

Record Hill Wind, LLC // Natural Resources Protection Act
Construction of 50.6 megawatt wind energy development - Roxbury

Excerpts from the Department's License Record – Title Right, Interest (TRI)

- Excerpt from application – Ground Lease
- Excerpt from Application – Warranty Deed (July 09)
- Correspondence regarding easement option
- Correspondence regarding CMP upgrade project

WIND ENERGY FACILITY GROUND LEASE

THIS WIND ENERGY FACILITY GROUND LEASE (the “**Lease**”) is made and entered into as of November ___, 2008 (the “**Effective Date**”) by and between **BAYROOT LLC** (the “**PROPERTY OWNER**” or “**Bayroot**”), a Delaware limited liability company whose address is c/o Wagner Forest Management, Ltd., its Manager, 150 Orford Road, P.O. Box 160, Lyme, NH 03768, and **Record Hill Wind LLC**, a Delaware limited liability company whose address is c/o Wagner Energy LLC, its Manager, 150 Orford Road, P.O. Box 160, Lyme, NH 03768 (the “**COMPANY**”).

Whereas, Bayroot owns land in the towns of Byron and Roxbury, Oxford County, Maine, including land along a ridgeline with wind power development potential, extending from Old Turk Mountain in the north, across Record Hill and Flathead Mountain, to Partridge Peak in the south.

Whereas, COMPANY wishes to enter into this ground lease with Bayroot to allow development of the wind energy potential along said ridgeline.

Whereas, COMPANY wishes to enter into this ground lease with Bayroot to allow development of access and transmission lines across Bayroot lands in Byron and Roxbury, Maine.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, , the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Lease; Premises; Leased Premises

- 1.1. Lease. PROPERTY OWNER owns certain real estate in the Towns of Byron and Roxbury, Maine, as described in and being a portion of land conveyed by deed of MeadWestvaco Oxford Corporation to PROPERTY OWNER dated November 21, 2003 and recorded in Book 3428, Page 28 of the Oxford County Registry of Deeds, but including for purposes of this Lease as to the real estate of PROPERTY OWNER located in Byron and Roxbury only that portion of PROPERTY OWNER’s property lying westerly of State Route 17 and southerly of Easter Hill Road (the “**Premises**,” as more particularly described in **Exhibit A** hereto.) The Premises are

shown and described on **Exhibit A**. PROPERTY OWNER hereby leases to COMPANY a portion of the Premises, as described in Sections 1.2 and 1.3 below and on **Exhibit B** hereto, the "**Leased Premises**") for the term of years set forth in this Lease, as such term may be extended, for the purpose of wind analysis, wind energy facility construction and operation, and related uses all as described in Section 1.4 below, and for transmission lines and access routes to and from the Wind Energy Facility (as defined in Section 1.4) for purposes of ingress and egress to and from the Wind Energy Facility, all as more fully set forth herein.

- 1.2 Leased Premises. The Leased Premises consist of certain portions of the Premises, together with designated access roads and transmission lines over the Premises or pursuant to easements in favor of Bayroot located in Byron and Roxbury, Maine. The Leased Premises shall be a portion of the Premises and are described in particular on **Exhibit B** (including any map or maps referenced in Exhibit B). The Leased Premises includes certain appurtenant rights, privileges and easements as further described in this Section 1 and Section 2. **Exhibit B** describes the intended Leased Premises as of the Effective Date. However, the wind analysis and other studies that will occur on the Leased Premises may indicate that the Leased Premises should be modified so as to better fulfill the intentions of the COMPANY. Prior to construction of the Wind Energy Facility, COMPANY will present the final layout of the Wind Energy Facility and the Leased Premises to PROPERTY OWNER for review, input, and written approval, which approval shall not be unreasonably withheld or delayed, provided the final layout does not depart from initial plans in a manner that materially adversely affects PROPERTY OWNER. The final layout ("**Final Plan**") will show the Wind Energy Facility and the boundaries of the Leased Premises, including but not limited to the land involved for access, power lines, Turbines (as defined below in this Section 1.2), underground improvements, and test towers as further provided for in Sections 1.3, 2.1, and 2.2. The failure of the PROPERTY OWNER to provide COMPANY with its written objection to such Final Plan within sixty (60) days of its submittal by COMPANY to PROPERTY OWNER shall be deemed approval thereof by PROPERTY OWNER. Once the agreed-upon Final Plan is approved by both PROPERTY OWNER and COMPANY, Exhibit B of this Wind Energy Facility Ground Lease shall be amended to reflect the Final Plan. The Leased Premises will include real property interests (including allowing road construction and maintenance) for: (i) ten (10) or more wind energy turbines, including foundations, related supporting towers and electrical controllers, with each turbine rated by the manufacturer's nameplate of up to three megawatts (3 MW) (the "**Turbines**" and each a "**Turbine**"), (ii) ingress and egress to and from

the sites of all Wind Energy Facility components, (iii) power lines relating to the Wind Energy Facility, (iv) access, including access for third parties and related entities, for the purposes of construction, maintenance, repair, replacement, inspection or any and all other purposes in connection with the investigation of the feasibility of, establishment, operation and removal of the Wind Energy Facility, (v) subject to the written consent of PROPERTY OWNER under the provisions of Section 12.1, the right to grant non-exclusive licenses, sub-leases and co-leases to use such Leased Premise in connection with or to further COMPANY's operations under this Lease, and (vi) such additional rights as may be necessary for the development, construction, maintenance and operation of the Wind Energy Facility and are agreed to in writing by PROPERTY OWNER. In addition, the COMPANY shall have the right to occasionally enter upon and use other portions of the Premises for purposes incidental to the investigation of the viability of, and construction and use of, the Wind Energy Facility so long as such incidental use does not damage the Premises or interfere with the PROPERTY OWNER's use thereof. Such incidental uses include, by way of example and not limitation, taking photographs and/or sound measurements relating to the Leased Premises from other portions of the Premises, and conducting environmental, wildlife, geologic, and/or archaeological studies in connection with the potential impact of the Wind Energy Facility.

- 1.3 Additional Specifics of Leased Premises. The Leased Premises shall include a five hundred foot (500') foot radius from the base of each Turbine. Turbines will not be constructed within one thousand feet (1,000') of an occupied dwelling without the prior written consent of PROPERTY OWNER. The right-of-way width for COMPANY's power lines and access road shall each be up to fifty feet (50') in width. Such width may be increased up to an additional fifty feet (50'), where the COMPANY provides reasonable evidence to the PROPERTY OWNER that engineering or permitting requirements require a greater width for any such right-of-way.
- 1.4 Definition of Wind Energy Facility. The term "**Wind Energy Facility**" includes all equipment and improvements necessary or desirable for the conversion and delivery of wind energy into electricity, including but not necessarily limited to (i) ten (10) or more Turbines, (ii) above and below-ground electric transmission, distribution and power lines, meters, transformers, protection equipment, and other related power production and delivery equipment ("**Transmission Equipment**"), (iii) areas needed for construction, security, access roads and related rights-of-way, fencing, gates, and other structures and facilities required for ingress and

egress for pedestrians, motor vehicles and equipment (“**Civil Works**”), (iv) all utilities, communications lines, water lines and drain lines, whether above, below or upon the ground, necessary or appropriate for the construction, operation or maintenance of the Wind Energy Facility (“**Utilities**”), and (v) a sign or signs displaying COMPANY’s or assignee’s names, symbols or other information. If needed, other property interests owned by Property Owner outside the Leased Premises for related appurtenances not intended to be included in Transmission Equipment, Civil Works or Utilities, such as temporary workspace including laydown yard(s), a substation and interconnect facilities, and/or an operation and maintenance facility, shall be separately negotiated between the two parties using fair market value rates, based on negotiation or, failing mutual agreement, appraisal.

