or a forfeiture of any of such Obligor's rights under this Lease as if done by such Obligor itself. Lessor expressly consents to the foregoing actions, if any, by Lender, and authorizes Lender (or Lender's employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of Lessee or any assignee of Lessee.

(c) The right of a Lender to receive notices and to cure Obligor's defaults pursuant to the provisions of this Section 14.2 shall be available to those Lenders: (i) which shall have notified Lessor in writing of their name and address; (ii) which Lessee has notified Lessor of (including Lender's name and address); or (iii) whose lien is recorded in the official records of the County in which the Property is located, regardless of whether the specific provision in question expressly so states. Notwithstanding anything to the contrary in this Lease, no default which requires the giving of notice to Obligor shall be effective unless a like notice is given to all Lenders. If Lessor shall become entitled to terminate this Lease due to an uncured default by Obligor, Lessor will not terminate this Lease unless it has first given written notice of such uncured default and of its intent to terminate this Lease to each Lender and has given each Lender at least thirty (30) days after the expiration of the cure period which this Lease provides to Obligor for curing such default, to cure the default to prevent such termination of this Lease. Furthermore, if within such thirty (30) day period a Lender notifies Lessor that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Lease in order to cure the default, Lessor shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor. In the event a Lender shall elect to exercise its rights hereunder, such Lender shall have no personal liability to Lessor and the sole recourse of Lessor in seeking enforcement of its obligations under this Lease or any new lease entered into pursuant to Section 14.2(d) below shall be to such Lender's interest in this Lease and the Property. Upon the sale or other transfer by any Lender of its interest in this Lease or the Property, such Lender shall have no further duties or obligations hereunder.

(d) In case of the termination or rejection of this Lease by Lessor as a result of any default hereunder or the bankruptcy, insolvency or appointment of a receiver in bankruptcy, Lessor shall provide prompt notice thereof to the Lenders. Upon written request of the Lender that is the beneficiary of the first priority security interest in Lessee's interest under this Lease, made within forty (40) days after notice to such Lender of any such rejection or termination of this Lease by any party, Lessor shall enter into a new lease agreement with such Lender, or (at Lender's option) Lender's designee or assignee, within twenty (20) days after the receipt of such request (and if the new lease agreement is executed, at Lender's option, by Lender's designee or assignee, Lender shall not be required to assume the burdens and obligations of the new lease agreement). Such new lease agreement shall be effective as of the date of the termination or rejection of this Lease, upon the same terms, covenants, conditions and agreements as contained in this Lease for the remaining term of the original Lease before giving effect to such termination or rejection. Lessor shall have no rights to terminate such new lease based upon defaults occurring prior to the execution of the new lease. Lessor hereby agrees with and for the benefit of the Lenders that the provisions of this Subsection shall survive termination, rejection or disaffirmation of this Lease, whether by default or as a result of the bankruptcy, insolvency or appointment of a receiver in bankruptcy and shall continue in full force and effect thereafter to the same extent as if this Subsection were a separate and independent instrument. It is the intent of the parties hereto that any such new lease shall have the same priority as this Lease.

(e) There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Property by reason of the fact that this Lease or the leasehold 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

the Lenders) having an interest in this Lease or in the estate of Lessor and Lessee shall join in a written instrument effecting such merger and shall duly record the same.

(f) Lessor shall, at Lessee's or a Lender's request, provide to Lessee and such Lender (i) if it is the case, confirmation that such Lender is a "**Lender**" for purposes of this Lease, (ii) a consent and estoppel acknowledging the Lender's mortgage or other lien or encumbrance, confirming the continuing effectiveness of this Lease, identifying any modifications hereto and any breaches or defaults hereunder known to Lessor, and containing such other information as Lessee or such Lender may reasonably request, and (iii) such other certificates or affidavits as Lessee, such Lender or any title company selected by either Lessee or such Lender may reasonably request. Lessor shall duly execute and return same to Lessee and/or Lender within ten (10) Business Days of Lessee's or Lender's request therefor. Should Lessor fail to timely execute and deliver the consent and estoppel, then Lessee and/or Lender may rely on the contents thereof and the consent and estoppel shall be conclusively binding upon Lessor.

(g) Each Lender is and shall be an express third party beneficiary of the provisions of this Section, and shall be entitled to compel the performance of the obligations of Lessor under this Lease.

