

LAND OPTION AGREEMENT

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LAND OPTION AGREEMENT

THIS AGREEMENT made the ____ day of _____, 200_ (hereinafter called the "Effective Date")

BETWEEN:

_____, of the _____ of _____ in the
Province of Ontario (hereinafter called the "**Owner**")

-and-

BOREAS WIND PARTNERS INC.,
a corporation incorporated under the laws of the Province of Ontario
(hereinafter called "**BOREAS**")

WHEREAS the Owner is the registered owner, subject however to the exceptions, conditions and Encumbrances registered on title of that certain parcel or tract of land situate, lying and being in the Province of Ontario known as:

(hereinafter called the "**Lands**", which may be more particularly described in Schedule "E", if any, attached hereto);

AND WHEREAS BOREAS desires to obtain an Option to lease from time to time portions of the Lands for the purposes and uses as set out in this Agreement and, during the currency of this Land Option Agreement, to assess the wind resources over such Lands.

THIS AGREEMENT WITNESSES THAT the parties hereto covenant and agree with each other as follows:

ARTICLE I

PURPOSE AND DEFINITIONS

1.1 **Purpose:**

The purpose of this Agreement is to grant to BOREAS an exclusive Option over the Lands to allow BOREAS the opportunity to assess the wind resources over such Lands and, if satisfactory to BOREAS in its sole discretion, potentially to lease from the Owner some or all of such Lands either for the installation of equipment to further measure such wind resources or for the installation of windpower electricity generating facilities including wind driven turbines and the transmission of electricity for use or sale created therefrom. During the Option Period, BOREAS will pay to the Owner a fee for the Option for the unrestricted, exclusive use of the Lands to complete any and all testing as required by BOREAS in order to determine the suitability of the Lands.

1.2 **Definitions:**

The words and phrases defined in Schedule "A" shall have the meaning in this Agreement as set out in Schedule "A".

ARTICLE II

GRANT OF OPTION AND PAYMENT OF OPTION FEE

2.1 Grant of Option(s):

The Owner HEREBY GRANTS to BOREAS the sole and exclusive Option and the Rights, irrevocable for a period of three (3) YEARS from the Effective Date (the "**First Option Period**"), to acquire at any time or times during the First Option Period one or more leases to all or parts or portions of the Lands, whether for any one or more of Wind Turbine sites, Anemometer sites or Permanent Access Roads (such portions called the "**Leased Lands**") and, if reasonably required by BOREAS, to use parts or portions of the Lands for Temporary Workspace , in each case, not inconsistent with the terms of this Agreement, in the form of the Ground Lease annexed hereto as Schedule "B"

In consideration of the grant of such Option, BOREAS will pay to the Owner a basic annual fee in the sum of Fifteen Hundred 00/100 (\$ 1,500) Dollars (the "**Option Fee**") payable annually on or before each anniversary date of the Effective Date during the First Option Period, the receipt and sufficiency of which sum for the initial year in the First Option Period is hereby acknowledged. In the event BOREAS installs any Anemometer on any portion of the Lands, BOREAS shall also pay to the Owner a further Anemometer fee of seven hundred and fifty (\$750) dollars per annum (an "**Anemometer Fee**"), payable at the time and dates as for the Option Fee. Upon any exercise by BOREAS of its Option, a separate Ground Lease shall be prepared for Wind Turbines or any other surface improvement required for windpower electricity generating, as further provided in Subsection 3.1 hereof, as the case may be.

The grant of this Option herein shall also include the right in favour of BOREAS and its employees, agents and contractors to enter upon the Lands at any time for the purpose of conducting such further and other environmental, engineering, meteorological, soil and property surveys and tests, investigations and other activities including the installation of Anemometers or other testing equipment to assess the wind resource as BOREAS deems necessary and to install temporary fences and construction facilities including mobile trailers, vehicles and equipment as may be deemed necessary by BOREAS and this Option shall include all rights of ingress to and egress from the Lands as reasonably determined necessary by BOREAS. The Option Fee shall continue to be payable to the Owner up to the Commencement Date of any Ground Lease whereupon the Option Fee will be reduced proportionately to the area of the Lands not subject to a Ground Lease unless the Option is surrendered or terminated.

2.2 Renewal Option Period:

If BOREAS is not in default in respect of any of the covenants and conditions contained in this Agreement at the date of expiration of the First Option Period, and whether or not BOREAS has exercised its Option to acquire one or more Ground Leases hereunder, and

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unless BOREAS gives to the Owner notice of termination of this Agreement at least thirty (30) days prior to the end of the First Option Period, then this Agreement and the Option herein provided shall be renewed automatically and the term extended for a further term of four (4) YEARS, (hereinafter called the "**Renewal Option Period**") at the same Option Fee as set out in Subsection 2.1 . The Renewal Option Period shall commence on the date of the expiration of the First Option Period.