- 1.5 Leasehold Exclusive. The leasehold interests granted to COMPANY under this Lease are exclusive as to any Wind Energy Facility on the Leased Premises. Accordingly, the PROPERTY OWNER shall not grant, convey, assign or provide any other leases, easements or rights with respect to the Leased Premises to any person or entity other than COMPANY for the purpose of or relating to converting and delivering wind energy into electricity, except as expressly provided in this Section 1.5. Additionally, PROPERTY OWNER shall not grant, convey, assign or provide any other leases, easements or rights with respect to the Premises that would unreasonably interfere with COMPANY’S physical development, construction or operation of the Wind Energy Facility. Subject to the limitations set forth in the previous sentences of this Section 1.5, it is agreed (i) that PROPERTY OWNER may seek to develop one or more facilities related to converting and delivering wind energy into electricity on other lands owned by Bayroot and (ii) in connection with such other facilities, subject to COMPANY’S prior written approval, which approval may not unreasonably be withheld or denied and provided that PROPERTY OWNER reimburses COMPANY for the cost of any repairs and/or damage caused by such use, PROPERTY OWNER and others under its authority (x) may utilize access roads and related rights of way which the COMPANY uses as part of the Leased Premises, so long as such use does not unreasonably interfere with COMPANY’S development, construction or operation of the Wind Energy Facility, and (y) may utilize all or a portion of any areas cleared for above ground power lines of COMPANY and expand the width of such cleared area, in order to place additional electric power lines in such areas and further may connect any such additional lines near the COMPANY’S point of interconnection to the utility electrical network system, so long as such lines and interconnection would not unreasonably interfere with COMPANY’S development, construction or operation of the Wind

Energy Facility, meet applicable engineering and safety requirements, and comply with applicable laws, commercially standard terms of COMPANY's interconnection and transmission contracts, and permit conditions binding on the COMPANY. Subject to COMPANY's prior reasonable approval, PROPERTY OWNER and others under its authority may seek modification of permit conditions applicable to the COMPANY to allow such additional lines and interconnection, and COMPANY agrees to cooperate in the seeking of such permit modifications, at PROPERTY OWNER's sole cost and expense and so long as such permit modifications would not unreasonably interfere with COMPANY's development, construction or operation of the Wind Energy Facility.

2. Permitted Uses of the Leased Premises by COMPANY.

2.1. Wind Resource and Other Evaluations. COMPANY shall have the right to install, relocate, maintain, and operate on the Leased Premises wind monitoring equipment, consisting of one or more meteorological towers and related guy wires, anchors, foundations, fences and monitoring instrumentation and equipment to protect and otherwise facilitate COMPANY's wind monitoring activities. COMPANY shall also have the right to use tethered balloons and conduct other meteorological studies, conduct soil and geologic studies, and take photographs upon and of the Leased Premises.

2.2. Wind Energy Facility Construction and Operation. COMPANY shall have the right to construct, reconstruct, maintain, replace, repair, use and operate the Wind Energy Facility. COMPANY shall have the right to select the size, type, manufacturer, and quantity of wind turbines as COMPANY determines in its sole discretion. Prior to any and all clearing of timber associated with these activities, COMPANY shall provide notice to PROPERTY OWNER of the location of all such timber to be cleared, the reason the clearing is required, the intended dates of commencing and completing the clearing operations, and the permit conditions applicable to such clearing, if any. In addition to meeting any permit conditions, clearing operations shall comply with Best Management Practices unless expressly exempted by permit. COMPANY must clearly mark with flagging in the field the boundaries of all such areas to be cleared prior to notice, or such notice is not valid. If less than 10 days' notice before the intended start date are provided by COMPANY to PROPERTY OWNER, or if PROPERTY OWNER fails to provide affirmative notice to COMPANY at least 10 days in advance of the intended start date of PROPERTY OWNER's intent to conduct the clearing operations itself,

COMPANY shall be responsible for all such clearing, and all timber harvested shall be left on roadside log landings, with all boles to a minimum of 3" top diameter stacked with (a) hardwood, (b) spruce and fir, and (c) other softwood separated, and all topwood piled separately ("**Company Clearing Rules**"). This harvested timber remains the property of PROPERTY OWNER, who shall make good faith efforts to effect the removal of all such wood from the landing areas promptly. If PROPERTY OWNER provides affirmative notice to COMPANY at least 10 days in advance of the intended start date that PROPERTY OWNER intends to conduct the clearing operations itself, PROPERTY OWNER has the right to undertake such clearing operations, pursuant to permit conditions and COMPANY timetables. If COMPANY reasonably believes that PROPERTY OWNER is not performing as required by project permits or COMPANY timetables, it may require PROPERTY OWNER to cease work and allow COMPANY to complete the required clearing operations, and Company Clearing Rules apply.

3. Term. Subject to the provisions of Section 17 entitled Default and Termination:

3.1. Development Term. This Lease shall have an initial **Development Term** which shall commence at the Effective Date and continue up until the Operations Term (as defined below). This term shall be for a period of **one (1) year**.

3.2. Operations Term. This Lease shall have an Operations Term in regard to operating the Wind Energy Facility and calculating Operations Term Rental Payments to the PROPERTY OWNER. This Operations Term shall commence on the day the Wind Energy Facility (which shall include at least ten (10) operating Turbines on the Leased Premises) first produces and delivers electrical energy to the utility electrical network system or any other consumer or buyer (the "**Commercial Operations Date**"), and shall continue for a period of **twenty (20) years** from the Commercial Operations Date.

3.3. Extension of the Development Term. COMPANY shall have the right to extend the term of the Development Term for up to two (2) successive renewal terms of **one (1) year** each, subject to the following conditions:

3.3.1. For the first extension of the Development Term COMPANY shall demonstrate within one (1) year of the commencement of the Development Term to the reasonable

satisfaction of the PROPERTY OWNER that (i) it has obtained or has submitted an application for a Site Location of Development Law permit (the "Permit") as defined under Maine statute for the Wind Energy Facility and (ii) has obtained or has applied for any and all other necessary federal, state and local governmental approvals for operation of the Wind Energy Facility; alternatively, such extension may be granted by PROPERTY OWNER acting in its sole discretion; and

- 3.3.2. For the second extension of the Development Term COMPANY shall demonstrate within two (2) years of the commencement of the Development Term to the reasonable satisfaction of the PROPERTY OWNER that circumstances beyond the COMPANY's control warrant an extension of the Development Term. Such circumstances would include, but are not limited to, delayed extension of the Federal Production Tax Credit for wind, and/or delays in the obtaining any one or more final and effective permits required pursuant to the Permit or otherwise and notwithstanding commercially reasonable efforts of the COMPANY to obtain such final and effective permits.
- 3.3.3. In order for the COMPANY to exercise a right to extend the Development Term (subject to fulfillment of conditions) it must give PROPERTY OWNER written notice at least thirty (30) days prior to the then date of expiration of the Development Term.
- 3.3.4. If the Operations Term does not commence by four (4) years from the Effective Date, this Lease shall automatically terminate, unless otherwise agreed in writing by the PROPERTY OWNER and THE COMPANY, with the PROPERTY OWNER having sole discretion whether to agree otherwise.
- 3.3.5. Notwithstanding the above, the Development Term is automatically extended upon "Start of Construction" (defined below), and shall continue until the start of the Operations Term, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] "Start of Construction" means when the COMPANY having received all required permit for construction of the Wind Energy Facility begins any material site work or construction work in accordance with said permits, such as road construction,

foundation construction, or utility line trenching, on the PROPERTY OWNER's Premises. [REDACTED]

[REDACTED]

3.4. Extension of Operations Term. COMPANY may extend the Operations Term, upon terms and conditions substantially similar to this Lease for one successive renewal term of ten (10) years (the "Extension Period"), provided that the terms and conditions of the Extension Period shall be no less favorable to the PROPERTY OWNER than the terms and conditions in effect in year 20 of the Operations Term, without the written consent of the PROPERTY OWNER. COMPANY may so extend this Lease for the Extension Period by giving PROPERTY OWNER written notice at least twelve (12) months prior to the date of expiration of the Operations Term. The Operations Term, as it may be extended by the Extension Period, shall be referred to herein as the "Operations Term."

