

SCHEDULE A
TO LICENSE AND OPTION AGREEMENT

Form of Easement

THIS AGREEMENT AND TRANSFER AND GRANT OF EASEMENT made as of the _____ day of _____, 2006 between _____ (hereinafter called the "**Grantor**") being the registered owner of an estate in fee simple composed of the lands described in **Schedule A** (hereinafter the "**Property**") and depicted on **Schedule B** ("**Easement Lands**") and FPLE Canadian Wind, ULC, a company incorporated pursuant to the laws of the Province of Alberta (hereinafter called the "**Grantee**")

In consideration of the compensation described in Section 5 hereof, and in consideration of the covenants hereinafter contained to be kept and performed by Grantor and Grantee, Grantor grants and transfers unto Grantee, free from all encumbrances and restrictions (other than those disclosed by registered title), the unobstructed and exclusive right, liberty and privilege of an easement and right-of-way over, along, upon and across the Easement Lands for the erection, installation, re-installation, construction, operation, maintenance, inspection, patrol, removal, replacement, reconstruction, relocation, enlargement, alteration, and repair at all times of its wind turbines ("**Turbines**") and all related equipment and appurtenances or accessories thereto as may be necessary or convenient in connection therewith for the generation, transmission, distribution or conveyance of electrical energy, together with the rights of ingress to and egress from the Easement Lands for all purposes incidental to this grant and for the purpose of constructing, reconstructing, repairing, replacing, relocating and protecting its Works (as hereinafter defined), effective from the date hereof and for the term hereof.

1. **The Works.** The rights and privileges hereby granted shall include, without limiting the generality of the foregoing, the right to erect, install, construct, operate, maintain, inspect, patrol, remove, replace, reconstruct, enlarge, relocate, alter and repair on the Easement Lands the Turbines and all related equipment, apparatus, accessories, works or appurtenances thereto, including, but not limited to any electricity transmission or distribution lines or cabling and transformer boxes and any related equipment, apparatus, accessories, works or appurtenances thereto (hereinafter collectively called the "**Works**") as Grantee may deem necessary for the full enjoyment of any or all of the rights and privileges herein granted. For greater clarity, it is expressly agreed to by Grantee that the Turbines, which form part of the Works shall not have any guy wires or other wires or cabling associated with them for purpose of anchoring or stabilizing the Turbines.

2. **General Rights of the Grantee.** Grantee, its tenants, officers, agents, servants, employees, contractors and licensees, together with their vehicles, tools, equipment, apparatus and materials of whatsoever nature and kind, shall have the full, free and uninterrupted right to enter upon, use and occupy the Easement Lands for all purposes connected with, or incidental to, the rights and privileges herein granted including, without limitation, the following: (a) the right to load, unload and store material, apparatus and equipment, including, but not limited to, heavy equipment, upon the Easement Lands; (b) to make and keep the Easement Lands free from bush, trees, growths and water and to enter on Grantor's abutting lands, if any, to remove or trim any trees immediately adjacent to the Easement Lands which, in the reasonable opinion of Grantee as determined in prior

consultation with Grantor, may constitute a hazard to the Works and other obstructions that, in the reasonable opinion of Grantee, may endanger the Works; (c) the right and privilege to use, maintain and capture the free and unobstructed flow of wind currents over and across the Easement Lands, provided that Grantor shall not interfere, or permit any other party to interfere with the free, unobstructed and natural wind flow, wind speed or wind direction over and across the Easement Lands; and (d) the right and privilege for audio, visual, view, light, flicker, noise, shadow, air turbulence, wake, electrical and radio frequency interference, and any other effects attributable to the Turbine(s) or activity located on the lands or on adjacent properties over and across the Easement Lands. Where Grantee reasonably considers it necessary by reason of the nature or condition of the Easement Lands or the circumstances then existing, Grantee shall have the right to go on, across and exit from all or any part of Grantor's abutting lands whether by Grantor's access routes or otherwise for the purposes of gaining access to the Easement Lands and for the purpose of constructing, reconstructing, repairing, replacing, relocating or protecting its Works; provided however, in exercising such rights, Grantee shall abide by all reasonable safety precautions.

3. **Term.** The term of this Agreement shall commence on the date hereof ("**Commencement Date**") and shall run for a period of twenty-one (21) years less one (1) day ("**Term**"), provided, further, that if Grantee has complied with the provisions of the Planning Act by obtaining any required consents from the local Land Division Committee or Committee of Adjustment, then the rights, privileges and easement hereby granted shall continue in perpetuity or until Grantee shall execute and deliver a release and abandonment thereof.

4. **Compensation.** In consideration of the easements and rights granted to the Grantor hereunder, Grantor shall pay to Grantee the amounts set forth in **Schedule D** attached to this Easement.