2.3 Surveys and Registrations:

BOREAS may file or register any such surveys to legally describe the Leased Lands and Temporary Workspace to be granted under any Ground Lease and any notice of this Agreement and any Ground Lease on or in respect of title to the Lands at the appropriate Land Registry Office or other public offices, and the Owner shall cooperate in promptly signing or cause all persons whose consent is required to sign such survey plans and executing such related consents or other documents as may be required.

2.4 Exercise of Option:

During the First Option Period or the Renewal Option Period, BOREAS may, from time to time, exercise its Option to acquire a Ground Lease for all or parts or portions of the Lands by delivering to the Owner a Notice to Lease, in duplicate, which shall be effective from the Notice Date. BOREAS shall have the right to select and determine the location, configuration and area of the Leased Lands and any Temporary Workspace and Permanent Access Roads to be granted under any Ground Lease, subject to the approval of the Owner, which approval shall not be unreasonably delayed or withheld. Any disputes as to the reasonableness of such approval shall be resolved pursuant to the dispute resolution provisions hereof.

2.5 Continuing Option:

Notwithstanding the exercise by BOREAS of its Option to lease any portion of the Lands, the Option hereby granted shall continue in full force and effect over all other portions of the Lands for the duration of this Option Agreement.

**ARTICLE III
GROUND LEASE**

3.1 Preparation and Execution of Ground Lease:

(a) Any Ground Lease shall be prepared by and at the sole cost and expense of BOREAS and shall be delivered to the Owner by BOREAS upon delivery to the Owner of the Notice to Lease or so soon thereafter as is possible. The form of the Ground Lease shall be in the form of Schedule "B" attached hereto and shall set out:

- (i) whether the use of the Leased Lands will be for Wind Turbines or for Permanent Access Roads thereto or both;
- (ii) the annual rent for the Leased Land together with any adjustments for the first year of the Ground Lease to be paid by BOREAS;

- (iii) a legal description of the Leased Lands and the Temporary Workspace (if applicable);
- (iv) a copy of a sketch or a plan of survey of the Leased Lands; and
- (v) a sketch of any anticipated area of Temporary Workspace (if applicable).

Together with delivery to the Owner of 4 copies of the Ground Lease, duly completed as aforesaid, BOREAS shall pay to the Owner the estimated (by BOREAS) amount of the first year rent (whether a fixed annual rental, a percentage rental or a combination thereof payable under the Ground Lease) for the Leased Lands and the Temporary Workspace, if any, as set out in the Ground Lease, which shall become payable from the Commencement Date of the Ground Lease. Notwithstanding the payment by BOREAS aforementioned, the Option Fee, in addition, shall continue to be payable to the Owner until the Commencement Date of the Ground Lease as determined by BOREAS together with the further sum equal to that proportion of \$5,000 that the number of days in which construction of the Wind Turbine continues is to 365 days which further sum shall be subject to adjustment between the parties within 15 days of the Commencement Date of the Ground Lease.

The Owner acknowledges that the Ground Lease is to be executed with the effective date of the Ground Lease and the Commencement Date being left blank. BOREAS will, and is hereby authorized by the Owner, to insert the effective date of the Ground Lease and the Commencement Date of the Term as hereinafter determined.

(b) Execution of Ground Lease by Owner:

Upon receipt by the Owner of the completed Ground Lease in 4 copies the Owner shall promptly execute all copies of the Ground Lease and complete any required consents or certificates in respect thereof and deliver to BOREAS three (3) fully executed copies of such Ground Lease, undated, pending determination of the effective date of the Ground Lease and its Commencement Date.

(c) Execution of Ground Lease by BOREAS:

Subsequent to each exercise of the Option as provided in this Agreement, BOREAS shall promptly proceed to obtain all necessary approvals, consents, licenses and orders as contemplated in Section 4.6 and when permitted to do so, diligently commence construction of its Wind Turbines upon completion of which and the commencement of operations , BOREAS shall:

- (i) insert the Commencement Date of the Ground Lease into the three (3) copies of the Ground Lease in its possession; and
- (ii) personally deliver or mail one (1) executed copy of the Ground Lease to the Owner at its address for Notices as hereinafter provided together with the first year basic annual rental due under the Ground Lease.