15. **Taxes.** Lessee shall pay any personal property taxes on WTGs and(or) for any such taxes that are directly attributable to wind energy conversion equipment installed by Lessee on the Property, and Lessor shall pay all real property taxes and assessments levied against the Property. Notwithstanding the foregoing, Lessee shall pay any increase in real property taxes for the Property attributable to the value of improvements on the Property owned by, or under the control of Lessee, which improvements may include the Wind Farm, the Storage Facility, the Substation, the Met Tower or the Transmission Facilities and any other equipment owned by Lessee and located on the Property; provided that such increase in the real property taxes attributable to Lessee's improvements are assessed for the period from and after the Effective Date until the end of the Term and only to the extent such increase is caused solely by the Wind Farm Operations. The foregoing obligation shall not include any recaptured taxes attributable to any period prior to the Effective Date or any interest or penalties thereon or to any increases in taxes due to reassessment upon a transfer of the fee interest in the Property by Lessor, and Lessee shall have the right, at its own expense, to appeal or contest any real property tax assessments or levies applicable to the Property and/or the Wind Farm (including any increases thereof) and to compromise and settle the same and Lessor shall execute such petitions and agreements and otherwise cooperate with Lessee to the extent reasonably necessary in connection therewith. Lessor shall pay when due any taxes attributable to: (i) improvements or facilities installed by Lessor or others (excluding Lessee) on the Property; (ii) the underlying value of the Property; and (iii) any and all other taxes and assessments pending or levied against the Property.

16. **Cure Rights.** If Lessor fails to pay the taxes or any other monetary obligations for which it is responsible hereunder, or otherwise defaults under this Lease, then, in addition to its other rights and remedies, Lessee shall have the right to pay such taxes and other obligations, and/or remedy any such default, by any appropriate means; and the cost thereof shall be reimbursed to Lessee by Lessor within thirty (30) days. Lessee may offset such cost against any amounts owed to Lessor under this Lease.

17. **Tax Credits.** If under applicable law Lessee is ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at Lessee's option, Lessor shall cooperate with Lessee in securing such benefits, and if necessary, Lessor and Lessee shall amend this Lease or replace it with a different instrument so as to convert Lessee's interest in the Property to a substantially similar interest that makes Lessee eligible for such tax credit, benefit or incentive.

18. **Defaults and Remedies.**

18.1 **Event of Default.** In the event of any alleged default or failure to perform any obligation under this Lease, the non-defaulting Party shall give the alleged defaulting Party written notice thereof, which notice shall include the acts required to cure the same with reasonable specificity. The Party failing to make any monetary payment when due shall have a period of thirty (30) days after such notice is given within which to cure such default. In the event of any other default, the defaulting Party shall have a period of thirty (30) days after such notice within which to cure such default, which period shall be extended to the extent reasonably necessary to complete such cure so long as the cure was commenced within thirty (30) days after such notice is given and thereafter prosecuted with due diligence.

18.2 **Interest.** Delinquent payments shall bear interest from their respective due dates until paid at the rate of the lesser of (i) of ten percent (10%) per annum, or (ii) the maximum rate permitted by law.

18.3 **Remedies.** Each Party shall have the right to recover its actual damages as a result of any default under this Lease which is not cured within the applicable cure period. Any prohibited conduct under this Lease may be enjoined and this Lease shall be specifically enforceable, but Lessor's remedies shall not include the right to terminate or cancel this Lease or evict Lessee from the Property in the event of a default by Lessee. Each Party waives its right to recover special, incidental, exemplary, indirect or consequential damages as a result of any default under this Lease.

19. **Termination by Lessee.** Lessee may elect to terminate this Lease at any time, for any reason or no reason, for all or part of the Property by delivering three (3) months' advance written notice to Lessor. The portion of the Property remaining after any partial termination of this Lease shall thereafter be the "**Property**" for purposes of this Lease and all payment amounts based on acreage shall be adjusted accordingly.

20. **Attorneys' Fees.** The prevailing Party in any mediation, arbitration or litigation undertaken in connection with any default under this Lease shall be entitled to be paid its reasonable costs and attorneys' fees incurred in connection therewith by the losing Party, including such costs and fees as may be incurred on appeal, in any probate or bankruptcy proceeding, and in any petition for review, and including costs and fees as are incurred in connection with adjudication of any issues that are particular to such types of proceedings.