5. **Studies and Tests.** The rights, privileges and easements hereby granted shall include, without limiting the generality of the foregoing, the right to conduct all engineering, legal surveys and make soil tests, soil compaction and environmental studies and audits in, under, on or over the Easement Lands as Grantee in its sole discretion considers appropriate and at Grantee's sole cost and expense.

6. **Siting of Works**

(a) Grantor shall use all reasonable efforts to ensure that the ordinary business operations of Grantor shall not disrupt the Works or the operations of Grantee related thereto and Grantee shall consult with Grantor to determine suitable locations for the Works. Notwithstanding Grantee's requirement to consult with Grantor with respect to siting the Works and to act fairly and reasonably in so consulting, the ultimate determination of the siting of the Works shall be in Grantee's sole discretion but the means of access to each individual Turbine shall be determined by Grantee in its discretion, which discretion shall be exercised reasonably and in consultation with Grantor and with the intent of minimizing crop loss and access route length where possible.

(b) Any and all transmission and distribution lines or cables associated with the Turbines or forming part of the Works shall be buried underground or shall be overhead transmission or distribution wires or cables located upon the Easement Lands.

7. Construction of Works

(a) The rights, privileges and easements hereby granted shall include, without limiting the generality of the foregoing, the right of Grantee to:

(i) construct temporary or permanent access routes or rights-of-way over the Easement Lands and Grantor specifically consents to the construction of such roads, provided that Grantee shall be required to consult with Grantor to determine the least intrusive route for any such access routes or rights-of-way and shall use reasonable efforts to comply with Grantor's reasonable requests regarding the siting and use of such roads.

(ii) excavate or dig into and under the Easement Lands for the purposes of siting, stabilizing or anchoring the Works as required, in Grantee's sole and reasonable discretion provided that the Works shall not have any guy wires or other wires or cabling associated with them for the purpose of anchoring or stabilizing the Turbines; and

(iii) temporarily store any equipment, apparatus, materials and vehicles, including heavy equipment vehicles of whatsoever nature and kind upon the Easement Lands during the construction of the Works.

(b) Grantee shall ensure that all of the contractors and sub-contractors are paid in a timely manner and in accordance with the provisions of the Construction Lien Act, R.S.O. 1990, c.C. 30 (the "CLA"). Grantee shall indemnify and save harmless Grantor with respect to any claims under the provisions of the CLA, and successors thereto, including any legal costs incurred by Grantor on a basis as between a solicitor and his own client.

8. Maintenance of Works. Grantee will exercise its rights hereunder in a proper and workmanlike manner so as to do as little injury as is reasonably possible to the Easement Lands and will keep and maintain the Works in good repair. Without limiting the generality of the foregoing, Grantee will conduct inspections of the Works, including the Turbines on a semi-annual basis and complete any maintenance which Grantee, in its reasonable opinion, determines is required in order to ensure that the Works, including the Turbines maintain a clean and uncluttered appearance and are, at all times, operating in a safe manner. Grantor may provide notice to Grantee with respect to a maintenance issue respecting the Turbines sited on the Easement Lands and request that Grantee conduct maintenance or repair and Grantee shall respond to such request with reasonable dispatch and determine, in Grantee's reasonable opinion, whether any maintenance is required and the nature and scope of such required maintenance. If Grantee determines that maintenance is required, Grantee shall, at the Grantee's sole cost, complete such maintenance with reasonable dispatch and in a workmanlike manner.

9. Modification of Works. Grantee, without paying any additional consideration, shall be entitled to erect upon the Easement Lands such Works as it may deem necessary for the purpose of reconstruction, relocating and replacing its Turbines and all related equipment, accessories and appurtenances thereto, within, upon or over the Easement Lands; provided, however, Grantee will, as soon as practicable under the circumstances, take down, dismantle and remove all Works that are no longer required for its reconstructed, relocated or replaced wind Turbines and all related

equipment, accessories and appurtenances thereto and will fill up all holes caused by such removal and restore the surface of the Easement Lands as far as may be reasonable and possible.

10. **Advertising upon the Works.** Neither Grantor, nor Grantee shall be permitted to post any advertising, notice, poster, message or other publication of any kind whatsoever, using any medium either directly upon the Works or as an attachment or addition to the Works at any time during the Term of this Agreement. Notwithstanding this general prohibition, any manufacturer or retailer advertising associated directly with the Works, which appears upon the Works at the time such Works are purchased by Grantee shall be permitted to remain at the sole discretion of Grantee.