4. Rent

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

5. Additional Rights of COMPANY

5.1. Existing Rights of Way and Easements. The Leased Premises shall include the right to use on a non-exclusive basis all existing rights of way and easements upon or serving the Premises, subject to the terms of each instrument granting the same. COMPANY agrees not to do or cause to be done any damage or material interference with the rights and interests of the PROPERTY OWNER or other holders of said rights of way and easements. PROPERTY OWNER agrees to perform its obligations under the instruments granting such rights of way and easements in a commercially reasonable manner so as to prevent any material interference with the use rights or interests of COMPANY under this Lease.

5.2. Title Report. The PROPERTY OWNER grants the COMPANY the right to obtain at COMPANY's expense a current title report relating to the Premises to determine the condition of PROPERTY OWNER's title to the Premises and its rights and the rights of others, including COMPANY under this Lease, in and to all of the recorded rights of way and easements benefiting or encumbering the Premises. PROPERTY OWNER covenants that it is fee owner of the Premises and that it has full authority to enter into and execute this Lease, subject to entry by the COMPANY into a subordination, nondisturbance and attornment agreement with the mortgage lender of PROPERTY OWNER, as provided in Section 12.3

5.3. Litigation Disclosure. If PROPERTY OWNER learns of any material litigation or administrative action proposed, threatened or instituted with respect to the Premises prior to or following the Effective Date, PROPERTY OWNER shall promptly deliver notice thereof to the COMPANY. COMPANY shall have the option, but not the obligation, at its cost and expense, to participate in such litigation.

6. Rights of PROPERTY OWNER

- 6.1. Rights Reserved by PROPERTY OWNER. PROPERTY OWNER reserves the right to use the Leased Premises for any purpose now existing or hereafter arising, due to construction by the PROPERTY OWNER, or otherwise, , including but not limited to those rights specifically reserved in Section 1.6, so long as such use of the Leased Premises by the PROPERTY OWNER's use (and use of others authorized by PROPERTY OWNER) would not unreasonably interfere with COMPANY's physical development, construction or operation of the Wind Energy Facility.
- 6.2. Audit Rights. PROPERTY OWNER shall have the right at PROPERTY OWNER's expense to request an audit of COMPANY's records of the Leased Premises and the Wind Energy Facility, at reasonable times and in a reasonable manner, for the purpose of evaluating/verifying COMPANY's Operations Term Rent to PROPERTY OWNER. PROPERTY OWNER'S auditor shall have the right to view such information as is relevant and necessary for such audit including but not limited to contracts for purchase or sale of electric power, electric power invoices and statements, checks and receipts from sale of electric power, and actual results of electric power generation, including available charts, graphs, and computer data files. PROPERTY OWNER shall provide to COMPANY a copy of the audit results certified by the auditor. Such audit right for the purpose of evaluating/verifying COMPANY'S Operations Term Rent to PROPERTY OWNER may be exercised only once in any twelve (12) month period and not within ninety (90) days after the end of the calendar year. COMPANY shall have the right, within thirty (30) days after receipt of the certified audit results, to contest the audit results. If COMPANY does not exercise its right to contest the audit results within such thirty (30) day period, COMPANY shall be deemed to have waived its right to dispute the audit results and shall make any underpayments revealed by the audit within forty-five (45) days after its initial receipt of the audit results. If COMPANY does contest the audit results, COMPANY shall have no obligation to make any payments unless and until PROPERTY OWNER and COMPANY agree upon the audit findings. Any disputes under this section shall be submitted to mediation and/or arbitration pursuant to Section 26 below. COMPANY shall reimburse PROPERTY OWNER for the audit expenses should such audit reveal an underpayment to PROPERTY OWNER of at least one-half percent (0.5%) of all payments due over a twelve (12) month period. COMPANY has the right to retain all information used for audit purposes and is under no obligation to provide said information to PROPERTY OWNER,

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unless and until the issue is submitted to mediation and/or arbitration, at which point all relevant materials must be shared with PROPERTY OWNER in so far as it does not breach confidentiality agreements between COMPANY and other parties.

7. Duties and Obligations of COMPANY. COMPANY promises, represents and warrants to PROPERTY OWNER as follows:
 - 7.1. Compliance with Law. COMPANY shall obtain and pay for all required permits and studies with respect to construction and operation of the Wind Energy Facility. COMPANY shall at all times comply with all laws, rules, ordinances, orders, statutes, and regulations applicable to COMPANY's operations on and use of the Leased Premises. COMPANY reserves the right to contest the applicability of any law at no cost to PROPERTY OWNER. All costs or penalties resulting from non-compliance with the same shall be borne by COMPANY.
 - 7.2. Mechanic's Liens. COMPANY shall keep the Leased Premises free and clear of any mechanic's liens and other liens for supplies, equipment, materials, services and labor purchased by COMPANY, except that the COMPANY reserves the right to contest any such lien at no cost to PROPERTY OWNER. COMPANY will post a bond or escrow sufficient proceeds to cover the cost of removing the lien if COMPANY intends to or does contest the lien.
 - 7.3. Taxes and Utilities. COMPANY shall pay when due all real and personal property taxes attributable to the Wind Energy Facility on the Leased Premises, as such taxes are determined in accordance with Section 8.6. COMPANY shall provide a copy of any payment in lieu of tax agreement, and any amendments thereto, to the PROPERTY OWNER within 30 days of entering into the same with a taxing authority. COMPANY is not required to pay increases in taxes due to improvements made by PROPERTY OWNER, excepting improvements made by PROPERTY OWNER at the request of COMPANY and for COMPANY's primary benefit. COMPANY shall also pay when due all charges for electricity, water, gas, telecommunications and other utility services used by COMPANY on the Leased Premises. COMPANY shall pay both seller and purchaser portion of any and all Maine real estate transfer taxes when due.
 - 7.3.1. Tree Growth Tax Classification. COMPANY shall be responsible for and shall reimburse PROPERTY OWNER for any penalties for withdrawal of any or all of the

Leased Premises and/or the Premises or any portion thereof from Maine Tree Growth Tax Law or any similar tax classification arising from this Lease and from COMPANY's activities under this Lease. COMPANY will reimburse PROPERTY OWNER for any additional taxes or assessments or increase in taxes or assessments that are imposed for tax years during the term of this Lease solely due to such withdrawal. COMPANY shall reimburse PROPERTY OWNER within 30 days of receiving any such reimbursement request from PROPERTY OWNER, except that each and every aforesaid withdrawal penalty assessed by a municipal or state tax authority shall be paid to the appropriate municipal or state tax assessor directly by the COMPANY on or before the tax payment due date upon presentation of the tax bill for the same to the COMPANY by the PROPERTY OWNER or funds to pay the same provided to the PROPERTY OWNER by the COMPANY before the payment due date. This Subsection 7.3.1 shall apply only provided that the Premises and the Leased Premises were subject to Maine Tree Growth Tax classification at the time of the Effective Date of this Lease. This obligation of COMPANY shall survive termination of this Lease.

- 7.4. Hazardous Substances. COMPANY shall not store, use, dispose of or release or cause or permit to be stored, used, disposed of or released on or under the Leased Premises or Premises during the term of this Lease any "toxic substance", "hazardous material", "hazardous substance" or "solid waste" as defined in any applicable federal, state, county or municipal laws and regulations, except in such amounts as (a) may be needed to construct, operate, maintain, and decommission the Wind Energy Facility and (b) are in compliance, in all material respects, with all applicable laws and regulations. COMPANY shall promptly notify PROPERTY OWNER orally (within three business days) and in writing (within seven business days) in the event any action or claim is brought against COMPANY in connection with the foregoing.
- 7.5. Maintenance of Wind Energy Facility. The COMPANY shall keep the Wind Energy Facility in good condition and repair at no cost to the PROPERTY OWNER, abiding by all applicable laws and regulations of all governmental agencies in this regard. COMPANY shall be responsible for the disposal of all trash and waste generated by the COMPANY's use of the Leased Premises at no cost to the PROPERTY OWNER.