21. **Notices.** All notices to a Party pursuant to this Lease must be in writing and shall be sent only by (i) United States Mail (first-class, certified, return-receipt requested); (ii) personal delivery; or (iii) an overnight courier service which keeps records of deliveries. For purposes of giving notice hereunder, the addresses of the Parties are as set forth in Section 1 above. A Party may change its address at any time by giving written notice of such change to the other Party in the manner provided herein. Notices sent by certified mail shall be deemed given on the date of delivery or attempted delivery as shown on the return-receipt. Notices sent by personal delivery or courier service shall be deemed given on the date of delivery or refusal to accept delivery.

22. **Interpretation.** Each Party has reviewed this Lease and has been given an opportunity to obtain the assistance of counsel, and any rule of construction holding that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Lease. The headings and captions of this Lease are for convenience and reference only, and shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease. A waiver of a breach of any of the provisions of this Lease shall not be deemed to be a waiver of any succeeding breach of the same or any other provision of this Lease. Any determination of invalidity or unenforceability of any particular clause or provision of this Lease shall not affect the validity or enforceability of the remainder of this Lease.

23. **Force Majeure.** If performance of this Lease or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected Party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance as soon as such causes are removed. "**Force Majeure**" means: fire, earthquake, flood, tornado, storm, lightning, windstorm, unusually inclement weather or other natural catastrophe; acts of God and natural disasters; strikes or labor disputes; inability to procure labor, materials, or reasonable substitutes therefor; war, civil strife, enemy or hostile government action, sabotage, vandalism or other violence; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency; epidemic, pandemic, disease outbreak, or public health crisis; or any other act or condition beyond the reasonable control of a Party.

24. **Condemnation.** Should title or possession of all of the Property be taken in condemnation proceedings by a government agency, governmental body or private party under the exercise of the right of eminent domain, or should a partial taking render the remaining portion of the Property wholly unsuitable for Lessee's use (in Lessee's reasonable discretion), then this Lease shall terminate upon such vesting of title or taking of possession. All payments made on account of any taking by eminent domain shall be made to Lessor, except that Lessee, at its sole discretion, shall be entitled to seek a separate award for any damages allowable by law, including, but not limited to, those damages for: (i) the removal and relocation of Lessee's business and its personal property, equipment, and trade fixtures, (ii) the loss of goodwill, (iii) lost profits, (iv) the loss and/or damage to any property that Lessee elects or is required not to remove, and (v) the loss of use of the Property by Lessee; and Lessor shall have no right, title or interest in or to any separate award made therefore. It is agreed that Lessee shall have the right to participate in any settlement proceedings and that Lessor shall not enter into any binding settlement agreement without the prior written consent of Lessee, which consent shall not be unreasonably withheld.

25. **Limitation of Liability.** Notwithstanding anything contained in this Lease to the contrary, the obligations of Lessee under this Lease (including any actual or alleged breach or default by Lessee) do not constitute personal obligations of the individual partners, directors, officers, members or shareholders of Lessee or Lessee's partners, and Lessor shall not seek recourse against the individual partners, directors, officers, members or shareholders of Lessee or against Lessee's partners or any other persons or entities having any interest in Lessee, or any of their personal assets for satisfaction of any liability with respect to this Lease.

26. **No Partnership.** Nothing contained in this Lease shall be deemed or construed by the Parties or by any third person to create the relationship of principal and agent, partnership, joint venture, co-tenants or any other association between Lessor and Lessee, other than the relationship of landlord and tenant. Lessee is not acting as an agent, partner or joint venturer of EDF Renewables, Inc., a Delaware corporation, and EDF Renewables, Inc., a Delaware corporation, shall not have any liability under this Lease.

27. **Brokerage Commissions.** Lessor and Lessee warrant and represent to each other that there are no brokers' commissions, finders' fees or any other charges due to any broker, finder, agent or other party in connection with the negotiation or execution of this Lease, or on behalf of either of them. Lessor and Lessee agree to defend, indemnify, protect and hold each other harmless against all claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees and other costs of defense) arising out of a breach of these representations. This Section shall survive the termination of this Lease.

28. **Controlling Law.** This Lease shall be governed and construed in accordance with the laws of the State in which the Property is located.