11. **Removal of Debris upon Completion of Construction.** Upon completion of the construction of the Works, Grantee shall level the Easement Lands unless otherwise agreed to by Grantor, and shall remove all debris from the Easement Lands and restore the same to its former state except that the Turbines, Works and any associated transformer boxes themselves shall not constitute debris and Grantee shall not be required to remove same and restore the Easement Lands associated therewith for a total distance of two (2) metres from any part of the Turbines, Works or transformer boxes.

12. **Storage of Equipment.** Grantee shall not be entitled to store vehicles, equipment and materials on the Easement Lands except in connection with the construction, maintenance, modification or removal of the Works, and then only for a reasonable length of time.

13. **Access.** Grantor shall have free access to, and use of, the Easement Lands; provided, however, that such access and use in favour of Grantor shall not, in any way, interfere with Grantee in the exercise of any of the rights granted by this Easement or any Works of Grantee situate within, upon or over the Easement Lands. Grantor shall not, without Grantee's consent in writing, change or permit the existing configuration, grade or elevation of the Easement Lands to be changed or permit any excavation or opening which may disturb the existing surface of the Easement Lands provided, however, Grantor shall be permitted to conduct its ordinary and accustomed agricultural practices upon the Easement Lands without the consent of Grantee and the buildings or other structures located upon the Easement Lands at the time of the execution of this Agreement shall not be affected by Grantee's activities, without the written consent of Grantor. Grantor must consult with and obtain Grantee's prior written approval as to the location of all structures greater than forty (40) feet in height located one thousand (1000) feet or less from any Turbine located on the Easement Lands. Approval shall be based on whether, in Grantee's sole judgment, informed by appropriate professional engineering and meteorological opinions obtained at Grantee's expense, the proposed structures at the proposed location are likely to cause interference to the operation of the Turbines or the Works. Grantee may install gates in every fence now or constructed in the future across the Easement Lands, such gates to be of sufficient width to admit passage of Grantor's agricultural vehicles. Grantee shall, if requested by the Grantor, furnish such gates with a lock.

14. **Notice for Access.** Grantee shall give Grantor not less than seventy-two (72) hours prior written notice before the Easement Lands are initially accessed for the purposes of constructing and installing the Works. When access to the Easement Lands is required after the Works are fully installed and operational on the Easement Lands, Grantee shall not be required to provide Grantor with any notice.

15. Damage to Grantor's Property

(a) Grantee shall be liable for physical and tangible damage done to the Easement Lands and any tile drains, fences or crops, livestock, merchantable timber, shelter belts, windbreaks, ornamental or special use trees which may be installed, growing or running upon the Easement Lands or other lands owned by Grantor, by reason of the exercise by Grantee of any or all the rights, privileges and easements granted by this Agreement (excepting damage caused to the property of Grantor by his own act or that of his servants, agents or contractors and excepting damage caused to the Easement Lands directly upon or beneath the footprint of the Turbines, Works and/or the transformer boxes, for which separate and sufficient compensation is paid by Grantee to Grantor pursuant to the consideration payments contemplated in this Agreement).

(b) In the event that the Parties cannot agree at any time on the amount of damage payable to Grantor hereunder, Grantor shall provide written notice to Grantee outlining the basis for Grantor's assertion of damage to the Easement Lands, the exact nature of damage, the source of the assertion that the alleged damage is the result of the exercise by Grantee of the rights, privileges and easements granted by this Agreement and satisfactory evidence of the damage including documentation showing the extent of the damage and the financial impact of such damage. Within thirty (30) days of such documentation and evidence being provided to Grantee, Grantee and Grantor hereby agree to meet to discuss the nature and extent of the damage, whether the damage occurred as a result of Grantee's exercise of its rights, privileges and easements pursuant to this Agreement. Grantee and Grantor hereby agree to use good faith efforts and act reasonably, to come to a determination as to whether and to what extent any compensation should be paid by Grantee to Grantor for the alleged damage. If any compensation is agreed to be paid to Grantor, Grantee shall provide payment to Grantor within thirty (30) days of such agreement.

16. Environmental Responsibility of the Parties.

(a) Grantee shall be responsible for and save harmless Grantor, its directors, officers, employees, agents, consultants, contractors and assigns from any and all costs, actions, suits, claims, demands and expenses, including legal (on a substantial indemnity basis), investigative and consulting fees and disbursements, which at any time, or from time to time may be asserted against, imposed upon or incurred by Grantor or any of them, in connection with environmental contamination of any kind in contravention of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), directly caused in, on, under or upon the Easement Lands as a result of operations conducted by or on behalf of Grantee under this Agreement and for all remedial action that may be required to be taken to comply with applicable laws.