Notwithstanding the foregoing, failure by the Owner to promptly execute and return a copy of the Ground Lease to BOREAS shall not invalidate or otherwise void or render voidable the grant of the Ground Lease, and failure by BOREAS to comply promptly with this Section 3.1 shall not invalidate an otherwise valid exercise of the Option granted under this Agreement. With respect to the proposed Leased Lands in the interval between the Notice Date and the Commencement Date, and with respect to the balance of the Lands, all rights granted to BOREAS under this Agreement shall remain in full force and effect

3.2 Annual Rental and other Consideration for Ground Lease(s):

If BOREAS exercises its Option to acquire a Ground Lease, rental from and after the Commencement Date shall be determined as follows:

- (a) For the Leased Lands: the basic annual rental and any other rental payable for the Leased Lands and the Temporary Workspace from and after the Commencement Date shall be calculated as provided in Schedule "C" attached hereto as revised from time to time as provided in the Ground Lease; and
- (b) Adjustment of first year basic annual rental: On or before the Commencement Date of any Ground Lease, the first year consideration and basic annual rental to be paid under such Ground Lease shall be adjusted if not previously adjusted, settled and paid by BOREAS subject to the provisions of Schedule "C" and the Ground Lease in the event rental is payable as percentage rental in whole or in part. For the purposes of such adjustment, the amount paid by BOREAS to the Owner as referenced in Section 3.1 for the period of time from the date of the Notice to Lease up to the Commencement Date of the Ground Lease shall be based upon five thousand (\$5,000) dollars per annum and will be pro rated on the basis of the number of days less than a whole year between the Notice to Lease and the Commencement Date and any over or under payment will be credited or debited to either the Owner or BOREAS as the case may be as of the Commencement Date.

ARTICLE (IV)

THE LANDS

4.1 Title to the Lands:

The Owner represents and warrants that the Owner has good and marketable title to the Lands and has the full power and authority to enter into and execute this Agreement and any Ground Lease to be issued under this Agreement. The Owner represents and warrants that there are no other agreements in or pursuant to which any other person or entity has or may acquire the right to purchase or obtain a transfer of the Lands, or any portion thereof, from the Owner. The Owner further warrants that there are no Encumbrances except as registered on title to the Lands effective as of the Effective Date hereof, and the Owner covenants and agrees that no Encumbrances will be granted, created or suffered to exist without prior notice to BOREAS, and there are no other Encumbrances on the title to the Lands that would prevent BOREAS using the Lands for the uses intended by BOREAS

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as set forth above. Should the Owner propose to charge or encumber title to the Lands, it shall give BOREAS prior notice of such intention and shall make it a condition of any such charge or encumbrance that the charging or encumbering Party agrees in writing with BOREAS to be bound by and subordinate to all of the terms of this Agreement.

4.2 Covenant Regarding Use of Lands:

- (a) The Owner hereby grants (on behalf of itself and its successors and permitted assigns) a covenant in favour of BOREAS, not to construct or erect, or cause to be constructed or erected, during the term of this Agreement and all renewals thereof, on any of the Lands which are or were owned or controlled by the Owner as of the Effective Date, in any direction surrounding the Leased Lands from the Notice Date, any above-ground structure of any height located within three hundred and fifty (350) meters of any Wind Turbine located on the Leased Lands; and (without BOREAS' prior written consent, which BOREAS may withhold for any reason) any above ground structure having a height greater than twenty (20) meters located outside of the aforementioned three hundred and fifty (350) meter boundary but within eight hundred (800) meters of any Wind Turbine located on the Leased Lands.

This covenant is for the benefit of all or any portion of the Leased Lands which are or will be acquired pursuant to this Agreement (being the dominant tenement) and shall run with and burden every portion of the Lands (as the servient tenement) for the duration of this Agreement and any Ground Lease of the Leased Land. The parties agree that damages will be an insufficient remedy for breach of this covenant by the Owner, and that BOREAS may seek an equitable remedy of specific performance or an injunction or both in respect of such covenant, in addition to any other remedies available to it in equity or at law.

- (b) The Owner further covenants and agrees that so long as this Option Agreement is in force and throughout the term of any Ground Lease, the Owner will not permit the use of any of the Lands by anyone whose use of any portion of the Lands would interfere with or impede the use of the Leased Lands or any portion of the Lands by BOREAS for the purposes hereinbefore set out.
- (c) The Owner further covenants and agrees that unless the Owner transfers the Lands to a *bona fide* third party, the Owner will not, for a period of fifteen (15) years from the date the Owner delivers the notice, if any, referred to in Section 6.4, enter into any option agreement, lease or sale of the Lands for the purpose of the installation of Wind Turbines or for the operation of a wind driven electricity generating facility.

4.3 Changes in Property:

During the Option Period and the Renewal Option Period, if any, if the Owner wishes to change the zoning or the land use designation of the Lands or any portion thereof, the Owner shall immediately and prior to initiating any activity to do so notify BOREAS in C:\Documents and Settings\Peter\My Documents\Peter\Peter Business\Boreas Wind Partners\option and lease agreements\Land_Option_Agreement revised 17 Jan 06.DOC

writing. Notwithstanding the foregoing, the Owner shall not, without the prior written consent of BOREAS, initiate, impose or consent to any such change or other restriction that would prevent or limit BOREAS from using or exercising the Rights in respect of any portions of the Lands or any Leased Lands or Temporary Workspace for the uses intended by BOREAS as described in this Agreement and in any Ground Lease.

