

## 1. Parties

and their successors in interest ("Owner"), as owners of the real property described on attached **Exhibit A** ("Owner's Property"), and FPL Energy Hancock County Wind, LLC, a Delaware limited liability company, and its successors in interest ("FPLE").

This agreement is a grant by Owner to FPLE of the easements and other specified rights in Owner's Property needed by FPLE for its Hancock County Wind Farm. It establishes the rights of the parties and their duties to each other with regard to the financing, construction, operation, repair, maintenance, replacement, and removal of all Wind Farm Improvements whether located on or off Owner's Property.

Capitalized terms used in this agreement have the meaning given them in the text of the agreement or in this definitions section.

“Access Rights” means the right of unobstructed ingress and egress to and from the Wind Farm Improvements by FPLE, its agents, contractors, successors and assigns.

"CPI" means "Consumer Price Index-U.S. City Average For All Items For All Urban Consumers (1982-84=100)" (the "CPI-U") published monthly in the "Monthly Labor Review" by the Bureau of Labor Statistics of the United States Department of Labor (the "Labor Bureau"). If the CPI-U is discontinued, "CPI" shall refer to comparable statistics on the purchasing power of the consumer dollar published by the Labor Bureau or by another agency of the United States as determined by FPPE and approved by Owner.

“Easement or Easement Properties” means the portions of Owner’s Property subject to the Easements granted in Section 5 of this agreement.

"Effective Date" means the date when all conditions precedent set forth in Sections 4.1 and 4.2 of this agreement are satisfied or waived, and all other documents required by FPLE have been signed and delivered by Owner.

**“Exhibit B”** means the preliminary Easement Plan attached to this agreement at the time it is signed showing the approximate planned location of all Wind Farm Improvements and Easements located on the Owner’s Property.

"**Exhibit C**" means the final as-built Easement Plan to be attached to this agreement as a replacement for **Exhibit B** after construction of the Wind Farm Improvements showing the exact locations of all Wind Farm Improvements as constructed on Owner's Property and all Easements as finally agreed and approved by the parties.

"Met Tower" means a tower used primarily to gather and transmit meteorological data relating to the Wind Farm, and includes the tower's foundations, guy wires, meteorological data acquisition equipment, power source, underground data, and electrical transmission lines.

"Substation" means electrical lines, meters, monitoring and control equipment, switches, transformers, batteries and other devices for storage of electrical energy, equipment enclosures, fencing, security devices, and other electrical and communications equipment necessary to condition and increase the voltage of electricity generated by the Turbines to make it suitable for transmission on, and to deliver it to, electrical transmission lines connected to the power grid.

"Transmission Facilities" means the Substation, batteries and other devices for storage of electrical energy, electrical transmission and telecommunications lines, cables, splice boxes, and all other devices and equipment used to connect the Turbines to electrical transmission lines connected to the power grid and to the Wind Farm's Met Towers and operations and maintenance facilities.

"Turbine" means a wind turbine generator used to convert wind energy to electrical energy together with the foundation and tower on which it is mounted, as well as a pad mounted transformer, batteries and other devices for storage of electrical energy serving the wind turbine generator located on the Turbine Site.

"Turbine Site" means each of those portions of Owner's Property on which a Turbine is located. Turbine Sites are identified and located as shown on **Exhibit B**.

"Wind Energy Purposes" means converting wind energy into electrical energy, collecting, storing, and transmitting that electrical energy, and all related development activities that FPLE reasonably determines appropriate ("Development Activities"). Development Activities include, without limitation, the right to study wind speed and feasibility of wind energy conversion on the Easement Properties; to construct, operate and maintain Turbines and Transmission Facilities; and to use the Access Rights.

"Wind Farm" means FPLE's Hancock County, Iowa Wind Farm project and includes all Wind Farm Improvements whether located on or off Owner's Property.

"Wind Farm Improvements" means the Turbines, Transmission Facilities, Met Towers, access roads, entrances, fences and gates, drainage systems, signs, information kiosk, operations and maintenance building, and all other structures, rights and facilities used in the construction, operation and maintenance of the Wind Farm.

#### 4. Term and Conditions Precedent

The term of the Easements ("Term") shall begin on the Effective Date and shall end December 31, 2028, unless renewed or terminated as provided in this agreement.

4.1 Owner's Conditions Precedent. This agreement shall be of no force and effect until Owner has reviewed and approved the location of all Wind Farm Improvements located on the Property as shown on the Easement Plan in **Exhibit B**. Owner shall evidence its disapproval of any such location by providing written notice of its objection to FPLE within 10 days of receipt of the Easement Plan.

4.2 FPLE's Conditions Precedent. This agreement shall be of no force and effect until FPLE is reasonably satisfied all of the following have occurred:

4.2(a) Receipt by FPLE of environmental consultants' reports confirming there are no environmental conditions on the Easement Properties that would interfere with the Wind Farm Improvements or cause FPLE to incur environmental liability.

4.2(b) Receipt by FPLE of easements from adjoining property owners as reasonably deemed necessary by FPLE to permit construction of the Wind Farm Improvements in the locations agreed by the parties.