(b) Grantor represents and warrants that, to the best of Grantor's knowledge, the Easement Lands are not and have not been in violation of any Environmental Laws, and Grantor has not received any notice or other communication from any governmental authorities alleging that the Grantor's Property is in violation of any Environmental Laws. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Grantor represents and warrants that, except as disclosed to Grantee in writing, to the best of Grantor's knowledge, no underground storage tanks and no Hazardous

Materials are or were located on the Easement Lands during or prior to Grantor's ownership of the Easement Lands. Grantor shall not violate in a material way any Environmental Law relating to the Easement Lands. All accrued and undischarged obligations under this Section 16 shall survive the expiration or termination of this Agreement.

17. Damage to Grantee's Property. Grantor shall not be liable to Grantee for any damage caused to the Turbines or any Works, equipment, apparatus and appurtenances thereto of Grantee, which occurs as a result of the permitted use and occupation of the Easement Lands by Grantor or his agents, servants or contractors, excepting thereto all damage caused by the willful or negligent acts or omissions of Grantor.

18. Mutual Indemnities

(a) Grantee shall indemnify and hold harmless the Grantor against all actions, suits, claims, demands and expenses made or suffered by any person or persons, in respect of loss, injury, damage or obligation to compensate, arising out of or in connection with or as a result of:

- (i) the negligence or willful misconduct of Grantee;
- (ii) any breach by Grantee of the terms and conditions of this Agreement; or
- (iii) the Works or the operation of the Works,

provided that Grantee shall not be liable under this Section to the extent to which such loss, damage or injury is caused or contributed to by the negligence or default of Grantor, its servants or agents. For greater certainty, Grantee shall not be liable to Grantor for the actions of Grantor, its agents, employees, or representatives who enter upon the Easement Lands.

(b) Grantor shall indemnify and hold harmless Grantee against all actions, suits, claims, demands and expenses made or suffered by any person or persons, in respect of loss, injury, damage or obligation to compensate, arising out of or in connection with, or as a result of the negligence or willful misconduct of Grantor, as well as in respect of any loss, injury or damage arising out of or in connection with, any breach by Grantor of the terms and conditions of this Agreement; provided that Grantor shall not be liable under this Section to the extent to which such loss, damage or injury is caused or contributed to by the negligence or default of Grantee, its servants or agents. For greater certainty, Grantor shall not be liable to Grantee for the actions of (i) Grantee, its agents, employees, or representatives who enter upon the Easement Lands, or (ii) any trespasser or unauthorized person who enters upon the Easement Lands.

(c) All accrued and undischarged obligations under this section shall survive the expiration or termination of this Agreement.

(d) Notwithstanding the foregoing, the Parties hereto shall only be liable for reasonably anticipated and foreseeable damages.

19. Ownership of Works. Notwithstanding any rule of law or equity, all property and equipment placed or operated on the Easement Lands by or on behalf of Grantee shall, at all times, remain the personal property of Grantee even though attached to the Easement Lands as applicable.

20. Removal of Works. If the Works are no longer required by the Grantee, or should the Easement Lands be surrendered by Grantee, or this Agreement is terminated by Grantee (“**Termination of Grantee Activities**”), Grantee shall, within twelve (12) months of the Termination of Grantee Activities, take down, dismantle and remove all Works, save and except for any materials which may lie beneath the surface of the Easement Lands, and fill up all holes caused by such removal and restore the surface of the Easement Lands to the same condition as the Easement Lands were prior to entry thereon and use thereof by the Grantee; provided that, with respect to that portion of the Easement Lands upon which the Turbine(s) were sited, the Grantee shall restore the surface of the portion of the Easement Lands to a state which allows the Easement Lands to sustain the growth of the same type of agricultural crops previously found on that portion of the Easement Lands occupied by the Turbine(s).

21. Default. If either Party makes any default in any term or condition of this Agreement, this Agreement shall not terminate but the defaulting Party shall be obliged to commence to remedy any such default within thirty (30) days after notice thereof in writing has been given to it by the non-defaulting Party and thereafter to diligently complete the remedy. If the defaulting party fails to remedy the default within the time period specified, then the non-defaulting Party shall have any and all remedies set forth in Section 40 of this Agreement.

22. Termination by Grantee. Grantee may, if it so chooses, elect to terminate all rights and obligations hereunder upon one (1) month’s prior written notice to Grantor. Upon Grantee so electing to terminate its rights hereunder, Grantee shall, at the sole cost and expense of Grantee, remove and discharge any instrument or encumbrance registered against title to the Easement Lands and related to its interest in the Easement Lands and shall otherwise comply with the provisions of Section 20 hereof.