- 7.6. Excavations Filled In. In every location where COMPANY excavates during the construction of the Wind Energy Facility, it shall promptly (a) fill any holes with material substantially the same as was excavated, (b) restore an appropriate grade and (c) re-seed with native grass or as otherwise specified by permit condition. COMPANY will remove any topsoil left over unless prior to its removal PROPERTY OWNER requests in writing that it be left on site for PROPERTY OWNER's use, or as required by applicable laws and regulations.
- 7.7. Surrender of Possession and Restoration of Leased Premises. COMPANY agrees to quietly surrender and return the Leased Premises to PROPERTY OWNER on termination of this Lease. COMPANY agrees to remove within nine (9) months after expiration of the term or termination all footings, concrete pads, anchors, guy wires, fences, towers and other fixtures (up to three feet underground) that are part of the Wind Energy Facility, to cover or fill all holes, trenches and other excavations made by COMPANY, and to replace any topsoil that was removed in putting up wind monitoring equipment and wind turbines and re-seed to the extent allowed by applicable permitting with native grass. COMPANY shall have no obligation to remove any fixture or part thereof located more than three feet underground. COMPANY shall have no obligation to remove any access roads constructed by COMPANY.
- 7.8. Decommissioning Fund. COMPANY shall create a decommissioning fund for the purpose of reserving or providing for necessary monies to remove the Wind Energy Facility and related equipment as described in Section 7.7 above. However, if COMPANY is required to or has established a decommissioning fund with state, county or municipal officials, which will provide equivalent protection to PROPERTY OWNER as this Section 7.8, then a separate fund under this Section 7.8 shall not be required. COMPANY shall elect how to establish and manage this fund, which may include one of the following: (i) letter of credit or corporate guaranty from COMPANY, a third party, assignee, or other guarantor with an Investment Grade Credit Rating; (ii) creation of performance bond, (iii) creation of a special escrow account by COMPANY, or (iv) another effective alternate method. On or before the fifth anniversary of the Commercial Operations Date (and at least 180 days prior to any proposed substantive change in the form or management of the Decommissioning Fund), the COMPANY shall provide to PROPERTY OWNER a written description of its plan to establish (or alter) and manage the Decommissioning Fund. PROPERTY OWNER may review the plan for its adequacy, and shall provide written notice of acceptance or rejection (with reasons therefor) within thirty (30) days. If the parties cannot agree as to a suitable plan within ninety (90) days

of PROPERTY OWNER's receipt of said plan, the dispute shall be handled under the provisions of Section 26 herein. By the seventh anniversary of the Commercial Operations Date and at all times thereafter, the Decommissioning Fund shall hold or provide for a sum of money estimated to be sufficient to decommission the project net of any salvage value, as reasonably estimated by an independent engineer or assessor designated jointly by COMPANY and PROPERTY OWNER, and if not, such failure shall constitute a default and entitle the PROPERTY OWNER to remedies for default as provided herein. The sole purpose of the Decommissioning Fund is to pay (directly or through reimbursement) all expenses related to removing the COMPANY's property and improvements from the Leased Premises as provided under Section 7.7 above.. Any interest earnings on the assets of the Decommissioning Fund shall be the property of COMPANY, and any balance will be the property of COMPANY at the expiration of this Lease in the event that (i) the Wind Energy Facility has already been decommissioned by COMPANY, or (ii) the PROPERTY OWNER and COMPANY mutually agree not to decommission the Wind Energy Facility. The COMPANY is liable for any and all costs of removal under Section 7.7, whether or not they are fully provided for by the Decommissioning Fund. This liability shall survive the termination of this Lease.

7.9. Specifications. COMPANY shall provide PROPERTY OWNER copies of relevant drawings of the Wind Energy Facility for the purpose of identifying the locations of COMPANY's equipment on the Leased Premises.

8. Duties and Obligations of PROPERTY OWNER. PROPERTY OWNER promises, represents and warrants to COMPANY as follows:

8.1. Title to Leased Premises. COMPANY shall satisfy itself as to PROPERTY OWNER's title to Premises and Leased Premises by obtaining its own title report or title insurance prior to the execution of this Lease. PROPERTY OWNER and each person signing the Lease on behalf of PROPERTY OWNER have the full and unrestricted power and authority to execute and deliver this Lease and grant the easements and rights herein granted. The execution and delivery of this Lease will not violate any agreement or other obligation by which PROPERTY OWNER is bound, subject to agreement of its existing mortgage lender as to this Lease and all related agreements between PROPERTY OWNER and COMPANY and/or other persons or entities and compliance with Section 12.3.

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[REDACTED]

8.3 Quiet Enjoyment: No Material Interference. As long as COMPANY is not currently in default under this Lease beyond the expiration of any applicable notice and/or cure period, COMPANY shall have the quiet use and enjoyment of the Leased Premises in accordance with the terms of this Lease. PROPERTY OWNER will not use the Leased Premises or the Premises in a way which would unreasonably interfere with COMPANY's development, construction, or operation of the Wind Energy Facility. In accordance with the terms and conditions set forth in Section 1.6, PROPERTY OWNER may carry out activities on the Leased Premises and/or Premises regarding another wind energy facility on other lands of Bayroot. PROPERTY OWNER will not use the Leased Premises or Premises in any way that would (i) impede or decrease the wind energy reaching the Leased Premises, and/or (ii) interfere with the wind speed or direction across the Leased Premises. PROPERTY OWNER will not take or permit its agents to take any actions that would interfere with the use of or damage COMPANY's underground power lines. PROPERTY OWNER will not assign or encumber the Leased Premises (except as authorized by Sections 12.2 and 12.3) without COMPANY's prior written consent. PROPERTY OWNER will not grant any license, easement or other right with respect to the Leased Premises, which would unreasonably interfere with COMPANY's operation of the Wind Energy Facility, without COMPANY's consent. Notwithstanding anything to the contrary herein, PROPERTY

OWNER, without prior written consent from COMPANY, will neither build nor permit to be built on the Premises any obstruction over one hundred feet (100') in height within two thousand feet (2,000') in any direction of any wind turbine built on the Leased Premises.

8.4 Hazardous Substances. To PROPERTY OWNER's knowledge no "toxic substance", "hazardous material", "hazardous substance" or "solid waste" as defined in any federal, state, county or municipal law or regulation has been stored, used, disposed of or released on or under the Leased Premises or Premises by the PROPERTY OWNER before the Effective Date of this Lease, except in such amounts as may have been needed in agricultural or forest management use and in full compliance with all applicable laws and regulations. PROPERTY OWNER shall not store, use, dispose of or release or cause or permit to be stored, used, disposed of or released on or under the Leased Premises or Premises during the term of this Lease any "toxic substance", "hazardous material", "hazardous substance" or "solid waste" as defined in any federal, state, county or municipal laws and regulations, except in such amounts as may be needed in agricultural or forest management use and in compliance with all applicable laws and regulations. PROPERTY OWNER shall promptly notify COMPANY orally (within three business days) and in writing (within seven business days) in the event any action or claim is brought against PROPERTY OWNER concerning the Premises or the Leased Premises in connection with the foregoing. COMPANY shall have the option, but not the obligation, at its cost and expense, to participate in litigation regarding any such action or claim.

8.5 Mortgage Payments; Mechanic's Liens. PROPERTY OWNER agrees to pay, when due, any and all mortgage obligations of PROPERTY OWNER in regard to the Leased Premises and the Premises. COMPANY has the right, but is not obliged, to pay any such obligations which PROPERTY OWNER fails to pay, and to deduct that amount from payments which otherwise would have been made to PROPERTY OWNER under this Lease. PROPERTY OWNER shall keep the Leased Premises at all times free and clear of any mechanic's liens and other liens for labor, services, supplies, equipment or materials purchased by PROPERTY OWNER, except that PROPERTY OWNER reserves the right to contest any such lien at no cost to COMPANY. PROPERTY OWNER will post bond or escrow sufficient proceeds to cover the cost of removing the lien if PROPERTY OWNER intends to or does contest the lien.