4.2(c) Receipt by FPLE (after exhaustion of all administrative and judicial appeal rights) of all permits required for construction and operation of the Wind Farm Improvements comprising the Wind Farm, whether located on or off the Owner's Property.

4.2(d) Approval by FPLE of Owner's title to the Easement Properties based on title insurance commitments or title opinions obtained by FPLE at its expense.

4.2(e) Receipt by FPLE from third parties, such as mortgagees and tenants, of all subordination, non-disturbance and other agreements necessary as reasonably determined by FPLE to assure FPLE's right to undisturbed use and enjoyment of the Easement Properties according to the terms of this agreement.

4.2(f) Execution and regulatory approval of power purchase agreements ("PPAs") assuring FPLE of an adequate return on its investment in development, construction, operation maintenance and removal of the Wind Farm Improvements as determined by FPLE in its sole discretion.

4.2(g) Receipt by FPLE of the above items in sufficient time as reasonably determined by FPLE to complete construction of the Wind Farm Improvements on a safe and reasonable schedule and place them into service by December 31, 2002 or such earlier or later date as may be required by the PPAs.

4.2(h) The property shall have acceptable soil test results in order to install turbine site foundations as determined by FPLE.

4.2(i) Each Turbine shall have adequate wind as determined by FPLE in its sole discretion based on appropriate professional engineering and meteorological opinions.

4.3 Renewals. FPLE shall have the right to extend the Term of this agreement for up to five (5) years in accordance with the terms and provisions of this agreement ("Renewal Term") by providing written notice to Owner of FPLE's intent to extend the Term within 180 days of the end of the existing Term. The Renewal Term shall begin on the expiration date of the Term. Except for consideration to be paid by FPLE for the Turbine Site and Met Tower Site Easements, the terms and conditions contained in this agreement shall govern the Renewal Term. The Renewal Term consideration for the Turbine Site and Met Tower Site Easements shall be an amount to be agreed by the parties; no additional consideration shall be payable for the Construction, Access, Transmission, Wind Non-Obstruction, Noise and Overhang or other easements that are a part of this agreement. If the parties cannot agree on consideration to be paid for the Renewal Term, they shall select an MAI designated appraiser to determine the appropriate consideration which shall be the then current market rate consideration for similar Turbine Site and Met Tower Site Easements or leases affecting similar properties in the Midwest. If the parties cannot agree upon an appraiser, each shall select an MAI designated appraiser and the two appraisers thus selected shall select a third MAI designated appraiser with the average of the three appraisals thus obtained to be the consideration paid for the Renewal Term.

## **5. Grant of Easements**

Owner grants to FPLE and FPLE agrees to purchase from Owner and to use in compliance with the terms of this agreement the following easements (collectively, "Easements"). Each of the Easements granted is irrevocable and for the exclusive use and benefit of FPLE unless otherwise specified in this agreement. The Easements are granted subject to Owner's retained right to use the Easement Properties for agricultural uses that do not and will not interfere, in FPLE's sole determination, with the Wind Farm Improvements, FPLE's operations, or the enjoyment of the rights granted to FPLE in this agreement.

5.1 Turbine Site Easement Owner grants FPLE an easement to construct, operate, replace, relocate, remove, and maintain a Turbine, Transmission Facilities (other than a Substation), together with associated roads and parking areas on each Turbine Site identified and located as shown on the Easement Plan attached as **Exhibit B**. Each Turbine Site subject to the burden of this easement is referred to as a "Turbine Site Easement Property." After the Effective Date, crop loss or damage on Turbine Site Easement Properties is at Owner's risk. No damages will be paid for compaction on the Turbine Site Easement Properties.

5.2 Access Easement. Owner grants FPLE an easement on those portions of Owner's Property identified and located as shown on **Exhibit B** for unobstructed vehicular and pedestrian

ingress to and egress from the Wind Farm Improvements, whether located on or off Owner's Property. This easement is referred to as the "Access Easement" and the property subject to the burden of this easement is referred to as the "Access Easement Property." FPLE shall have the right to travel over, across and along the Access Easement Property by means of existing roads and lanes, and by roads FPLE or Owner may construct or improve from time to time on, over, and across the Access Easement Property.

Owner reserves the right to use all roads on the Access Easement Property provided, however, that Owner shall not and shall not permit others to obstruct or damage the roads or in any other way interfere with FPLE's rights under this Access Easement. If all or a part of the Access Easement Property constitutes a part of the width of a larger access easement straddling a property line between Owner's Property and the abutting property of another owner, then Owner grants the owner of the abutting property an easement over such portion of the Access Easement Property for ingress and egress to the abutting property for the conduct of farming activities on the abutting property.

5.3 Transmission Easement. Owner grants FPLE an easement for the construction, operation, maintenance, replacement, relocation or removal of Transmission Facilities (other than a Substation) on and under the Transmission Easement Property identified and located as shown on **Exhibit B**. Transmission Facilities located on the surface of the Transmission Easement Property shall be limited to junction boxes, if any, as and where shown on **Exhibit B**; all other Transmission Facilities shall be buried at least forty-eight (48) inches beneath the surface of the Transmission Easement Property.