23. Notices

All notices to be given hereunder shall be in writing and all such notices and any payments to be made hereunder may be made or served personally or by registered letter addressed to Grantor at:

Attention:
Telephone:
Facsimile:

And addressed to Grantee at:
FPLE Canadian Wind, ULC,
700 Universe Blvd.
Juno Beach, FL 33408
Attention: Business Management
Telephone:
Facsimile:

or such other address, as Grantor or Grantee respectively may from time to time advise and any such notices or payments shall be deemed to be given and received by the addressee upon personal service or, if served by registered letter, fourteen (14) days after mailing thereof, postage prepaid. In the event of a postal interruption, all notices to be given and all payments to be made hereunder may be made or served personally or delivered to the intended recipient at the address of the recipient set out above. Grantee shall also be permitted to make any payment to Grantor electronically at Grantee's discretion and subject to Grantor's consent.

24. Ownership. Grantor represents that it is the absolute owner of the Easement Lands. Grantor shall notify Grantee promptly and in writing of any change in ownership and Grantee shall be entitled to continue to send notices to existing Grantor until satisfied of the status of the change of ownership of the Easement Lands.

25. Taxes. Grantor covenants and agrees with Grantee to pay all rates and taxes as they fall due that may be assessed and levied against Grantor from time to time as a result of its interest in the Easement Lands. Grantee covenants and agrees to pay any additional rates and taxes that may be assessed and levied against the Easement Lands from time to time as a result of Grantee's interest in the Easement Lands and the Works or in connection with its operations thereon, either to the municipality, if separately assessed, or to Grantor if part of Grantor's tax assessment. Grantor agrees to advise Grantee of any such rates or taxes in a timely manner and to remit all such taxes paid by Grantee to Grantor to the applicable municipality.

26. Interest in Land. This Agreement, and the rights, privileges and easements created thereby, is and shall be of the same force and effect, to all intents and purposes, as a covenant running with the Easement Lands and these presents, including all of the covenants and conditions herein contained, shall extend, be binding upon and inure to the benefit of Grantor and Grantee, and their respective executors, administrators, successors and assigns, as the case may be. Grantee shall have the right from time to time, in its sole discretion to grant licences, assignments or charges of, or security interests in, its rights acquired hereunder, in whole or in part, to third parties, without further consideration becoming payable to Grantor herein. Grantor and the Grantee agree that to the extent of such license, assignment, charge or security interest in this Agreement and the rights, privileges, and easements granted pursuant thereto, shall be declared to be appurtenant to and for the benefit of the lands and undertaking of such licensee, assignee, chargee or secured party. Grantee agrees that this Agreement, and the rights, privileges and easements granted pursuant thereto shall be declared to be appurtenant to and for the dominant tenement described on the attached **Schedule C**.

27. Number and Gender. Wherever the singular or masculine is used throughout this Agreement, the same shall be construed as being plural or feminine or a body corporate where the context might reasonably require. In the event of any conflict between metric and imperial expression of measurement in this Agreement, the metric expression of measurement shall govern.

28. Spousal Consent.

We,and.....
being spouses within the meaning of Section 1(1) of the Family Law Act, R.S.O. 1990, c. F.3., together with any amendments thereto, do hereby consent to the transaction evidenced by this Agreement and the registration of same on the title to the Property and/or Easement Lands.

29. **Registration.** Grantee shall be entitled, at its cost and expense, to register this Agreement or a Notice in respect thereof and any required reference plans in the Land Registry Office for the area in which the Property is situated and Grantor agrees to execute, at no cost to Grantee, all necessary instruments, plans and documentation for that purpose.

30. **Quiet Possession.** Grantee shall have quiet possession of the rights, privileges and easements granted hereunder. Grantee in performing and observing the covenants and conditions contained in this Agreement, shall peacefully hold and enjoy the rights, privileges and easement hereby granted without hindrance, molestation or interruption on the part of Grantor, or of any person, firm or corporation claiming by, through, under or in trust for Grantor.

31. **Further Assurances.** Each of Grantor and Grantee shall, if so requested by the other, execute such further documents of title and any other required assurances in respect of the Easement Lands as may be required to perfect Grantee's rights, privileges and easements granted pursuant to this Agreement and Grantee's interest in the Easement Lands. Grantor further agrees to execute and deliver or cause to be executed and delivered any further legal instruments, including, without limitation, any required consents, and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and to complete the transactions contemplated hereunder. All costs associated with the requirements under this section shall be borne by Grantee.

32. **Non-waiver.** No waiver of a breach of any of the covenants of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

33. **Approvals.**

(a) Grantor covenants and agrees to execute all applications, consents, permissions, agreements, postponements, partial discharges and any other documents which Grantee may require in connection with obtaining any rezoning, governmental approvals, consents, permits or variances (collectively, "**Approvals**") and in connection with entering into by Grantee of any agreements with such governmental and public authorities as may be necessary to give due force and effect to and in furtherance of Grantee's applications, and Grantor shall produce all other documents and information which may be required in connection with such applications. All applications for Approvals, shall be made by Grantee, at its sole cost and expense and any costs to Grantor associated with such Approvals shall be borne by Grantee. Grantee agrees that the obligation of Grantor pursuant to this paragraph shall be restricted to execution of documents and production of documents and information and shall not impose upon Grantor any financial obligation whatsoever.