4.4 Assignment and Disposition; Binding Effect:

- (a) The intention of the parties with respect to the covenants contained in Sections 4.2 and 4.3 is to ensure that all portions of the original Lands which are subject to this Agreement remain subject to the covenant contained herein as if no sale or assignment of the Sold Lands (as hereinafter defined) had occurred. Accordingly, should the Owner propose to sell, assign, transfer, convey or otherwise alienate or dispose of title to all or any portion of the Lands (the "**Sold Lands**") other than by the grant of the Leased Lands to BOREAS under the Ground Lease, the Owner (as vendor or transferor) shall make it a condition of any such sale or transfer that the purchaser or transferee agrees with BOREAS in writing under seal to assume the burden of the covenants contained in Sections 4.2 and 4.3 in full against the Sold Lands as servient tenement, such that the benefit of this covenant accrues to all or any portion of the Leased Lands (whether located on the Sold Lands or the retained Lands) which are or will be acquired pursuant to this Agreement, as dominant tenement, as if the purchaser or transferee of the Sold Lands were an original party to this Agreement with BOREAS. All assignment provisions of this Agreement shall apply to any successor or permitted assign of the Owner or of the above-referenced purchaser or transferee. Similarly, the covenant herein granted by the Owner shall continue to burden the Lands and shall continue to accrue to the benefit of any portion of the Lands to the extent same are comprised, or will be comprised at a future date, of the Leased Lands.
- (b) If the estate and interest of either party in this Agreement or the Lands or both or any portion thereof is sold, assigned, transferred, conveyed or disposed of in any manner (which disposition is hereby expressly allowed, subject to compliance with the provisions of Sections 4.2 and 4.3 hereof) the provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and each of them, their respective heirs, executors, administrators, successors and permitted assigns, and shall constitute a grant, interest and covenant in and running with the Lands.
- (c) No such disposition shall be effective or binding on the non-assigning party:
 - (i) until that non-assigning party has received notice thereof, which notice shall include the name and address of the assignee; (ii) with respect to the devolution of all or part of the estate in the Lands to any heir, administrator or executor of a party, until written notice of such devolution and copies of pertinent documents evidencing such devolution is provided to the non-assigning party; and (iii) in all other circumstances except those described in (ii) above, until the assignee of the assigning party has entered into an

agreement in writing with the non-assigning party whereby such assignee has agreed to be bound by all of the terms hereof in which case the assigning party shall be absolutely released from any and all obligations under this Agreement except Sections 4.2, 4.3 and 4.4(a) and (b). In the event such agreement has not been executed by the non-assigning party within ninety (90) days of the notice referred to herein, the non-assigning party shall be deemed to have released the assigning party from any and all obligations under this Agreement except Sections 4.2, 4.3 and 4.4(a) and (b).

4.5 Transmission and Telecommunication Services:

During the Option Period and during the term of any Ground Lease, the Owner shall cooperate fully with BOREAS, or with such third parties as may be designated by BOREAS, in providing access, easements or utility corridors or rights-of-way as may be deemed necessary or required by BOREAS for the conduct of its operations as authorized pursuant to the Ground Lease, by promptly signing such documents, easements or servitudes as are so required. In addition, the Owner hereby agrees to promptly grant such easements, rights-of-way or other access agreements to a transmitter or purchaser of electricity or telecommunication services as reasonably required by BOREAS, either to BOREAS or to the distributor, transmitter or purchaser of electricity or such third party as may be designated by BOREAS, for use as an access corridor, utility easement or connecting corridor for such services.

4.6 Governmental Approvals:

BOREAS shall at its sole cost and expense perform all acts associated with any zoning, land use, subdivision or other process or procedure necessary to obtain any certificate, permit, license, approval, consent, order, exemption or authorization that may be required by any federal, provincial, local or municipal authorities for the use of any portions of the Lands for the purposes contemplated herein or in the Ground Lease, including the *Planning Act*, R.S.O. 1990 c.P13, as amended, and the *Ontario Energy Board Act*, S.O. 1998 c.15 Sch B., as amended. The Owner shall promptly consent to and assist BOREAS in performing all such acts, as required.

4.7 Non-Renewal:

In the event that BOREAS elects, by notice in writing to the Owner, delivered on or before the expiry of the term of the Ground Lease that BOREAS does not wish to renew the Ground Lease, the Owner shall have the right to purchase from BOREAS, at its fair market value as determined, if necessary, pursuant to the dispute resolution provisions of the Ground Lease, all Wind Turbines, equipment, appurtenances, systems and rights (collectively, the "Installations") of BOREAS in any way relating to the Wind Turbines located upon the Leased Lands. In the event that the Owner and BOREAS cannot agree on the fair market value of the Installations, BOREAS shall be responsible for the removal of the Installations and the full remediation of the Leased Lands to substantially the condition the Leased Lands were in prior to the introduction of the Installations.