5.4 Construction Easement. Owner grants FPLE an easement for purposes of constructing, maintaining, repairing, replacing, and removing all or any part or element of the Wind Farm Improvements whether located on or off Owner's Property and on an Owner's adjacent premises. This easement is referred to as the "Construction Easement" and the property subject to the burden of this easement is referred to as the "Construction Easement Property." The Construction Easement Property is identified and located as shown on **Exhibit B**. FPLE may exercise its right to use all or any part of the Construction Easement Property as and when FPLE deems it necessary or advisable to do so to perform the activities for which this Construction Easement is granted. After each use of the Construction Easement, FPLE to the extent reasonably possible shall restore the Construction Easement Property to the condition it was in before FPLE's use.

When installing or removing the rotor from any Turbine or when performing any other construction activity related to the project, whether located on or off of Owner's Property, this Construction Easement also shall permit FPLE use and access to Owner's property and adjacent premises in connection with all construction activities.

Each time FPLE exercises its rights under this Construction Easement it shall compensate Owner for all crops lost or destroyed by reason of the use, but in no case shall FPLE be required to pay more than a single, total crop loss in any one crop year on any given property. If a use of this Construction Easement causes significant compaction of all or a part of the Construction Easement Property, the

compensation paid by FPLE to Owner for that use shall be double the damages for the crops lost or destroyed in the area compacted as calculated below; in consideration of this payment no additional damages shall be paid in future years for that episode of compaction. Damages will be calculated by the following formula:  $\text{Price} \times \text{Yield} \times \text{Percentage of Damage} \times \text{Acreage} = \text{Damages}$ . Prices for damaged or destroyed crops will be based on the average of the last previous March 1<sup>st</sup> and September 1<sup>st</sup> Chicago Board of Trade prices for that crop. Yield will be the average of the previous three years' yields according to Owner's records for the smallest parcel of land that includes the damaged area. If Owner does not have yield records available, the parties will use FSA records or other commonly used yield information available for the area. The parties shall try in good faith to agree to the extent of damage and acreage affected. If they cannot agree, they shall have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent. Payment shall be made within 30 days after determining extent of damage.

5.5 Wind Non-Obstruction Easement. Owner grants FPLE an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed flow of wind currents over and across the Owner's Property as described in **Exhibit A** ("Wind Non-Obstruction Easement"). Owner shall not engage in any activity on Owner's Property that might interfere with wind speed or wind direction over any portion of any Turbine Site or Met Tower Site Easement Properties, whether located on or off the Owner's Property; cause a decrease in the output or efficiency of any Turbine or accuracy of any meteorological equipment; or otherwise interfere with FPLE's operation of the Wind Farm or exercise of any rights or the Easements granted in this agreement ("Interference"). Owner reserves the right to erect structures on Owner's Property in compliance with all applicable laws and ordinances except as specifically limited in this agreement. Owner must consult with and obtain FPLE's prior written approval as to the location of all structures greater than fifty (50) feet in height located six hundred fifty (650) or less from any Turbine or Met Tower whether located on or off the Owner's Property. Approval shall be based on whether, in FPLE's sole judgment, informed by appropriate professional engineering and meteorological opinions, the proposed structures at the proposed location are likely to cause Interference.

This grant of easement of the Wind Non-Obstruction Easement expressly includes the right of FPLE to enter on any part of Owner's Property to enforce FPLE's rights, including the physical removal of trees or structures (except existing trees and structures) causing interference to the project contemplated by FPLE. FPLE shall consult with Owner before making any such removals.

5.6 Noise Easement. Owner grants FPLE an easement for the right and privilege to generate and maintain audible noise levels in excess of fifty (50) dbA on and above the Noise Easement Property at any or all times of the day or night ("Noise Easement"). The "Noise Easement Property" shall mean that portion of the Owner's Property contained in a 650 foot radius circle centered on each Turbine, whether the Turbine is located on or off the Owner's Property, as identified and shown on **Exhibit B**. The Noise Easement Property shall not include any presently existing residences located on Owner's Property except with written consent from Owner. If noise levels emanating from the Turbines exceed fifty (50) dbA as measured at a presently existing residence on Owner's Property by an independent professional applying commonly accepted measurement instruments and standards, FPLE shall reduce the noise level to 50 dbA at the

residence. Measures to be taken by FPLE may include installing insulation or sound deadening material in the offending Turbine(s); installing landscaping, insulation, and sound deadening material at the residence; or, changing the operation of the Turbine(s) to reduce noise output.

5.7 Overhang Easement. Owner grants FPLE an easement for the right and privilege to permit the rotors of Turbines located on adjacent properties to overhang a portion of the Owner's Property identified and shown on **Exhibit B** (the "Overhang Easement Property") by no more than 110 feet at a height of at least 100 feet above the ground ("Overhang Easement"). Owner shall not interfere with the operation of Turbine rotors that overhang the Overhang Easement Property.

5.8 Met Tower Site Easement. Owner grants FPLE an easement to construct, operate, replace, relocate, remove, and maintain a Met Tower and Transmission Facilities (other than a Substation) on each Met Tower Site identified and located as shown on **Exhibit B**. Each Met Tower Site subject to the burden of this easement is referred to as a "Met Tower Site Easement Property." After the Effective Date, crop loss or damage on Met Tower Site Easement Properties is at Owner's risk. No damages will be paid for compaction on the Met Tower Site Easement Properties.