(b) Should Grantor wish to sever any part of the Easement Lands to sell same to a third party, provided that Grantor obtains all the required surveys and approvals to so sell and pays any and all costs and fees associated with the sale, Grantee shall release that portion of the Easement Lands so severed from this Agreement and the rights, privileges and easements granted to Grantee pursuant thereto, provided such portion of the Easement Lands are not necessary to the Works of the Grantee as constructed or to be constructed on the Easement Lands.

34. **Income Tax Act.** Grantor represents and declares that Grantor is not a non-resident of Canada within the meaning of the Income Tax Act (Canada).

35. Goods and Services Tax ("GST"). Grantee covenants and agrees that if Grantor is a registrant pursuant to the Excise Tax Act (Canada) ("ETA"), Grantee shall be liable for and shall pay to Grantor an amount equal to the current rate of GST expressed as a percentage of the consideration set forth above representing GST payable under the ETA in connection with the granting of the rights, privileges and easements pursuant to this Agreement. Grantor on receipt of the aforementioned amount representing GST shall remit such amount to the appropriate governmental authorities pursuant to and in accordance with the provisions of the ETA.

36. Entire Agreement. This Agreement and the Schedules attached hereto constitute the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions between the Parties whether oral or written. There are no representations, warranties, collateral agreements, conditions or other agreements between Grantor and Grantee in connection with the subject matter hereof except as specifically set forth herein. No supplement, modification, waiver or termination of this Agreement shall be binding unless in writing and executed by both Grantor and Grantee. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall such waiver constitute continuing waiver unless otherwise expressly provided herein.

37. No Affect on Statutory Rights. This Agreement shall not affect or prejudice Grantor's or Grantee's statutory rights under the provisions of the Ontario Energy Board Act, 1998 or any other laws.

38. Assignment. This Agreement may be assigned by Grantor with the prior written consent of Grantee, acting reasonably. Notwithstanding the foregoing, Grantor shall not be required to obtain the prior written consent of the Grantee with respect to any assignment that might result from a sale of the Easement Lands or the granting of a subsequent security interest in the Easement Lands.

39. Lender Protection.

(a) **Right to Mortgage.** Grantee may, upon notice to Grantor, but without Grantor's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in the Easement Lands. These various security interests in all or a part of the Easement Lands are collectively referred to as a "**Grantee Mortgage**" and each holder of the Grantee Mortgage is referred to as "**Grantee Mortgagee**." Any such Grantee Mortgagee shall use the Easement Lands only for the uses permitted under this Agreement. Whenever Grantee has mortgaged an interest under this Section, it will give notice of the Grantee Mortgage (including the address of the Grantee Mortgagee for notice purposes) to Grantor; provided that failure to give this notice shall not constitute a default under this Agreement, but rather shall only have the effect of not binding Grantor with respect to such Grantee Mortgage until notice is given. Under no circumstances shall any Grantee Mortgagee have any greater rights of ownership or use of the lands than the rights granted to Grantee in this Agreement.

(b) **Notice of Default and Opportunity to Cure.** As a precondition to exercising any rights or remedies related to any alleged default by Grantee under this Agreement, Grantor shall give written notice of the default to each Grantee Mortgagee at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Each Grantee

Mortgagee shall have the same right to cure any default as Grantee, and/or the same right to remove any improvements by Grantee or the Grantee Mortgagee located on the Easement Lands. The cure period for any Grantee Mortgagee shall be the later of (i) the end of the Grantee cure period; (ii) thirty (30) days after such Grantee Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for in subsection (c). Failure by Grantor to give a Grantee Mortgagee notice of default shall not diminish Grantor's rights against Grantee, but shall preserve all rights of the Grantee Mortgagee to cure any default and to remove any improvements by Grantee or the Grantee Mortgagee located on the Easement Lands. Following acquisition of all or a portion of its interest in the Easement Lands by the Grantee Mortgagee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Grantee Mortgagee or party acquiring title to its interest in the Easement Lands shall, as promptly as reasonably possible, commence the cure of all defaults under this Agreement and thereafter diligently process such cure to completion; provided, however, that the Grantee Mortgagee or party acquiring title to its interest in the Easement Lands shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party ("**Non-Curable Defaults**"). Non-Curable Defaults shall be deemed waived by Grantor upon completion of foreclosure proceedings or acquisition of Grantee's interest in the Grantee lands by such party. Neither the bankruptcy nor the insolvency of Grantee shall be grounds for terminating this Agreement as long as all payments and all other monetary charges payable by Grantee under this Agreement are paid by the Grantee Mortgagee in accordance with the terms of this Agreement.