ARTICLE V

DAMAGES; DISPUTES

5.1 Default:

Notwithstanding anything herein contained to the contrary, BOREAS shall not be in default in the performance of any of its covenants or obligations under this Agreement, including the payment of consideration under any of Articles II or III hereof unless and until the Owner has notified BOREAS of such default in writing and BOREAS has failed to commence action to remedy the same within forty-five (45) days of receipt of such notice and fails thereafter to diligently continue to complete such remedial action.

5.2 Indemnities:

- (a) BOREAS shall indemnify and hold the Owner harmless against all actions, suits, claims or demands by any person in respect of any loss or damage or personal injury and physical damage to the Lands or the property or person of third parties resulting from any operations of BOREAS on the Lands, Leased Lands or Temporary Workspace, other than through the use, occupancy or operations of the Owner.
- (b) The Owner shall indemnify and save harmless BOREAS from and against all actions, suits, claims and demands by any person in respect of any loss, injury, damage or obligation arising out of or connected with the use, occupancy or operations of the Owner on the Lands, Leased Lands and Temporary Workspace, other than through the use, occupancy or operations of BOREAS.

5.3 Compensation for Damages:

BOREAS shall pay compensation for damage done by it or its servants, agents or contractors which, without restricting the generality thereof, shall include growing crops, machinery or other equipment, livestock, fences, buildings, or other improvements of the Owner upon the Lands other than the Leased Lands. In the event the parties are unable to agree upon the compensation, if any, to be paid to the Owner, the liability for any compensation as well as the amount, if any, shall be determined pursuant to the dispute resolution provisions set out in Section 5.4.

5.4 Dispute Resolution:

- (a) Any matter or issue arising under or by virtue of this Agreement which cannot be agreed upon by the Owner and BOREAS shall be determined by arbitration pursuant to the provisions of the *Arbitration Act*, 1991 S.O. 1991 chap.17, as amended. The responsibility for the arbitration costs shall be determined by the appointed arbitrators. If a party is not satisfied with the decision of the arbitrators, or if the parties mutually agree to forego arbitration, then any party may, within thirty (30) days of such party's receipt of the decision of the arbitrators or the agreement to forego arbitration, appeal the decision or award of the arbitrators to or initiate proceedings in the Superior Court of Justice of the Province of Ontario on a question of law or fact or mixed law and fact as if any arbitration had not occurred.
- (b) If issues of compensation arise, the arbitrators or adjudicator shall be required to consider the sums described in Schedule "C" of this Agreement by considering the equivalent market value of the Leased Lands excluding the

value of all chattels, equipment, structures, buildings, and improvements, located on or under the Leased Lands which have been installed by BOREAS or are owned by BOREAS.

ARTICLE VI

MISCELLANEOUS

6.1 Notices:

All notices, communications, payments and deliveries (collectively the "**Notices**") required or permitted hereunder shall be in writing, unless otherwise expressed herein. All such Notices and all payments to be tendered hereunder may be given personally or by registered letter addressed to the party to whom the Notice is to be given. When delivered personally, such Notice shall be deemed received on the day of delivery, and when mailed, such Notice shall be deemed to be given to, and received by, the addressee four (4) days after the mailing thereof, postage prepaid, provided however that if a Notice is mailed and a disruption of postal services occurs before the date of deemed receipt of such Notice, such Notice shall not be deemed to be received until the expiration of four (4) days following the resumption of postal service.

The respective addresses for service of Notices shall be as follows.
If to the Owner:

If to
Boreas Wind Partners Inc.:
Suite 1212, 175 York Street
Toronto, ON M5H 3S5

Fax (416) 604-8536

Attention: Paul ter Weeme

Any party may change its address for service by Notice to the other party. At any time there shall be only one address for service of Notices for each party.

6.2 Amendment and Waivers:

No amendment or waiver of any provision of this Agreement shall be binding on any party unless consented to in writing by such party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise expressly provided.

6.3 Surrender:

BOREAS shall have the right at any time to surrender this Agreement upon no less than forty-five (45) days written Notice to the Owner, provided however that there shall be no refund to BOREAS of any fee or rental which may have been paid in advance, and provided that BOREAS shall have complied with all provisions for abandonment and reclamation in accordance with applicable laws.