5.9 Met Tower Access Easement. Owner grants FPLE an easement for vehicular and pedestrian ingress and egress to and from the Met Tower ("Met Tower Access Easement"). This Met Tower Access Easement as identified and shown on **Exhibit B** is an extension of the Access Easement; however, FPLE shall not construct roads, lanes or other surface improvements in the Met Tower Access Easement except with the express written consent of Owner which consent will not be unreasonable withheld. Owner reserves the right to continue ordinary farming operations on the Met Tower Access Easement, but shall not otherwise obstruct or in any way interfere with FPLE's access or other rights under this Met Tower Access Easement. After each use of the Met Tower Access Easement, FPLE to the extent reasonably possible shall restore the Met Tower Access Easement to the condition it was in before FPLE's use. FPLE shall have the absolute right to remove or destroy crops growing in the Met Tower Access Easement as reasonably necessary to enjoyment of its Met Tower Access Easement rights provided it compensates Owner for the damage in the manner provided in the grant of Construction Easement.

## **6. Easement Purchase Price**

FPLE shall pay Owner the following amounts as the consideration for the Easements:

6.1 Down Payment. FPLE shall pay Owner a \$500.00 down payment on the purchase price of the Easements when Owner signs this agreement within fourteen (14) days of receipt of this Agreement by their attorney. The down payment shall be non-refundable, but shall be credited against the payment made to Owner at the Financial Closing.

6.2 Purchase Price. The purchase price for the Turbine Site Easements (each including 2,500 square feet for the Turbine Site and 20,000 square feet of Access Easement) and Met Tower Site Easements (each including all necessary Met Tower Access Easement) shall be paid in Annual Installment Payments in the amounts shown in the payment schedule attached as **Exhibit D**. Annual

Installment Payments for partial years shall be prorated based on the number of days in the partial year included in the Term or Renewal Term. If the Turbine Sites on Owner's Property require an average of more than twenty-two thousand five hundred (22,500) square feet of Turbine Site Easement and Access Easement per Turbine Site as finally identified and shown on **Exhibit C**, FPLE shall pay additional consideration at the per acre rate shown on **Exhibit D** for any additional acreage included in the Access Easement. After the parties have approved **Exhibit C**, **Exhibit D** shall be amended as necessary to conform to **Exhibit C** and any necessary payment adjustments shall be paid within thirty (30) days by FPLE or credited against the next payment due from FPLE to Owner. If a part of the Wind Farm Improvements is removed before the end of the Term or a Renewal Term, future Annual Installment Payments due on the purchase price of the Easements shall be reduced by the amount attributable to the Wind Farm Improvements removed. If a part of the Wind Farm Improvements remains after the end of the Term (or, if applicable, the final Renewal Term) FPLE shall continue to make Annual Installment Payments at the rate paid for the last year of the Term or Renewal Term until FPLE's Removal Obligations are fulfilled ("Removal Date").

6.3 Payment Schedule. The financial closing on purchase of the Easements ("Financial Closing") shall occur when all conditions precedent in Sections 4.1 and 4.2, above, are satisfied or waived, and all other documents required by FPLE have been signed and delivered by Owner. The purchase price for the Turbine Site and Met Tower Site Easements shall be payable in Annual Installment Payments. Annual Installment Payments shall be due on or before December 31<sup>st</sup> of each calendar year during the Term and any Renewal Terms. The final Annual Installment Payment shall be made on the last day of the Term (or, if applicable, the last day of the final Renewal Term) or on the Removal Date if that is earlier. The purchase price for all Easements except the Turbine Site and Met Tower Site Easements, in the amounts shown in **Exhibit D**, shall be paid in a single lump sum at the Financial Closing.

6.4 Increases in Annual Installment Payments If the payment option selected on **Exhibit D** provides for annual increases in the Annual Installment Payments, those payments shall be adjusted annually by the percentage change in the CPI. The adjustment shall be made every August 1st starting with 2003 and shall be determined before payment of each year's Annual Installment Payment. The Annual Installment Payment payable in a given year shall be calculated by multiplying by a fraction the Annual Installment Payment paid in the preceding year (annualized if less than a full year's Annual Installment Payment was paid). The numerator of the fraction shall be the CPI published for the month of July in the year the Annual Installment Payment is to be made, and the denominator shall be the CPI published for the month of July one year earlier. For example, Annual Installment Payment for the year 2003 shall be calculated by multiplying the Annual Installment Payment paid in 2002 by a fraction, the numerator of which is the CPI for July 2003, and the denominator the CPI for July 2002. The consistent two and one-half percent (2½%) per year increase in the CPI projected in **Exhibit D** is offered for illustrative purposes and not as an accurate projection of actual future changes in the CPI. The maximum payment per Turbine shall not exceed two thousand five hundred dollars (\$2,500) per year unless the Turbine is on a property line in which case the maximum payment shall not exceed two thousand one hundred seventy-five dollars (\$2,175).