29. **Time for Performance.** If the time for performance of any obligation or taking any action under this Lease expires on a Saturday, Sunday or legal holiday, the time for such performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday. If the day on which rent or any other payment due hereunder is payable falls on a Saturday, Sunday or on a legal holiday, it shall be payable on the next succeeding day which is not a Saturday, Sunday or legal holiday.

30. **Severability; Partial Invalidity.** In the event any provision of this Lease is held to be unenforceable by a court of competent jurisdiction, then such provision shall be deemed to be severed from this Lease and the remainder of this Lease will be deemed to continue in full force and effect. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Lease as a whole.

31. **Waiver.** Lessor acknowledges and agrees that Lessor will at no time have any ownership interest in or to all or any portion of the Project, the Improvements, the Storage Facility, the Wind Farm, or any other improvements that Lessee may install on the Property pursuant to this Lease; and Lessor hereby waives and releases any and all lien rights arising hereunder or under applicable law or in equity with respect to the Project, the Improvements, the Storage Facility, the Wind Farm, and any other improvements that Lessee may install on the Property pursuant to this Lease.

32. **Waiver of Jury Trial.** EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS LEASE.

33. **Entire Agreement.** This Lease and the attached exhibits constitute the entire agreement between the Parties and shall supersede all other agreements, whether written or oral, respecting the subject matter of this Lease. No addition or modification of any term or provision of this Lease shall be effective unless set forth in writing and signed by an authorized representative of the Parties.

34. **Joint and Several Liability.** The obligations under this Lease imposed upon Lessor shall be joint and several obligations of the individuals or entities comprising Lessor.

35. **Quiet Enjoyment.** Lessor agrees that Lessee shall quietly and peaceably hold, possess and enjoy the Property pursuant to the terms of this Lease, and for the Term of this Lease, and any extension thereof, without any hindrance or interference caused by Lessor or any party claiming by, through or under Lessor. Lessor shall defend title to the Property, and the use and occupancy of the same, against the claims of all others, except those claiming by or through Lessee. Lessor shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the Property, or the rights and/or obligations of Lessee hereunder, without first obtaining the prior written consent of Lessee, which consent shall not be unreasonably withheld.

36. **Emergencies.** If Lessor becomes aware of any circumstances relating to the Wind Farm Operations or the Property which creates an imminent risk of damage or injury to any person or any person's property, Lessor will immediately notify Lessee of such threat. If the threat relates to the Property and not to the Wind Farm Operations, Lessor shall promptly take such action as is necessary or appropriate to prevent such damage or injury.

37. **Notice of Damage.** Lessor will promptly notify Lessee of any physical conditions or other circumstances Lessor becomes aware of that indicate there has been or might be damage to or loss of the use of the Wind Farm Operations or that could reasonably be expected to adversely affect the Wind Farm Operations.

38. **Mortgage Payment; Superiority of Lien.** Lessor agrees to promptly provide Lessee with a copy of any default notices that Lessor receives from any of its lenders or other party holding a mortgage or security interest in the Property. If Lessor fails to pay any of its obligations secured by a mortgage or other security interest on the Property when due, Lessee may, at its option, pay such amount and deduct it from the amount owed to Lessor under this Lease. In addition, Lessor expressly acknowledges and agrees that any contractual, statutory or common law lien rights in favor of Lessor or any mortgage granted by Lessor subsequent to the date of this Lease are and shall be expressly made subordinate and inferior to Lessee's right, title and interest in this Lease, any sublease permitted hereunder and/or the easements granted by this Lease and to any liens and security interests granted by Lessee in favor of any Lender.

39. **Execution in Counterparts.** This Lease may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same contract. Electronic signatures of this Lease shall be binding and effective for all purposes and treated in the same manner as physical signatures.

[Remainder of Page Intentionally Left Blank;

Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date, which is the last date of full execution of this Lease.

LESSOR:

Dated: _____

By: _____
Printed Name: _____
Title: _____

Dated: _____

By: _____
Printed Name: _____
Title: _____

LESSEE:

EDF Renewables Development, Inc.,
a Delaware corporation

Dated: _____

By: _____
Printed Name: _____
Title: _____

EXHIBIT A

[Legal Description of the Property]

Assessor's Parcel Number - _____

EXHIBIT B

[List of Liens and/or Encumbrances]

EXHIBIT C

[Form of Memorandum of Wind Farm Lease]

Follows this page.