6.4 Owner's Right to Terminate :

- (a) The Owner shall have the right exercisable on not less than sixty (60) days written notice to BOREAS and exercisable during the last sixty (60) days of the First Option Period and received by BOREAS not later than forty-five (45) days before the expiry of the First Option Period (the "Owner's Termination Notice") to terminate this Option Agreement upon the expiry of the First Option Period without further notice. In the event the Owner exercises the right to terminate herein set out, the Owner shall pay to BOREAS that amount equal to 200% of any Option Fee paid from the Effective Date of this Option Agreement provided however, that in the event BOREAS has elected to proceed with a Ground Lease and the installation of a Wind Turbine, but the revenue payable to the Owner from the Installation will not exceed \$5,000 per year, the Owner may terminate this Option Agreement without the necessity of the payment to BOREAS hereinbefore set out. Provided that, notwithstanding the foregoing, in the event BOREAS, within thirty (30) days of its receipt of the Owner's Termination Notice delivers to the Owner its Notice to Lease all or part or a portion of the Lands, the Owner's Termination Notice shall be null and void, and of no effect.
- (b) In the event BOREAS has not exercised any Option to lease any part or portion of the Lands on or before sixty (60) days prior to the 7th anniversary of the Effective Date, the Owner shall have the further right at any time within such sixty (60) days to notify BOREAS which Notice must be received by BOREAS not later than forty-five (45) days before the 7th anniversary of the Effective Date that, unless BOREAS exercises its Option to lease all or any part or portion of the Lands before the 7th anniversary of the Effective Date, this Agreement and all rights of BOREAS hereunder shall terminate on the 7th anniversary of the Effective Date.

6.5 Non-Merger:

The rights of BOREAS pursuant to this Agreement shall not merge in any Ground Lease.

6.6 Severability:

If and to the extent that any Court of competent jurisdiction determines that any of the terms or provisions of the within Agreement except Sections 4.2 and 4.3 are void or unenforceable, such determination shall not affect the validity of the other provisions of this Agreement which shall remain in full force and effect.

6.7 Headings:

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

6.8 Gender:

In this Agreement, words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal and business entities.

6.9 Counterparts:

This Agreement may be executed in counterparts, each of which will constitute an original and all of which taken together will constitute one and the same instrument.

6.10 Inurement:

This Agreement and everything herein contained shall inure to the benefit of and be binding upon the Owner, his/her heirs, executors, administrators, successors and assigns and upon BOREAS, its successors and assigns.

6.11 Further Acts:

The parties shall each do and perform such acts and things and execute and deliver all such instruments, documents or writings and give all such further assurances as may be necessary to give full effect to the provisions and the intent of this Agreement, including but not limited to registration of notice of this Agreement on title to the Lands.

6.12 Perpetuities:

Notwithstanding anything else hereinbefore contained, the rights of BOREAS pursuant to this Agreement (including during any Renewal Option Period) to acquire Rights or a Ground Lease in or in respect of the Lands or for BOREAS or any other person to otherwise acquire any interest in the Lands shall not extend beyond twenty-one (21) years as provided in Section 13(3) of the *Perpetuities Act*, R.S.O. 1990 c. P.9.

6.13 Planning Act

This Option is subject to the provisions of *The Planning Act*, R.S.O. 1990 c.P.13, as amended. If any consent is required it shall be obtained by BOREAS with the consent of the Owner and until such consent is obtained any term hereof, including any options to renew, shall be read as not exceeding twenty-one (21) years less one (1) day and in the event such consent is not obtained, the Term hereof, including any options to renew, shall not exceed twenty-one (21) years less one (1) day.

6.14 Governing Law:

This Agreement shall for all purposes be construed according to the laws of the Province of Ontario and the laws of Canada as applicable therein. Any references herein to specific legislation shall be deemed a reference to amending or successor legislation thereto once same is enacted and in force.

6.15 Personal Information Consent:

By providing personal information to BOREAS, the Owner consents to BOREAS' collection, use, retention and disclosure of that information for any and all purposes and uses as permitted and contemplated under this Agreement and as needed to comply with any legal requirements.

6.16 Confidentiality

The Owner shall keep confidential all confidential information of a technical or business nature relating to the business of BOREAS, the operation of any Wind Turbine, the terms of this Agreement and any Ground Lease, all research data, technical information, trade secrets or other proprietary no-how, processes, plans, equipment, instructions, manuals, records and procedures (unless readily available from public or published information or sources or required to be disclosed by law)("Confidential Information") obtained from or in respect to the business transactions between the Owner and BOREAS. In the event this Agreement is terminated, all Confidential Information in the possession of the Owner arising from this Agreement or any Ground Lease shall, promptly upon such termination, be returned without duplication and in its original form to BOREAS.

6.17 Time of Essence:

Time shall be of the essence of this Agreement.

IN WITNESS WHEREOF the Owner has executed this Agreement under his/her/their hand(s) and BOREAS has executed this Agreement under the hand of its proper officer duly authorized in that behalf, all as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

in the presence of:

Witness

Owner

Witness

Owner

BOREAS WIND PARTNERS INC.

Per: _____

CONSENT OF SPOUSE

I, _____ being the spouse of the above named
_____ (Owner) do hereby give my consent to the transaction as set out in
this Agreement pursuant to section 21 (Matrimonial Home) of the *Family Law Act*, R.S.O. 1990
Chap.F.3.