## **7. Taxes**

FPLE shall pay any increase in the real property taxes on Easement Properties that is directly attributable to the installation of Wind Farm Improvements or to a reclassification of the Easement Properties because of creation of this agreement. FPLE shall request that the Wind Farm Improvements be separately assessed and that taxing authorities bill FPLE directly for taxes attributable to the Wind Farm Improvements. FPLE shall not be liable for taxes attributable to facilities installed by Owner or others on the Easement Properties, to the underlying value of the Easement Properties themselves, or for any increase due to any other cause. FPLE agrees to reimburse Owner for any taxes paid by Owner that are properly payable by FPLE under the terms of this agreement. To receive reimbursement, Owner must submit any real property tax bill to FPLE for reimbursement within thirty (30) days after Owner receives the bill from a taxing authority. The parties agree to fully cooperate to obtain any available tax refunds or tax abatements.

## **8. Other Payments to Owner**

In addition to payments for purchase of the Easements, FPLE shall make the following payments to Owner:

8.1 Payments from Third Parties and for Non-Wind Energy Purposes. FPLE shall pay to Owner ten percent (10%) of any rent received by FPLE from third parties such as telecommunications providers for equipment of the third party located on or in the Wind Farm Improvements. If FPLE locates its own telecommunications or other equipment not directly related to or used for Wind Energy Purposes on or in the Wind Farm Improvements, FPLE shall negotiate in good faith with Owner to reach agreement as to reasonable compensation to Owner for this additional use. This paragraph shall not be interpreted to require FPLE to pay Owner any amounts received by FPLE for sale of the electric power generated by the Wind Farm Improvements.

8.2 Payments for Crop Damage and Compaction on Easement Properties Before Effective Date. FPLE will pay Owner for crop loss or destruction or compaction on the Easement Properties due to FPLE's activities before the Effective Date according to the formula in the Construction Easement. Payment shall be made within 30 days after determining the extent of damage

## **9. FPLE's Duties and Representations**

9.1 Care and Appearance. FPLE shall at all times maintain the Wind Farm Improvements in a neat, clean and presentable condition. FPLE shall not willfully destroy Owner's Property and shall keep the Turbine Site, Met Tower Site, Access, Transmission and Construction Easement Properties clean and free of debris created by FPLE, its contractors, or others brought on to the Owner's Property by FPLE. FPLE shall be responsible for weed control on those portions of the Turbine Site, Met Tower Site, and Access Easement Properties not actively farmed by Owner or their tenant. FPLE shall not store materials on the Easement Properties except for storage of materials directly associated with active construction or maintenance activity.

9.2 Owner Approval of Plans Before beginning construction, FPLE shall consult with Owner and obtain Owner's approval of its site development plan for Owner's Property showing the location of all Wind Farm Improvements on Owner's Property including roads, cattle guards, and gates. If FPLE desires to locate the equipment of a third party such as a telecommunications provider in or on the Wind Farm Improvements, or if FPLE desires to locate its own telecommunications or other equipment not directly related to or used for Wind Energy Purposes in or on the Wind Farm Improvements, FPLE shall first consult with and obtain Owner's approval which will not be unreasonably withheld. Plans to satisfy FPLE's Removal Obligations shall be subject to Owner's review and approval before FPLE begins work on removal of Wind Farm Improvements located on Owner's Property.

9.3 Owner Approval of Disposition of Excavated Materials. FPLE will obtain Owner's approval as to removal of excavated materials from and disposition of excavated materials on the Easement Properties. All topsoil will be reserved and replaced on the Easement Properties unless otherwise agreed in advance by the parties. Any delay longer than three (3) business days shall be deemed an approval by Owner of construction decisions such as disposition of excavated materials.

9.4 Drainage Tiles. FPLE will repair any drainage tiles damaged by its activities on the Easement Properties and will pay crop damages if any crops are flooded due to tiles broken by FPLE's activities. The Owner shall notify FPLE within four crop years if they believe drainage tiles are broken as a result of FPLE's activities and have not been repaired properly by FPLE. In the event an owner fails to notify FPLE that they believe drainage tiles remain broken as provided in this paragraph, then FPLE shall have no further responsibility to repair said drainage tiles.

Should Owner desire to install drainage tiles that will cross a Turbine Site, a Met Tower Site, the Construction, Access, or Transmission Easement Properties, Owner shall first consult with FPLE and obtain FPLE's approval of the plans, specifications, exact depths and locations of the proposed tile prior to construction which approval may be withheld in FPLE's reasonable discretion. Because of danger of damage to FPLE's Wind Farm Improvements and the safety hazard to persons working in the vicinity of FPLE's electrical transmission lines, transformers and other equipment, Owner shall give FPLE at least five (5) days' notice as to when installation of the tile will take place within a Turbine Site, a Met Tower Site, the Construction, Access, or Transmission Easement Properties. Owner shall coordinate work in these areas so as to permit FPLE's representative to be present at all times tiling or excavation work is performed within these areas. Owner agrees to indemnify FPLE against all liability, including attorney fees and costs for personal injuries, property damage, and loss of business resulting from Owner's failure to comply with the requirements of this paragraph. If installation of the tile damages FPLE's roads, Owner at Owner's expense shall promptly repair the road to the condition it was in before installation of the tile. If Owner complies with the above notice and work coordination requirements, FPLE shall reimburse Owner up to \$500 per crossing for the actual additional costs incurred to install tile above or below FPLE's underground power line. FPLE will make no more than one such reimbursement per 1000 feet (or a prorated portion of \$500 for cable lengths of less than 1000 feet) of underground cable located within the Easement Properties during the Term of this agreement.