8.6 Property Taxes. PROPERTY OWNER shall pay when due, all real property taxes and assessments on the Leased Premises and the Premises, excluding those taxes and assessments attributable to the Wind Energy Facility, which Company shall pay as detailed in Section 7.3 and Section 7.3.1. COMPANY has the right, but is not obliged, to pay any such obligations which PROPERTY OWNER has failed to pay, and to deduct that amount from payments which otherwise would have been made to PROPERTY OWNER under this Lease. PROPERTY OWNER agrees to cooperate with COMPANY in proposing to the local tax assessor that the Wind Energy Facility be assessed separately as a suffix to PROPERTY OWNER's tax parcel with COMPANY being solely liable for payment of any and all taxes levied on the Wind Energy Facility. In the event such a proposal is denied and taxes related to the Wind Energy Facility are levied in the name of PROPERTY OWNER, COMPANY agrees to promptly reimburse PROPERTY OWNER for that portion of taxes levied on the Wind Energy Facility, along with any penalties or interest due because of late payment on the part of COMPANY. Alternatively, COMPANY shall have the right to pay any taxes levied on the Wind Energy Facility directly to the taxing authority. PROPERTY OWNER agrees to provide COMPANY prompt written notice of the amounts that are due. It is agreed that PROPERTY OWNER and COMPANY retain the right to contest, at their respective cost and expense, the amount or legal validity of any taxes, assessments or other charges for which each is responsible under this Lease, and may take whatever action they consider appropriate.

8.7 Cooperation. PROPERTY OWNER agrees to promptly sign and execute all applications and related documents (which documents do not constitute a sale, assignment, mortgage, transfer or grant of subleases of any or all of COMPANY's rights and interests under this Lease requiring written consent of the PROPERTY OWNER under Section 12.3) when requested by COMPANY so that COMPANY may obtain land use permits, building permits, environmental impact reviews or any other approvals necessary for the construction, operation or financing of the Wind Energy Facility. PROPERTY OWNER agrees that, within twenty (20) days after receipt of written notice request by COMPANY, PROPERTY OWNER shall: (i) join in all grants for rights-of-way and easements for electric and other public utilities and facilities and any other electric power purpose including any power transmission line as COMPANY shall deem necessary or desirable for its development and use of the Leased Premises; (ii) join with COMPANY in requesting any and all zoning changes or other land use permits and/or approvals necessary or desirable for COMPANY's development and use of the Leased Premises as contemplated by this Lease; (iii) join in any necessary or desirable nondisturbance,

subordination and attornment agreements contemplated by Sections 12 and 13 and meeting the terms thereof as to PROPERTY OWNER requirements, in order to assist the COMPANY with obtaining or maintaining project financing; (iv) join with the COMPANY in contesting any real property tax or assessment applicable to the Leased Premises and/or the Wind Energy Facility; and (v) execute and deliver such other documents (including without limitation such modifications to this Lease as may be necessary or desirable for COMPANY to benefit from any governmental or private grants, credits or other benefits associated with COMPANY's business or at the request of any mortgagee) so long as such modifications do not adversely affect PROPERTY OWNER in PROPERTY OWNER's sole and reasonable estimation. All costs incurred in regard to the activities under this Section 8.6 will be paid by COMPANY. COMPANY shall use reasonable efforts to keep PROPERTY OWNER notified of the progress of the major development and operating activities and any impending activities that would require the cooperation of both parties as described in this Section 8.7.

8.8 To the knowledge of PROPERTY OWNER, PROPERTY OWNER has complied in all material respects with all environmental laws applicable to the Leased Premises, and no action, suit, proceeding, hearing investigation, complaint, claim, demand or notice has been filed, commenced or, to the knowledge of PROPERTY OWNER, threatened against PROPERTY OWNER alleging the failure to comply with any such applicable environmental law. PROPERTY OWNER does not have any knowledge of any condition, fact or circumstance that would reasonably be expected to result in the imposition of liabilities under any applicable environmental laws at the Leased Premises.

9 Waived Right to Object. PROPERTY OWNER acknowledges that certain aspects inherent to the operation of the Wind Energy Facility may result in some nuisance, such as visual impacts, possible increased noise levels, possible shadow flicker on residences, and other possible effects of electrical generation and transmission including without limitation potential interference with radio, television, telephone, mobile telephone or other electronic devices. COMPANY will attempt to minimize any impacts to PROPERTY OWNER in part by taking every reasonable measure to meet or exceed standard U.S. wind industry practices in designing the Wind Energy Facility, and abiding by all regulations pertaining to the permitting and design of the Wind Energy Facility. PROPERTY OWNER understands and has been informed by COMPANY that the Wind Energy Facility on the Leased Premises may result in some nuisance, and hereby accepts such nuisance and waives its right to object to such nuisance.

10 Access to Leased Premises

10.1 Third-Party Access. PROPERTY OWNER and COMPANY shall each have the right to authorize access of third parties upon the Leased Premises without permission from the other, provided that no material inconvenience is caused to the other. COMPANY may authorize third party access for the purposes of this Lease. PROPERTY OWNER and COMPANY shall each have the right to prevent and control access of third parties to the Leased Premises, unless either PROPERTY OWNER or COMPANY has authorized the third parties.

10.2 Safety. PROPERTY OWNER understands and has been informed that certain safety hazards may exist due to COMPANY's equipment being installed on the Leased Premises. PROPERTY OWNER agrees to take appropriate precautions on and around the Leased Premises (including without limitation avoiding the Leased Premises) during certain hazardous conditions that may impose a safety hazard to PROPERTY OWNER and its agents, employees and permittees. Such hazardous conditions include, but are not limited to, lightning storms, high wind conditions, icing, and construction and maintenance activities relating to COMPANY's equipment. High wind conditions are present where sustained wind at a specific wind turbine meets or exceeds that wind turbine's maximum rated operating wind speed (the "cut-out" wind). High wind conditions can be visually observed during periods of excessive wind and where the turbine rotor is not rotating. Icing conditions are present where specific weather conditions promote the accretion of rime or glaze ice on stationary or rotating components of the wind turbine, and where shedding of such ice may pose a safety hazard to individuals present within a certain distance from the turbine. COMPANY shall provide PROPERTY OWNER an assessment of the icing hazards and risks specific to the Wind Energy Facility and Premises, and, if deemed necessary, establish a control or notification protocol. During such hazardous conditions it is advised that PROPERTY OWNER take appropriate precautions within a five hundred foot (500') radius of the wind turbine. In addition, PROPERTY OWNER and its agents, employees and permittees shall not approach within a five hundred foot (500') radius of a wind turbine during Wind Energy Facility major construction or maintenance activities without prior approval from COMPANY. COMPANY shall provide prior notification as soon as practical to PROPERTY OWNER of the start and end dates of such major activities.

10.3 Public Use Restrictions. COMPANY recognizes that public access may be generally permitted on the Premises and Leased Premises. COMPANY may restrict public access within a five hundred foot (500') radius of the wind turbines. In icing conditions the Company may request that this five hundred foot (500') radius be extended to one thousand feet (1,000'). Upon this election, COMPANY shall post appropriate signage indicating this restriction. COMPANY will be responsible for all costs associated with this public use restriction, including tax payments described in and consistent with Section 7.3 above. COMPANY reserves the right to revise and amend this Section 10.3 provided that it (a) complies with the applicable regulations imposed by permitting and taxing authorities and (b) obtains prior written consent of PROPERTY OWNER, such consent not to be withheld unreasonably.

11 Indemnification Provisions and Insurance

11.1 Indemnification. Each party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other party and such party's mortgagees, officers, directors, employees and agents (the "Indemnified Party") against any and all liabilities, claims, losses, damages (subject to the limitations of Section 24), or expenses of any type or kind, including reasonable attorneys' fees, resulting from or arising out of (i) any breach of the terms and conditions of this Lease by the Indemnifying Party, its employees, agents or permittees, (ii) any operations of the Indemnifying Party, its employees, agents or permittees on the Leased Premises or the Premises; (iii) any misrepresentation by the Indemnifying Party in this Lease; (iv) any negligent act or negligent failure to act on the part of the Indemnifying Party, its employees, agents or permittees. This indemnification shall survive the expiration or earlier termination of this Lease. This indemnification shall not apply to liabilities, claims, losses, damages or expenses of any type or kind caused by any negligent or deliberate act or omission on the part of the Indemnified Party or its employees, agents or permittees.