(c) Extended Cure Period. If any default by Grantee under this Agreement cannot be cured without the Grantee Mortgagee obtaining possession of all or part of its interest in the Easement Lands, then any such default shall be deemed remedied if a Grantee Mortgagee: (i) within sixty (60) days after receiving notice from Grantor as set forth in Section 39(b), acquires possession of all or part of its interest in the Easement Lands, or begins appropriate judicial or nonjudicial proceedings to obtain the same; (ii) diligently prosecutes any such proceedings to completion; and (iii) after gaining possession of all or part of its interest in the Easement Lands performs all other obligations as and when the same are due in accordance with the terms of this Agreement. If a Grantee Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

(d) Mortgagee Liability. Any Grantee Mortgagee that does not directly hold an interest in the Easement Lands, or whose interest is held solely for security purposes, shall have no obligation or liability under this Agreement prior to the time the Grantee Mortgagee succeeds to absolute title to Grantee's interest in the Easement Lands and the rights of Grantee under this Agreement. A Grantee Mortgagee shall be liable to perform obligations under this Agreement only for and during the period it directly holds such absolute title. Further in the event that a Grantee Mortgagee elects to (a) perform Grantee's obligations under this Agreement, (b) continue operations on the lands, (c) acquire any portion of Grantee's right, title or interest in all or any of the Easement Lands or (d) enter into a new Lease as provided in subsection (g), then such Grantee's Mortgagee shall not have any personal liability to Grantor in connection therewith, and Grantor's sole recourse in the event of default by such Grantee's Mortgagee shall be to execute against such Mortgagee's interest in the Easement Lands.

(e) Certificates and Other Documents. Grantor shall execute any estoppel certificates (certifying as to truthful matters, including without limitation that no default then exists under this Agreement, if such be the case), consents to assignment and non-disturbance agreements as Grantee or any Grantee Mortgagee may reasonably request from time to time. Grantor and Grantee shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee or any Grantee Mortgagee to implement the provisions contained in this Agreement or to preserve a Grantee Mortgagee's security interest.

(f) Mortgagee's Right to Enforce Mortgage and Assign Easement Lands. A Grantee Mortgagee shall have the absolute right: (i) to assign its Grantee Mortgage; (ii) to enforce its lien and acquire title to all or any portion of its interest in the Easement Lands by any lawful means; (iii) to take possession of and operate all or any portion of its interest in the Easement Lands and to perform all obligations to be performed by Grantee under this Agreement, or to cause a receiver to be appointed to do so; and (iv) to acquire all or any portion of its interest in the Easement Lands by foreclosure or by an assignment in lieu of foreclosure and thereafter, without Grantor's consent, to assign or transfer all or any portion of its interest in the Easement Lands to a third party. Any Grantee Mortgagee or other party who acquires Grantee's interest in the Easement Lands pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Grantee by this Agreement which are incurred or accruing after such Grantee Mortgagee or other party no longer has ownership or possession of its interest in the Easement Lands. The Grantee Mortgagee shall have the absolute right, but not the obligation, to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing an event of default. Grantor expressly consents to such substitution, agrees to accept such performance, and authorizes the Grantee Mortgagee (or its employees, agents, representatives or contractors) to enter upon the lands to complete such performance with all of the rights and privileges of Grantee hereunder.

(g) New Agreement. If the Easement Lands is foreclosed upon or there is an assignment in lieu of foreclosure, or if this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditor's rights and, within ninety (90) days after such event, Grantee or any Grantee Mortgagee or other purchaser at a foreclosure sale shall have arranged to the reasonable satisfaction of Grantor for the payment of all payments or other charges due and payable by Grantee as of the date of such event, then Grantor shall execute and deliver to Grantee or such Grantee Mortgagee or other purchaser at a foreclosure sale, or to a designee of one of these parties, as the case may be, a new agreement ("**New Agreement**") which (i) shall be for a term equal to the remainder of the Term before giving effect to such rejection or termination; (ii) shall contain the same covenants, agreements, terms, provisions and limitations as this Agreement (except for any requirements that have been fulfilled by Grantee or any Grantee Mortgagee or other purchaser at a foreclosure sale prior to rejection or termination of this Agreement); and (iii) shall include that portion of the Easement Lands in which Grantee or such other Grantee Mortgagee or other purchaser at a foreclosure sale had an interest on the date of rejection or termination. If more than one Grantee Mortgagee makes a written request for a New Agreement pursuant to this provision, the New Agreement shall be delivered to the Grantee Mortgagee requesting such New Agreement whose Grantee Mortgage has lien priority, and the written request of any other Grantee Mortgagee whose lien is subordinate shall be void and of no further force or effect. The provisions of this Section shall survive the termination, rejection or disaffirmation of this Agreement and shall continue in full force

and effect thereafter to the same extent as if this Section were a separate and independent contract made by Grantor, Grantee and each Grantee Mortgagee, and, from the effective date of such termination, rejection or disaffirmation of this Agreement to the date of execution and delivery of such New Agreement, such Grantee Mortgagee or other purchaser at a foreclosure sale may use and enjoy the Easement Lands without hindrance by Grantor or any person claiming by, through or under Grantor; provided that all of the conditions for the New Agreement as set forth above are complied with.