**THIS INSTRUMENT IS DRAFTED BY
AND WHEN RECORDED RETURN TO:**

EDF Renewables Development, Inc.
15445 Innovation Drive
San Diego, CA 92128
Attn: Corporate Real Estate
Project: Dickey County

MEMORANDUM OF WIND FARM LEASE

THIS MEMORANDUM OF WIND FARM LEASE (this "**Memorandum**") is made and entered into as of _____, 20__ (the "**Effective Date**"), by and between _____ ("**Lessor**"), and EDF Renewables Development, Inc., a Delaware corporation ("**Lessee**"). The Term of the Lease is less than thirty-five (35) years.

By this Memorandum, and on the terms and conditions set forth in that certain Wind Farm Lease dated as of the Effective Date (the "**Lease**"), with respect to certain real property located in Dickey County, North Dakota and more particularly described on Exhibit A attached hereto (the "**Property**"), all of the terms and conditions of which Lease are hereby made a part hereof as fully and completely as if herein specifically set out in full, Lessor has granted and hereby grants to Lessee:

(a) an exclusive right on, over, under and across the Property for the term hereof for wind resource evaluation, wind energy development, the installation, construction, maintenance, repair, replacement and removal of wind turbine generators and other wind energy producing facilities and related wind energy uses, all as described in the Lease;

(b) an exclusive right on, over, under and across the Property for above-ground and/or underground electrical transmission lines, conduit and related equipment, collection and transmission grid, power conditioning equipment, transformers, telecommunications equipment and other related facilities, equipment and improvements; and

(c) a non-exclusive easement on, over and across any and all access routes to and from the Property for purposes of ingress and egress to and from the Property including road access and the right to install, maintain and repair roads and roadways on the Property.

1. Term. The term of the Lease (the "**Term**") begins on the Effective Date and terminates upon the earlier of: (a) forty (40) years after the Effective Date or (b) the date the Lease is terminated as permitted in the Lease or by operation of law. The Lease shall not terminate solely because of abandonment or nonuse except as provided in the Lease. Lessee may extend the Term of the Lease by up to two (2) additional consecutive ten (10) year terms commencing on the last day of the initial forty (40) year term or the first extended term, as the case may be.

2. No Separate Assignment. Lessor shall not assign or otherwise transfer the right to receive any payments under the Lease to any third party separate and apart from an assignment of the Lease and a transfer of the underlying fee interest in the surface of the Property. Any attempted transfer or assignment by Lessor of the Lease (or payment rights from the Lease), separate and apart from the surface of the Property is strictly prohibited and such transfer or assignment shall be void and shall have no effect.

3. Addresses for Notices:

Lessor:

Name: _____
Street or Box: _____
City, State, Zip: _____

Lessee:

EDF Renewables Development, Inc.
15445 Innovation Drive
San Diego, CA 92128
Attn: Corporate Real Estate
Phone: 858-521-3300

4. Capitalized Terms. Capitalized terms used in this Memorandum and not otherwise defined shall have the meanings ascribed to them in the Lease.

5. Counterparts. This Memorandum may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

6. Record Notice. This Memorandum is executed and recorded for the purpose of providing record notice of the execution, delivery and existence of the Lease. This Memorandum shall not supersede or in any way modify the terms or conditions of the Lease. In the event of any conflict between any term or provision of the Lease and this Memorandum, the applicable term or provision of the Lease shall control.

[Remainder of Page Intentionally Left Blank;

Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first set forth above.

LESSOR:

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

LESSEE:

EDF Renewables Development, Inc., a Delaware corporation

By: _____
Printed Name: _____
Title: _____

[INSERT APPROPRIATE NOTARY]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary's Signature

[Notarial Seal]

INDIVIDUAL:

STATE OF NORTH DAKOTA)
County of _____)

On this _____ day of _____, in the year _____ before me personally appeared _____, known to me (or proved to me on oath of _____) to be the person who is described in and who executed the within instrument, and acknowledged to me that that person (or they) executed the same.