11.2 Insurance. At all times during the terms of this Lease, COMPANY shall maintain and pay for liability insurance covering all risks arising directly or indirectly out of COMPANY's activities on the Leased Premises or the Premises and shall name PROPERTY OWNER as an additional insured. Such coverage shall include an annual limitation of One Million Dollars (\$1,000,000) per occurrence for bodily and property damage claims, and an annual limitation of Two Million Dollars (\$2,000,000) for general aggregate claims. Precedent to the Start of Construction, the annual limitation for general aggregate claims shall be Five Million Dollars

(\$5,000,000). COMPANY shall agree that during the term of this Lease it will maintain appropriate and reasonable insurance coverage with rates commensurate with industry standards should such standards be different from those described in this Section 11.2.

12 Assignments

12.1 COMPANY. COMPANY shall at all times have the right to sell, assign, mortgage, transfer or grant subleases of any or all of its rights and interests under this Lease with PROPERTY OWNER's written consent, which consent shall not be unreasonably withheld or delayed; provided, however, that the term of any such transfer shall not extend beyond the term of this Lease and that any and all such transfers shall be expressly made subject to all of the terms, covenants and conditions of this Lease. No such sale, assignment, transfer, or sublease shall relieve COMPANY of its obligations under this Lease, unless COMPANY assigns its entire interest hereunder (including the Decommissioning Fund) and the assignee assumes all obligations of COMPANY hereunder, in which event COMPANY shall have no continuing liability, except as to previously incurred indemnification obligations. The burdens of the leasehold rights granted in this Lease to the COMPANY shall run with and against the Leased Premises and, to the extent applicable under this Lease, with and against the Premises and shall be a burden thereon for the length of the Lease and shall be binding upon and against PROPERTY OWNER and its successors, assigns, permittees, licensees, employees, and agents. The leasehold rights granted to the COMPANY by this Lease shall inure to the benefit of COMPANY and, subject to the terms of this Lease, to its successors, assigns, permittees, licensees, employees and agents. COMPANY shall give written notice to PROPERTY OWNER of any assignment including the name, address, and phone number of the party receiving the assignment. Furthermore, COMPANY shall designate one party as the sole party to which PROPERTY OWNER shall make all notifications (hereinafter called the "Designated Party"), and it shall be the responsibility of the COMPANY to notify PROPERTY OWNER of any changes to the identity of or contact information for this Designated Party. Within five (5) business days, the Designated Party will convey each such notice to each and every party holding any portion of COMPANY's initial interests under this Lease.

12.2 PROPERTY OWNER. PROPERTY OWNER shall continue to have the right to sell, mortgage or transfer the Premises and the Leased Premises and/or assign its rights under this Lease. No such sale, mortgage, assignment, or transfer shall relieve PROPERTY OWNER of its obligations under this Lease, unless PROPERTY OWNER assigns its entire interest

hereunder and the assignee becomes the owner of the legal rights requisite to fulfill, and does assume, all obligations of PROPERTY OWNER hereunder, in which event PROPERTY OWNER shall have no continuing liability. PROPERTY OWNER may retain the right to receive payments under this Lease in whole or in part after the sale or transfer of the Premises or Leased Premises; provided, however, that in such case PROPERTY OWNER shall fully remain liable for all of PROPERTY OWNER's obligations under this Lease. PROPERTY OWNER shall give written notice to the Designated Party of any assignment or transfer, including the name, address, and phone number of the party receiving the assignment and the extent of any such assignment or transfer.

12.3 [REDACTED]

12.4 Further Assurances. Each of the parties to this Lease agrees to perform all such acts (including but not limited to, executing and delivering such instruments and documents) as may be necessary or desirable to fully effectuate each and all of the purposes and intent of this Lease, including consents to any assignments, pledges or transfers permitted under Sections 12.2 and 12.3 and reasonable amendments hereto as may be required by any Lender (as defined in Section 13.1) or required in connection with the transfer by COMPANY of the rights granted hereunder to one or more entities, including encumbrance of the Leased Premises by the

COMPANY as contemplated by Section 13. PROPERTY OWNER expressly agrees that it shall from time to time enter into reasonable non-disturbance agreements with any Lender which requests such an agreement providing that PROPERTY OWNER shall recognize the rights of the Lender and not disturb its possession of the Leased Premises so long as COMPANY is not in default of any of the provisions of this Lease. Any such agreement shall contain provisions identical or similar to those described in Section 13.2 hereof. PROPERTY OWNER and COMPANY further agree that they shall, at any time and from time to time during the term of this Lease within fifteen (15) days of a written request by the other party, execute, acknowledge and deliver to the requesting party an estoppel certificate certifying to the other party and/or to any third party specified by the other party that this Lease is unmodified and in full force and effect (or modified and stating the modifications). The estoppel certificate shall also state the dates on which the payments and any other charges have been paid and that there are no defaults existing (or that defaults exist and the nature of such defaults).

13 Encumbrance of Leased Premises; Required Notices to Lenders

13.1 Right to Encumber. COMPANY shall have the right at any time to mortgage to any entity (herein, a "Lender") all or any part of COMPANY's interest under this Lease and the rights created by this Lease, subject to the written consent of PROPERTY OWNER under Section 12.1.

13.2 Covenants for Lenders' Benefit. Should COMPANY mortgage any of its interest as provided in Section 12.1 and 13.1 above, COMPANY and PROPERTY OWNER expressly stipulate and agree between themselves and for the benefit of any Lenders as follows:

13.2.1 They shall not mutually alter or mutually cancel this Lease without the prior written consent of any and all Lenders, which consent shall not be unreasonably withheld or delayed.

13.2.2 Each Lender shall have the right to do any act or thing required to be performed by COMPANY under this Lease, and any such act or thing performed by the Lender shall be as effective to prevent a default under this Lease and/or a forfeiture of any of COMPANY's rights under this Lease as if done by COMPANY itself.

13.2.3 No default which requires the giving of notice to COMPANY shall be effective unless a like notice is given to the Designated Party (as that term is defined in Section 12.1). If PROPERTY OWNER shall become entitled to terminate this Lease due to an uncured default by COMPANY, PROPERTY OWNER shall not terminate this Lease unless it has first given written notice of such uncured default and of its intent to terminate this Lease to the Designated Party and has then waited at least thirty-five (35) days to allow any Lender (noticed by the Designated Party, pursuant to Section 12.1) to cure the default to prevent such termination of this Lease. Furthermore, if within such thirty-five (35) day period a Lender notifies PROPERTY OWNER that it must foreclose on COMPANY's interest or otherwise take possession of COMPANY's interest under this Lease in order to cure the default, PROPERTY OWNER shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire COMPANY's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by COMPANY, provided that such Lender agrees to compensate PROPERTY OWNER for any such delay by making the payments required hereunder to PROPERTY OWNER during any such period of delay.

13.2.4 In case of the termination of this Lease as a result of any default or the insolvency, bankruptcy or appointment of a receiver in bankruptcy for COMPANY, PROPERTY OWNER shall give prompt notice to the Designated Party. PROPERTY OWNER shall, upon written request of the first priority Lender (as reported to PROPERTY OWNER by Designated Party), made within forty-five (45) days after notice to the Designated Party, enter into a new lease agreement with such Lender, or its designee, within twenty (20) days after the receipt of such request. Such new lease agreement shall be effective as of the date of the termination of this Lease, upon the prevailing terms, covenants, conditions and agreements contained in this Lease. Upon the execution of any such new lease agreement, the Lender shall (i) pay PROPERTY OWNER any amounts which are due PROPERTY OWNER from COMPANY, (ii) pay PROPERTY OWNER any and all amounts which would have been due under this Lease (had this Lease not been terminated) from the date of the termination of this Lease to the date of the new lease agreement, and (iii) agree in writing to perform or cause to be performed all of the other covenants and agreements set forth in this Lease to be performed by COMPANY to the

extent that COMPANY failed to perform the same prior to the execution and delivery of the new lease agreement.