(h) Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that so long as there exists an unpaid Grantee Mortgagee, this Agreement shall not be modified or amended, and Grantor shall not accept a surrender, cancellation or release of all or any part of the Easement Lands from Grantee, prior to expiration of the Easement Term, without the prior written consent of the Grantee Mortgagee. This provision is for the express benefit of and shall be enforceable by each Grantee Mortgagee as if it were a party named in this Agreement.

40. Legal Matters. All matters in dispute between Grantor and Grantee pursuant to this Agreement shall be resolved by good-faith negotiation. If the parties are unable to resolve amicably any dispute arising out of or in connection with this agreement, each shall have all remedies available at law or in equity. **Each party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this agreement shall be to the Court.** Time is of the essence with regard to the terms and conditions of this agreement.

41. Exclusivity. Grantee has the exclusive right (i) to use and possess the Easement Lands in connection with the wind power project; (ii) to investigate, inspect, survey, and conduct tests of the lands, including, but not limited to, meteorological, environmental, archeological and geotechnical tests and studies; (iii) to use and convert all of the wind resources on the Easement Lands, and (iv) to undertake such other activities on the Easement Lands that may be related to the wind power project, including, without limitation, the storage of towers, materials and equipment during the installation and construction of the Turbines and other improvements; development and operation of communications systems; and site tours of the wind power project for visitors and other interested parties.

42. Planning Act. This Agreement and the provisions hereof, which create or are intended to create an interest in the Easement Lands, shall be effective to create such an interest only if the subdivision control provisions of the Planning Act, as amended are complied with. The Grantor shall provide such consents and authorizations as are necessary to permit the Grantee to make any required applications to comply with the Planning Act, as aforesaid. Until any such consent is obtained, the term of this Agreement shall be deemed to be twenty-one (21) years less one (1) day.

IN WITNESS WHEREOF each of the Grantor and the Grantee have executed this Agreement on the date first above written.

Developer:

FPLE Canadian Wind, ULC,
An Alberta company

By: _____
Name: _____
Title: _____

Date: _____

Owner:

[insert Owner's Name]

Name: _____

SCHEDULE "A"

TO TRANSFER AND GRANT OF EASEMENT

Description of Property

SCHEDULE "B"
TO TRANSFER AND GRANT OF EASEMENT
Easement Lands

SCHEDULE "C"

TO TRANSFER AND GRANT OF EASEMENT

Legal Description of Dominant Tenement

SCHEDULE "D"

TO TRANSFER AND GRANT OF EASEMENT

Compensation

(a) **Pre-Turbine Compensation.** Subject to Section 22 of this Easement, on the last day of every annual period beginning on the date Grantee exercises the Option ("**Option Exercise Date**"), Grantee shall pay to Grantor an amount equal to Three Thousand Dollars (\$3000.00) per nameplate MW of planned Turbine installation (the "**Pre-Turbine Compensation**"). On the date Grantee commences construction of the Turbines ("**Construction Commencement Date**"), Grantee shall pay Grantor the pro-rated portion of the Pre-Turbine Compensation for the period beginning on: (i) the Option Exercise Date, or (ii) the anniversary date of the Option Exercise Date immediately prior to the Construction Commencement Date, and ending on the Construction Commencement Date, as applicable, which pro-rated portion shall be calculated on a per diem basis for that particular year based on a period of three hundred and sixty-five (365) days and such pro-rated Pre-Turbine Compensation payment made on the Construction Commencement Date will represent the final Pre-Turbine Compensation payment.

(b) **Turbine Compensation.** On each anniversary of the Construction Commencement Date during the Term and on the date of expiration or termination of the Term, Grantee shall pay to Grantor the Annual Payment which shall be subject to two percent (2%) increases annually. The Annual Payment shall be Six Thousand Dollars (\$6000.00) per nameplate megawatt of installed Turbines on the Property.

(c) All amounts owing by Grantee pursuant to this Schedule shall be made by Grantee to Grantor by courier or hand delivery of cash or cheque, unless otherwise expressly agreed between the parties.