9.5 Fences and Gates. At Owner's request, FPLE shall repair or replace any fences, gates or cattle guards damaged or removed in connection with FPLE's activities on Owner's Property. Fences removed from the Easement Properties, if replaced, shall be re-built by FPLE at its expense in mutually agreeable locations off the Turbine Site, Met Tower Site, and Access Easement Properties. All fences, gates, and cattle guards that need to be replaced by FPLE shall be of similar type and materials to the ones removed. Once completed, all replacement fences, gates and cattle guards shall be owned and maintained by Owner. To minimize the need for temporary fencing, Owner will cooperate with FPLE to avoid pasturing animals on or near the Easement Properties during periods of construction, maintenance or removal activity by FPLE.

9.6 Insurance and Indemnity. FPLE shall maintain liability insurance insuring FPLE and Owner against loss caused by FPLE's use of the Easement Properties under this agreement. The amount of insurance shall be not less than One Million Dollars (\$1,000,000) of combined single limit liability coverage. FPLE shall provide certificates of this insurance coverage to Owner upon Owner's written request.

FPLE will indemnify and defend Owner against liability for injuries and claims for direct damage to the extent that they are caused by FPLE's exercise of rights granted in this agreement. This indemnity agreement does not cover losses of rent, business opportunities, crop production, profits and the like that may result from Owner's loss of use of the Easement Properties occupied by Wind Farm Improvements or affected by easement rights granted in this agreement. This indemnity agreement includes the following if asserted by third parties (other than Owner's immediate family or business entities or trusts in which Owner has any interest, a "Related Party") against Owner, but not if asserted by Owner or a Related Party against FPLE: (a) any claims for property damage or personal injuries attributable to risks of known and unknown dangers associated with electrical generating facilities, or (b) claims of nuisance based on interference with radio and television signal reception or the construction, appearance, sound, operation, maintenance or removal of the Wind Farm Improvements. Owner authorizes FPLE to take reasonable safety measures to reduce the risk that the Wind Farm Improvements will cause harm or injury to people, livestock, other animals and property.

9.7 Requirements of Governmental Agencies. FPLE shall comply in all material respects with valid laws applicable to the Wind Farm Improvements. FPLE shall have the right, in its sole discretion and at its sole expense, in its name or Owner's name, to contest the validity or applicability to the Easement Properties or Wind Farm Improvements of any law, ordinance, statute, order, regulation, property assessment or the like made by any governmental agency or entity. FPLE shall control any such contest and Owner shall cooperate with FPLE in every reasonable way in such contest, at no out-of-pocket expense to Owner.

9.8 Mechanic's Liens. FPLE shall not permit any mechanic's liens arising out of FPLE's use of the Easement Properties under this agreement to be filed against the Easement Properties. If FPLE wishes to contest any such lien, FPLE shall, within sixty (60) days after it receives notice of the lien, provide a bond or other security Owner may reasonably request, or remove such lien from the Easement Properties in the manner provided by applicable law.

9.9 Hazardous Materials. FPLE shall not violate, and agrees to indemnify Owner against, any violation on the Easement Properties by FPLE, its agents or contractors, of any applicable law or regulation relating to any substance, material or waste classified as hazardous or toxic, or which is regulated as waste.

9.10 Remediation of Glare and Shadow Flicker. FPLE agrees that should Owner experience problems with glare or shadow flicker in Owner's house associated with the presence of the Turbines on Owner's Property or adjacent properties, FPLE will promptly investigate the nature and extent of the problem and the best methods of correcting any problems found to exist. FPLE at its expense, with agreement of Owner, will then promptly undertake measures such as tree planting or installation of awnings necessary to mitigate the offending glare or shadow.

9.11 Removal of Wind Farm Improvements. Owner shall have no ownership or other interest in any Wind Farm Improvements installed on the Easement Properties, and FPLE shall have the express right, at any time and in its sole discretion, to remove one or more Turbines or other Wind Farm Improvements from the Easement Properties. Owner expressly waives any statutory or common law liens to which Owner might be entitled. Upon full or partial termination of any of the Easements, FPLE shall remove all physical material pertaining to the Wind Farm Improvements from the affected Easement Properties to a depth of forty-eight inches (48") beneath the soil surface, and restore the area formerly occupied by the Wind Farm Improvements to substantially the same physical condition that existed immediately before the construction of the Wind Farm Improvements (the "Removal Obligations"). If FPLE fails to complete its Removal Obligations within twelve (12) months of full or partial termination of the applicable Easement, Owner may do so, in which case FPLE shall reimburse Owner for reasonable costs of fulfilling FPLE's Removal Obligations incurred by Owner, less any salvage value reasonably recoverable by Owner.

## **10. Owner's Duties and Representations**

10.1 Owner's Authority. Owner is the sole owner of the Owner's Property including the Easement Properties and has the unrestricted right and authority to sign this agreement and to grant FPLE the Easements and other rights granted in this agreement. When signed by both parties, this agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.