- 13.3 Any notices by PROPERTY OWNER for the benefit of any and all Lenders as described in this Section 13 shall be made by the PROPERTY OWNER to the Designated Party. Within five (5) business days, the Designated Party will convey such notice to each and every Lender. Also, within ten (10) days of receipt of a written request from the PROPERTY OWNER, the Designated Party shall provide PROPERTY OWNER with a current and complete list of Lenders, with designation of the first priority Lender, upon which PROPERTY OWNER may rely for the purposes of Section 13.2.
- 14 Notices. All notices or other communications required or permitted by this Lease, including payments to PROPERTY OWNER, notices to the Designated Party and changes to the following addresses, shall be in writing and shall be deemed given when (i) personally delivered to PROPERTY OWNER, COMPANY or the Designated Party (ii) five (5) days after deposit in the United States mail, first class, postage prepaid, certified; or, (iii) one day after deposit with a nationally recognized overnight delivery service. The following addresses shall be used for the foregoing purposes.

If to PROPERTY OWNER: Bayroot LLC
 c/o Wagner Forest Management, Ltd
 150 Orford Road, P.O. Box 160
 Lyme, New Hampshire 03768

with a copy to PROPERTY OWNER'S counsel: Karen A. Huber, Esq.
 Eaton Peabody
 P.O. Box 1210, 80 Exchange Street
 Bangor, ME 04402-1210

If to COMPANY: Record Hill Wind LLC
 c/o Wagner Energy LLC
 150 Orford Road, P.O. Box 160
 Lyme, New Hampshire 03768

with a copy to Angus S. King, Jr.
COMPANY'S Bernstein Shur
counsel: 100 Middle Street, P.O. Box 9729
Portland, Maine 04104.

If to Designated Record Hill Wind LLC
Party: c/o Wagner Energy LLC
150 Orford Road, P.O. Box 160
Lyme, New Hampshire 03768

with a copy to Angus S. King, Jr.
Designated Party's Bernstein Shur
counsel: 100 Middle Street, P.O. Box 9729
Portland, Maine 04104

or such address as PROPERTY OWNER, COMPANY, Designated Party, and/or the counsel of each may from time to time specify by giving written notice to the other parties.

15 Condemnation Provisions

15.1 Termination of Lease. If all of the Leased Premises is taken by condemnation, or is purchased by any government agency or governmental body exercising the power of eminent domain, or should a partial taking render the remaining portion of the Leased Premises substantially unusable for COMPANY's permitted uses, determined in COMPANY'S reasonable discretion, then this Lease shall terminate upon the vesting of title or taking of possession. If the taking is partial, the COMPANY shall have the option of terminating this Lease or continuing this Lease with the payments to PROPERTY OWNER being recalculated to the mutual agreement of the parties hereto to reflect the taking.

15.2 Awards and Damages. All payments made on account of any taking by eminent domain shall be made to PROPERTY OWNER, except that COMPANY shall be entitled to any portions of said award made for the reasonable removal and relocation costs of any removable Wind Energy Facility property that COMPANY has the right to remove, and for the loss and damage to any such Wind Energy Facility property that COMPANY elects or is required not to remove, and for the loss of use of the Leased Premises by COMPANY. It is agreed that COMPANY shall

have the right to participate in any settlement or court proceedings. If the parties do not agree upon a division of such payment(s), it shall be set by mediation and arbitration, pursuant to Section 26. In no event shall the PROPERTY OWNER be liable to COMPANY for any amounts in excess of the payment(s) received, less PROPERTY OWNER's reasonable legal and other expenses incurred in association with said taking.

16 Abandonment Provisions. Any improvements constructed or placed on the Leased Premises by COMPANY permitted by this Lease shall be owned and remain the sole property of COMPANY. In the event that some of the wind turbines are not running and generating electrical power for a period of twelve (12) consecutive months, those wind turbines and improvements shall be considered abandoned unless the cause of the non-operation of the wind turbine is beyond COMPANY's reasonable control, and COMPANY shall remove them from the Leased Premises in accordance with Section 7. above. In the event COMPANY cannot remove said abandoned turbines, PROPERTY OWNER may remove such wind turbines and improvements from the Leased Premises without notice and without liability for damage at COMPANY's sole expense. Notwithstanding the foregoing, no property shall be considered abandoned during any period during which COMPANY is making current payments to PROPERTY OWNER with respect thereto under Section 4 hereof.

17 Default and Termination.

17.1 If an event of default occurs and remains uncorrected, the non-defaulting party shall have the right, subject to Section 13 above, to terminate this Lease without prejudice to any other rights and remedies under this Lease. Each of the following shall constitute an event of default:

17.1.1 Either party fails to pay amounts required to be paid by this Lease when due, and such failure or omission has continued for thirty (30) days after written notice from the other party; or

17.1.2 Either party fails in any material respect to perform or comply with any of the other terms, duties, obligations or conditions of this Lease and such failure or omission has continued for thirty (30) days (or such longer period as may be reasonably required to cure such failure or omission, if such failure or omission cannot reasonably be cured with a thirty (30) day period) after written notice from the other party; or

- 17.1.3 A party makes a general assignment for the benefit of creditors, files for protection or liquidation under the bankruptcy or other similar laws of the United States or any other jurisdiction or has a involuntary petition in bankruptcy or a request for the appointment of a receiver filed against it and such involuntary petition or request is not dismissed within sixty (60) days after filing.
- 17.2 Termination by COMPANY. COMPANY may terminate this Lease at any time by giving PROPERTY OWNER at least ninety (90) days notice (one hundred eighty (180) days notice after the Commercial Operations Date) and paying all payments due through the date of termination. PROPERTY OWNER shall be entitled to retain all payments made to the date of termination. In accordance with Section 7, COMPANY shall remove the Wind Energy Facility and related equipment.
- 17.3 Casualty. If all of the Leased Premises is destroyed or damaged by a casualty event (i.e., fire, flood or earthquake) or if a portion of the Leased Premises is so destroyed or damaged such as to render the Leased Premises substantially unusable for COMPANY'S permitted uses, determined in COMPANY'S sole discretion in the event of total loss and in it's reasonable discretion in the event of partial loss, then COMPANY shall have the right, upon thirty (30) days prior notice to PROPERTY OWNER, to terminate this Lease and any rent payments due to PROPERTY OWNER shall be prorated accordingly.
- 18 Force Majeure - Delays. If PROPERTY OWNER or COMPANY are prevented from performing any act required by this Lease due to any acts of God, strike, lock-out, labor trouble, restrictive governmental laws or regulations (not in existence upon the Effective Date of this Lease), or for any other reason beyond the control of the party required to perform the act, the time for the performance of the act shall be extended for a period equivalent to the period of delay.
- 19 Notice of Termination. In the event of termination of this Lease, COMPANY shall properly execute, acknowledge and deliver to PROPERTY OWNER within thirty (30) days of request thereof, a Notice of Termination or any other such instrument or document as may be necessary or desirable in order to remove the Lease from PROPERTY OWNER's title. The promise of COMPANY to properly execute and deliver said Notice of Termination and/or any other document

is a material consideration to entering into this Lease and shall survive the termination of this Lease.