Spouse of the Owner

SCHEDULE "A"

Definitions

"Anemometer" means any instrument used for the measurement of the speed of wind and includes all foundations, pads, footings, towers, guy wires, support fixtures, anchors, fences, all overhead and underground electrical cables and all overhead and underground telecommunications cables necessary or ancillary to such instruments.

"Commencement Date" means, with respect to a Ground Lease, that date which is the earlier of either:

- (i) the date upon which BOREAS determines is the Commencement Date; or
- (ii) the date upon which any Wind Turbine on the Leased Land commences operation.

"Encumbrances" means any one or more of the following registered on title to the Lands:

- (i) liens for taxes, assessments or governmental charges or levies not at the time due and delinquent;
- (ii) restrictions, easements, rights of way, servitudes or other similar rights in land granted to or reserved by other persons which, in the opinion of Counsel to BOREAS, in the aggregate do not materially impair the usefulness of the Lands for the business of BOREAS subject to such restrictions, easements, right of way, servitudes or other similar rights;
- (iii) the reservations, limitations, provisos and conditions, if any expressed in any original grants from the Crown and statutory exceptions to title;
- (iv) title defects or irregularities which, in the opinion of Counsel to BOREAS are of a minor nature and in the aggregate will not materially impair the use of the Lands for the purposes of BOREAS;
- (v) any outstanding mortgages, charges or liens upon any of the Lands issued prior to the date hereof provided the holder thereof fully subordinates and postpones all of its interest to BOREAS and BOREAS has received a non-disturbance agreement from such holder.

"Notice Date" means the date upon which the Notice to Lease is received by the Owner (or is deemed to have been received pursuant to Section 6.1).

"Notice to Lease" means notice in writing to the Owner from BOREAS in form and content similar to that attached as Schedule "D" pursuant to which BOREAS exercises its Option to acquire a ground lease for all or a portion of the Lands.

"First Option Period" means a period of years set out in Section 2.1 commencing on the Effective Date during which BOREAS is granted the Option to lease from the Owner all or any parts or portions of the Lands.

"Ground Lease" means a lease from the Owner to BOREAS of those parts or portions of the Lands described in the Ground Lease in the form attached as Schedule "B".

"Option" means the Option granted by the Owner to BOREAS pursuant to the terms of this Agreement including both the use of the Lands during the Option Period as permitted hereunder and the Option to lease the Lands or any portion thereof as determined by BOREAS.

"Option Fee" means the annual fee payable by BOREAS to the Owner for each year during the Option Period or any renewal, all as calculated as determined pursuant to this Agreement.

"Option Period" means a period of time as set out in Article II inclusive of the First Option Period and all Renewal Option Periods.

"Owner" means the registered owner or the person entitled to become the registered owner under an agreement for sale or an unregistered transfer or otherwise with an estate in the Lands in fee simple subject only to the exceptions, conditions and Encumbrances acceptable to BOREAS.

"Renewal Option Period" means a period of years as set out in Section 2.2 commencing upon the expiry of the First Option Period or any Renewal Option Period during which BOREAS has the Option to lease parts or portions of the Lands.

"Rights" means the right, license, liberty and privilege to enter upon, use and occupy portions of the Lands in order to conduct surveys including:

- (i) the right to enter into leases granting the aforementioned rights and additional rights to construct, operate, maintain, inspect, control, alter, improve, remove, reconstruct, replace and repair Wind Turbines and Anemometers and all appurtenances thereto (including but not restricted to foundations, concrete pads, footings, Wind Turbine units, towers, guy wires, support fixtures, anchors, fences, all overhead and underground electrical cables, all overhead and underground telecommunication cables); and

- (ii) the use of Temporary Workspace in respect to all of the aforementioned; and

- (iii) all rights of ingress to and egress from, on and over the Lands reasonably necessary for the aforementioned purposes.

"Temporary Workspace" means parts or portions of the Lands required by BOREAS, as solely determined by BOREAS to be used by BOREAS to access its equipment and machines and for the purpose of construction, repair, maintenance and decommissioning of BOREAS' Wind Turbines and any of the appurtenances thereto including temporary access for any equipment associated with or required for such purposes.

"Wind Turbines" means, collectively, Wind Turbine units designed and installed for the purposes of the generation of electricity and powered by natural wind resources and includes all foundations, concrete pads, footings, towers, guy wires, support fixtures, anchors, fences, all overhead and under ground electrical cables and all overhead and under ground telecommunications cables necessary or ancillary to such units.

SCHEDULE "B"

Ground Lease

SCHEDULE "C"

Annual Rental for Leased Lands and Temporary Workspace under Ground Lease

Leased Lands under Ground Lease:

A) For Wind Turbines:

Annual Rental

Basic annual rental: \$ _____

Payable in four (4) equal consecutive quarter yearly installments in arrears on the last days of March, June, September and December in each calendar year.