Notary's Signature

[Notarial Seal]

CORPORATION

STATE OF NORTH DAKOTA)

County of _____)

On this _____ day of _____, in the year _____ before me (here insert the name and quality of the officer), personally appeared _____, known to me (or proved to me on oath of _____) to be the president (or other officer or person) of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Notary's Signature

[Notarial Seal]

LIMITED LIABILITY COMPANY

STATE OF NORTH DAKOTA)

County of _____)

On this _____ day of _____, in the year _____ before me (here insert the name and quality of the manager), personally appeared _____, known to me (or proved to me on oath of _____) to be the president (or other manager or person) of the limited liability company that is described in and that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

Notary's Signature

[Notarial Seal]

EXHIBIT A TO MEMORANDUM

[Legal Description of the Property]

Assessor's Parcel Number - _____

EXHIBIT 14



FIRST MILE
DEVELOPMENT

Wallflower Wind Farm

Dickey and LaMoure Counties, ND

Non-Binding Summary of Terms

STAGES and TERMS

1. Option Period (development)

- **Term: Usually 5-6 years, may extend up to 10**
- **Term Rent: \$15/acre years 1-5, \$20 yrs 6-7, \$25 yrs 8-10, Yr 1 pmt: \$26,573.10**

2. Construction

- **Term: Usually 2-3 years, may extend up to 5 years**
- **Construction rent: \$20/acre**
- **One-time Installation Revenue:**
 - **Tower: \$8,000 per tower**
 - **\$5,000 per lease, for leases with roads or cables, but no towers**
- **Crop damage reimbursement, fence, irrigation and drain tile repair**

3. Operating Period

- **Term: 30 years plus two 10-year extensions**
- **Annual Lease Payments - rate for year 1 \$5,000 per MW of installed capacity – expected \$22,500 for 4.5 MW turbines**
- **\$1/linear foot for access roads, \$1/linear foot for buried cables (collection cables)**
- **\$2,500 – per meteorological tower**
- **PLUS \$20/acre**
- **Rates increase annually at 2%**

Other Lease Highlights

- **All landowners receive the same financial terms for installed equipment**
- **Property taxes on turbines are paid by wind farms**
- **Wind farm owners are required to carry liability insurance**
- **Restoration at the end of the project to return land to usefulness, including topsoil, is guaranteed with the Department of Agriculture and county permits by an approved form of financial security**



FIRST MILE
DEVELOPMENT

Matt Peterson

Senior Developer

(612) 202-5235

mpeterson@firstmileddevelopment.com

Other Project Information

- Project Size: 650 MW
- Turbine Info: Modeled with 144– Vestas V163-4.5 MW wind turbines
- Interconnection: Jamestown to Ellendale 345kV

Project Area

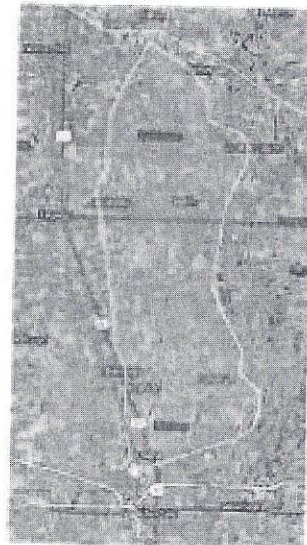


EXHIBIT 15

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Power Company/Montana-Dakota Utilities Co.
345kV Transmission Line-Jamestown to Ellendale
Public Convenience & Necessity

Case No. PU-24-91

DECLARATION OF BRANDON SCHWEIGERT

1. I am a directly affected landowner and one of the petitioners requesting to intervene and reopen this proceeding.
2. What I've witnessed from the cab of my John Deere tractor while farming some cropland in Dickey County is based on my opinions and only from my point of view.
3. My wife and I rent land amongst a windfarm in Dickey County, North Dakota. The land is situated on the Coteau Hills Ridge, home to good rich soil types for demanding crops we raise. It's also home to a complex abundant wildlife community; whitetail deer, jackrabbits, great horned owls, coyotes, badgers, upland game, sightings of antelope and various migrating waterfowl.
4. What I've witnessed in the last 10 years of farming that location has become rather disheartening. Twice a year, during bird migration, the area becomes a slaughter zone. Mallard ducks, Canadian geese, snow and blue geese are frequently struck by turbine blades, dying either on impact or later after being injured, often finished

off by coyotes. We've even found dead bald eagles. It's never a good day planting through a field strewn with dead geese and a pair of bald eagles. Perhaps there's no perfect place for a wind farm, but common sense tells me not to place one in the largest migratory bird flyway in the United States.

5. I declare under penalty of perjury that everything stated in this document is true.

Signed on the 1st day of May, 2025, in LaMoure County, State of North Dakota.

Respectfully submitted,

By: /s/ Brandon Schweigert
Brandon Schweigert