10.2 Exclusivity. Owner agrees that FPLE shall have the exclusive right to convert all of the wind resources of the Owner's Property. Owner's activities and any grant of rights Owner makes to any third party, whether located on the Easement Properties or elsewhere, shall not, now or in the future, interfere in any way with FPLE's exercise of any rights granted under this agreement.

10.3 Liens and Tenants. Owner shall provide FPLE with all information reasonably required for FPLE, at its expense, to identify all liens and other exceptions to Owner's fee title ownership of the Easement Properties (collectively, "Liens;" holders of Liens and tenants are referred to as "Lienholders"). Owner represents and warrants that they have disclosed all other

leases, easements, or other encumbrances affecting the Easement Properties other than as set forth in the Title Opinions prepared by FPLE's attorneys. Owner shall cooperate with FPLE to obtain a non-disturbance agreement from each Lienholder (recorded or unrecorded), prepared by FPLE's attorneys, which provides that the Lienholder shall not disturb FPLE's possession or rights under this agreement or terminate this agreement or the Easements so long as Owner is not entitled to terminate this agreement or the Easements. Owner warrants and represents that it has disclosed to FPLE and its attorneys all leases, easements, and other encumbrances that affect the property and which have not been recorded at the time the Abstract of Title has been updated. If FPLE and Owner are unable to obtain a non-disturbance agreement from a Lienholder, FPLE shall be entitled (but not obligated) to withdraw from this agreement or to make payments in fulfillment of Owner's obligations to the Lienholder and may deduct the amount of such payments from amounts due to Owner under this agreement.

10.4 Requirements of Governmental Agencies. Owner shall assist and fully cooperate with FPLE, at no out-of-pocket expense to Owner, in complying with or obtaining any zoning and land use permits and approvals, building permits, environmental impact reviews or any other approvals required for the financing, construction, installation, replacement, relocation, maintenance, operation or removal of the Wind Farm Improvements, including execution of applications for such approvals.

10.5 Indemnity. Owner agrees to indemnify and hold harmless FPLE, its agents, employees, successors, and assigns against all personal injuries, liabilities, causes of actions, and claims, including attorneys fees to the extent caused by the operations or activities of Owner or Owner's invitees, employees, agents, contractors or tenants.

10.6 Hazardous Materials. Owner represents and warrants to the best of Owner's knowledge and belief that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Easement Properties; that the Easement Properties do not contain levels of petroleum or hazardous substances which require remediation; and, that the Easement Properties are not subject to any judicial or administrative action, investigation or order under any applicable environmental laws or regulations. Owner warrants that Owner has done nothing to contaminate the Easement Properties with petroleum, hazardous substances or wastes. Owner agrees to indemnify and hold FPLE harmless against any claims or losses resulting from violation of any applicable environmental laws, except those resulting from FPLE's activities on the Easement Properties.

## **11. Development and Use Restrictions**

In consideration of the payments made by FPLE to purchase the Easements Owner imposes the following development and use restrictions (collectively "Restrictive Covenants") on those portions of Owner's Property described in each of the Restrictive Covenants.

11.1 Hunting. FPLE and Owner shall agree on appropriate measures with respect to hunting and the discharge of firearms on and near the Easement Properties to ensure the safety of FPLE's site personnel and the protection of Wind Farm Improvements on the Easement Properties during and after construction of the Wind Farm Improvements.

11.2 Snowmobiling. Owner shall retain control of access to Owner's Property and may allow Owner's guests to use the Owner's Property and the Easement Properties, except the Turbine and Met Tower Site Properties, for recreational purposes except at times or under circumstances that adversely affect public health and safety or operation and safety of the Wind Farm Improvements. FPLE and Owner shall agree on appropriate measures with respect to use of snowmobiles on and in the vicinity of the Easement Properties to ensure the safety of Owner's guests, FPLE's site personnel, and the protection of Wind Farm Improvements on the Easement Properties during and after construction of the project.

## **12. Termination**

12.1 FPLE's Right to Terminate. FPLE shall have the right to terminate this agreement as to all or any part of the Easement Properties, or as to any Turbine or other Wind Farm Improvement, at any time, effective upon thirty (30) days' written notice to Owner.

12.2 Owner's Right to Terminate. Except as specifically allowed by this Section 12, this agreement and the Easements shall not be terminable by Owner under any circumstances. Owner's sole remedy for FPLE's breach of its duties under this agreement (except its duty to timely pay Annual Installment Payments and failure to timely fulfill its Removal Obligations after termination under Section 9.11) shall be an action at law or in equity for money damages or specific performance.

Except as qualified by Sections 13 and by Section 14, and notwithstanding any other provisions of this agreement, Owner shall have the right to terminate this agreement and the Easements only as to those Easement Properties where: (a) a material default in the payment by FPLE of Annual Installment Payments under this agreement shall have occurred and remains uncured; (b) Owner simultaneously gives FPLE and all Mortgagees and Assignees written notice of the default setting forth in reasonable detail the facts pertaining to the default and specifying the method of cure; and, (c) the default shall not have been remedied within thirty (30) days after FPLE, or within ninety (90) days in the case of all Assignees and Mortgagees, receives the written notice.