- 20 No Waiver. No waiver of any right under this Lease shall be effective for any purpose unless in writing, signed by the party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provisions of this Lease. The waiver of time for performing any act shall not constitute a waiver of the time for performing any other act or any identical act required to be performed at a later time.
- 21 Time of Essence. Time is of the essence in regard to this Lease and to all the terms, conditions, promises, representations, warrants, duties, obligations, and agreements contained in this Lease.
- 22 Construction of Lease
- 22.1 Governing Law. The terms and provisions of this Lease shall be interpreted and enforced in accordance with the laws of the State of Maine applicable to contracts made and to be performed wholly within such State and without reference to the choice of law principles of the State of Maine or any other state.
- 22.2 Interpretation. The parties agree that the terms and provisions of this Lease embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor, or more strictly against, either party.
- 22.3 Partial Invalidity. If any term, provision, condition, or part of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms, provisions, conditions, or parts, or application thereof to any person or circumstance shall continue in full force and effect, unless the invalidity or unenforceability in question causes the primary intention of the parties under this Lease to be frustrated.
- 22.4 Headings. The section and paragraph headings in this Lease are for convenience only and shall not limit or affect the meaning of this Lease in any way.
- 22.5 Approvals; Consents. Whenever any party to this Lease is given an approval/consent right and unless otherwise expressly stated in this Lease, any such approval/consent shall not

unreasonably be withheld or delayed. If approval is withheld, then within ten (10) business days of the date on which the request is delivered, the withholding party shall state in writing with particularity the reason or reasons for the withholding of approval and shall propose conditions or changes that would facilitate approval. If no such notice withholding approval is received within 10 business days of the on which the request is delivered, then approval shall be deemed granted.

- 23 Notice of Lease. PROPERTY OWNER and COMPANY hereby agree that this Lease shall not be recorded in the public records of appropriate governmental subdivision. PROPERTY OWNER and COMPANY shall execute a Notice of Lease, in the form attached hereto as **EXHIBIT C**, wherein a legal description of the Premises and Leased Premises, the term and certain other terms and provisions hereof, excepting, however, the provisions hereof relating to the amount of payment payable hereunder, are set forth. The Notice of Lease shall be recorded with the Register of Deeds of the appropriate County. Any and all recording fees, cost and real estate transfer tax (buyer and seller portion) if any, required in connection with the recording of the Notice of Lease shall be at the sole cost and expense of COMPANY.
- 24 Limitations. Neither the PROPERTY OWNER nor COMPANY shall be liable to the other party claiming by or through them for any special, indirect, incidental, punitive, exemplary or consequential damages including, but not limited to lost profits or loss of business arising out of or in any manner connected with the performance or non-performance of this Lease even if the parties have knowledge of the possibility of such damages, but this shall not apply to any claim of PROPERTY OWNER for unpaid rent.
- 25 Attorneys' Fees. If any party brings any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Lease or for the interpretation of this Lease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding.
- 26 Mediation and Arbitration
26.1 Mediation of Disputes. Any controversy, claim or dispute between the PROPERTY OWNER and COMPANY arising out of or related to this Lease or the breach hereof which cannot be resolved by mutual agreement shall be first resolved by mediation where the third party mediator is mutually agreed upon by both parties or is chosen by a representative of each party.

The costs of mediation shall be borne equally and each party shall bear its own attorneys' fees incurred in connection with the mediation.

26.2 Arbitration of Disputes. Should such mediation fail to resolve the dispute, the parties shall resolve the dispute by submitting such dispute for binding arbitration in accordance with the provisions contained herein and in accordance with the commercial arbitration rules of the American Arbitration Association ("Rules"); provided, however, that notwithstanding any provisions of such Rules, the parties shall have the right to take depositions and obtain discovery in accordance with the Civil Practice Law and Rules of the State of Maine regarding the subject matter of the arbitration, and further provided that the arbitration shall not be consummated as an American Arbitration Association sanctioned arbitration except with the consent of all parties thereto. Judgment of any arbitration award may be entered in any court having jurisdiction. The arbitrators shall determine all questions of fact and law relating to any controversy, claim or dispute hereunder, including but not limited to whether or not any such controversy, claim or dispute is subject to the arbitration provisions contained herein.

26.3 Commencement of Arbitration Proceeding. Any party desiring arbitration shall serve on the other party its notice of intent to arbitrate ("notice"), accompanied by the name of the arbitrator selected by the party serving the notice. A second arbitrator shall be chosen by the other party, and a third arbitrator shall be chosen by the two arbitrators so selected. If the party upon whom the notice is served fails to select an arbitrator and advise the other party of its selection within fifteen (15) days after receipt of the notice, the second arbitrator shall be selected by the first arbitrator. If the two arbitrators so chosen cannot agree upon a third arbitrator within ten (10) days after the appointment of a second arbitrator, the third arbitrator shall be selected in accordance with the Rules. PROPERTY OWNER and COMPANY may agree to arbitration by a single, mutually agreed arbitrator in lieu of the foregoing procedure. The arbitration proceedings provided hereunder are hereby declared to be self-executing, and it shall not be necessary to petition a court to compel arbitration.

26.4 Cost of Arbitration. If the arbitrators find decisively in favor of one of the parties, the losing party shall pay the entire cost of the arbitration, and also shall pay the prevailing party's reasonable attorneys' fees incurred in connection with the arbitration. If the arbitrators instead settle the dispute by awarding each party a material part of what it was seeking, then the costs

of arbitration shall be borne equally and each party shall bear its own attorneys' fees incurred in connection with the arbitration.

26.5 Location. All arbitration proceedings shall be held in the State of Maine.

26.6 Filing deadlines. Notice of the demand for arbitration shall be filed in writing with the other party to this Lease. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

26.7 **ACKNOWLEDGEMENT OF ARBITRATION.** Each party understands that this Lease contains an agreement to arbitrate. After signing this Lease, neither party will be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead the parties agree to submit any such suit to an impartial arbitrator or arbitrators. If either party refuses to submit to arbitration after agreeing to this provision, that party may be compelled to arbitrate under the authority of the Civil Practice Laws and Rules of the State of Maine. A party's agreement to this arbitration provision is voluntary. By signing the Lease PROPERTY OWNER warrants that PROPERTY OWNER has read and understood the foregoing and agrees to submit disputes arising out of the matters included in the arbitration of disputes' provision to neutral arbitration.

27 Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document.

28 Entire Agreement. This Lease, together with its attached Exhibits A, B, and C, contains the entire agreement between PROPERTY OWNER and COMPANY and supersedes and replaces any prior agreements, discussions or understandings, written or oral between PROPERTY OWNER and COMPANY pertaining in any way to this Lease. This Lease may not be changed, modified or amended, in whole or in part, except in writing signed by both PROPERTY OWNER and COMPANY or their authorized representatives.

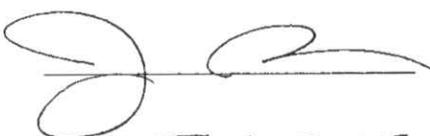
- 29 PROPERTY OWNER Review. PROPERTY OWNER acknowledges that PROPERTY OWNER has been afforded sufficient time to review and understand the terms and effects of this Lease and to submit it to legal counsel of PROPERTY OWNER's choosing for review and advice. PROPERTY OWNER represents that the agreements and obligations herein are made voluntarily, knowingly and without duress.
- 30 Confidentiality. Except as may be disclosed on the Notice of Lease under Section 23, the terms and conditions of this Lease shall remain confidential between the PROPERTY OWNER and COMPANY for the duration of the Lease, except that PROPERTY OWNER shall have the right to disclose portions or all of this Lease to its lenders, insurers or where required by law or regulation, and COMPANY shall have the right to disclose portions or all of this Lease to its lenders, investors, and insurers of the Wind Energy Facility or where required by law or regulation.

{Signatures appear on following pages.}

IN WITNESS WHEREOF, PROPERTY OWNER and COMPANY have caused this Lease to be executed and delivered by their duly authorized representatives as of the Effective Date.

Witnesses:

COMPANY:
Record Hill Wind LLC,
a Delaware Limited Liability Company


Printed JOHN ROSE

By: 
Name: Robert H. Gardiner
Title: President

STATE OF Maine SS:
COUNTY OF Cumberland

On the 17 day of Nov, 2008 before me, the undersigned, personally appeared Robert H. Gardiner personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, that by his/her signature on the instrument, the entity upon behalf of which the individual acted, executed the instrument.


Notary Public **LINA MARIA CARVAJAL**
NOTARY PUBLIC, STATE OF MAINE
MY COMMISSION EXPIRES FEB. 12, 2015