OR

Percentage Rental

A percentage rental based on a share of the gross revenue received from generation of electrical power as follows:

Years 1 through 10: <u>2.5</u> %	
Years 11 through 21: <u>2.5</u> %	End of first lease term
Years 22 through 25: <u>3.0</u> %	Start of renewal (automatic)
Years 26 through 30: <u>3.5</u> %	
Years 31 through 40: <u>4.5</u> %	End of lease

Such percentage annual rental detailed above shall be no less than \$7500 per Wind Turbine located on the Leased Lands of the Owner.

Such percentage rental amounts detailed above will be payable to all Owners who have signed or will sign an Option Agreement prior to December 20 2005, and such percentage rental amounts will not go down, but may go up at the sole option of BOREAS.

The percentage annual rental shall be equal to the Owner's proportionate share of the percentage of the aggregate payments for gross revenues (before calculation of taxes and deduction of expenses) received by BOREAS from a bona fide, arm's length, government authorized party (the "**Power Purchaser**") for the net purchase price of electrical energy for transmission into an electric utility distribution or transmission system, calculated for each calendar year, for electrical energy generated from all of the Wind Turbine generators operated by BOREAS on the Leased Lands. Such percentage rental shall be estimated by BOREAS and such estimates shall be payable in four (4) equal consecutive quarter yearly installments in arrears on the last days of March, June, September and December in each calendar year and shall be adjusted between BOREAS and the Owner within ninety (90) days following the last day of each such calendar year.

For the purposes of the foregoing, the "Owner's proportionate share" means the proportion that the number of commissioned Wind Turbine generators located on the Leased Lands bears to the total number of Wind Turbine generators commissioned at any particular time in connection with the sale of power to that Power Purchaser from the wind power project* (see below for the geographic boundary of such wind power project) comprised in part of the Leased Lands, and "commissioned" means that the pertinent Wind Turbine generator has been initially certified under applicable law to produce electrical power and is connected to the power transmission system of the Power Purchaser. Such payment shall be retroactively made on a per diem basis for any less than whole calendar year after the Commencement Date, using as its ratio the number of days during which the Wind Turbine was commissioned in that calendar year divided by 365 days.

In the event the Owner elects to receive rental by way of percentage rental alone, the Owner shall be entitled to examine the books and records and procedures of BOREAS in respect to the determination of the aggregate payments for gross revenues received by BOREAS from a Power Purchaser provided that such examination shall be conducted only during the regular business hours of BOREAS at the offices of BOREAS and on no less than seven (7) days prior Notice, such examination to include the right and favour of the Owner to obtain copies of all such books and records, but limited to the books and records of BOREAS related exclusively to the Leased Lands and the Wind Turbines located upon the Leased Lands. The Owner shall maintain such books and records as confidential Information subject to the same terms and conditions as set out in Section 6.16 of this Agreement.

B) For Anemometers:

Annual Rental

Basic annual rental: \$ _____ per tower

* The geographic boundary of the wind power project for the purposes of determining Owner's proportionate share:

- East of Fourth Line (Township Centre Wellington/Wellington North)
- West of Twelfth Line (Township East Garafraxa)
- South of Highway 109
- North of Grand River and Belwood Lake

SCHEDULE "D"

Form of Notice to Lease

[method of delivery]

[date]

[addressed to Owner]

Re: Exercise of Option for Ground Lease dated [date of agreement]; ("Option Agreement"); Owner: [name of Owner]; T R W M: Section *[describe all of optioned lands]*.

For and in consideration of \$1.00 (receipt and sufficiency of which is acknowledged by the Owner) XXX, as BOREAS under the Option Agreement, hereby exercises an Option to acquire a ground lease (the "Ground Lease") for certain lands (the "Leased Lands") for a *[Wind Turbine site/anemometer site/permanent access road]* from you as Owner, as follows:

1. The legal description of the lands within which the Ground Lease is to be acquired is as follows:
_____.
2. A plan of survey of the Ground Lease is attached, to be initialled by you as Owner to indicate your approval of the location of the Leased Lands.
3. If a Temporary Workspace is required, a sketch of the anticipated area is attached, to be initialled by you as Owner to indicate your approval of the location of the Temporary Workspace.

Please acknowledge your receipt of this letter by signing both copies of it in the manner indicated and returning one copy to the writer. . Please also initial the survey land and the sketch (if required) attached to this letter to indicate your consent to the location of the Leased Lands and the Temporary Workspace to be granted by the Ground Lease.

Yours truly,

Boreas Wind Partners Inc.

Per: _____
Name:
Title:

Receipt of this letter is acknowledged this _____ day of _____, 20__ by

Owner Witness

Owner Witness

SCHEDULE "E"

Lands

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