12.3 Effect of Termination. Upon full or partial termination of this agreement, whether as to all of the Easement Properties or only as to some or parts of the Easement Properties, FPLE shall: (a) upon written request by Owner, execute and record a quitclaim deed to Owner of all of FPLE's right, title and interest in the Easement Properties, or in those parts of the Easement Properties as to which this agreement has been terminated, and (b) as soon as reasonably practicable after termination, remove all Wind Farm Improvements from those Easement Properties as to which this agreement was terminated in compliance with its Removal Obligations.

## **13. Financing and Assignment by FPLE**

13.1 Right to Mortgage and Assign. FPLE may, upon notice to Owner, without Owner's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests

in all or any part of its interest in this agreement, the Easements, the Easement Properties, or the Wind Farm Improvements (collectively, its "Wind Farm Assets"). These various security interests in all or a part of the Wind Farm Assets are collectively referred to as "Mortgages" and the holders of the Mortgages, their designees and assigns are referred to as "Mortgagees." FPLE shall also have the right without Owner's consent to sell, convey, lease, or assign all or any portion of its Wind Farm Assets on either an exclusive or a non-exclusive basis, or to grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, "Assignment"), to one or more persons or entities (collectively, "Assignees"). Assignees and Mortgagees shall use the Wind Farm Assets only for the uses permitted under this agreement. Assignees and Mortgagees shall have all rights and remedies allowed them under then existing laws except as limited by their individual agreements with FPLE, provided that **under no circumstances shall any Mortgagee or Assignee have any greater rights of ownership or use of Owner's Property than the rights granted to FPLE in this agreement.**

13.2 Owner Obligations. Owner agrees to consent in writing to financing documents as may reasonably be required by Mortgagees. As a precondition to exercising any rights or remedies related to any alleged default by FPLE under this agreement, Owner shall give written notice of the default to each Mortgagee and Assignee at the same time it delivers notice of default to FPLE, specifying in detail the alleged event of default and the required remedy. Each Mortgagee and Assignee shall have the same amount of time to cure the default as to FPLE's entire interest or its partial interest in the Wind Farm Assets as is given to FPLE and the same right to cure any default as FPLE or to remove any property of FPLE, Mortgagees or Assignees located on the Easement Properties. The cure period for each Mortgagee and Assignee shall begin to run at the end of the cure period given to FPLE in this agreement, but in no case shall the cure period for any Mortgagee or Assignee be less than ninety (90) days after receipt of the default notice. Failure by Owner to give a Mortgagee or Assignee notice of default shall not diminish Owner's rights against FPLE, but shall preserve all rights of the Mortgagee or Assignee to cure any default and to remove any property of FPLE, the Mortgagee or Assignee located on the Easement Properties.

13.3 Mortgagee/Assignee Obligations. Any Mortgagee or Assignee that does not directly hold an interest in the Wind Farm Assets, or whose interest is held solely for security purposes, shall have no obligation or liability under this agreement prior to the time the Mortgagee or Assignee directly holds an interest in this agreement, or succeeds to absolute title to FPLE's interest. A Mortgagee or Assignee shall be liable to perform obligations under this agreement only for and during the period it directly holds such interest or absolute title. Any Assignment permitted under this agreement shall release FPLE or other assignor from obligations accruing after the date that liability is assumed by the Assignee.

13.4 Right to Cure Defaults/Notice of Defaults/Right to New Easement.

13.4(a) To prevent termination of this agreement, the Easements, or any partial interest in this agreement and the Easements, FPLE, any Mortgagee or Assignee shall have the right, but not the obligation, at any time to perform any act necessary to cure any default and to prevent the termination of this agreement or any interest in the Wind Farm Assets.

13.4(b) In the event of an uncured default by the holder of FPLE's entire interest in this agreement, or in the event of a termination of this agreement by agreement, by operation of law or otherwise, each Mortgagee or Assignee of a partial interest in the Wind Farm Assets that is not in default of its obligations, shall have the right to have Owner either recognize the Mortgagee's or Assignee's interest or grant new easements substantially identical to the Easements. Under the new easements, the Mortgagee or Assignee shall be entitled to, and Owner shall not disturb, Mortgagee's or Assignee's continued use and enjoyment for the remainder of the Term (or the Renewal Term), or such shorter term as an Assignee may otherwise be entitled pursuant to its Assignment.

13.5 Extended Cure Period. If any default by FPLE under this agreement cannot be cured without obtaining possession of all or part of the Wind Farm Assets, then any such default shall be deemed remedied if a Mortgagee or Assignee: (a) within ninety (90) days after receiving notice from Owner as set forth in Section 13.2, acquires possession of all or part of the Wind Farm Assets, or begins appropriate judicial or nonjudicial proceedings to obtain the same; (b) diligently prosecutes any such proceedings to completion; and (c) after gaining possession of all or part of the Wind Farm Assets performs all other obligations as and when the same are due in accordance with the terms of this agreement. If a Mortgagee or Assignee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the ninety (90) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

13.6 Certificates, etc. Owner shall execute 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 FPLE or any Mortgagee or Assignee may reasonably request from time to time. Owner and FPLE shall cooperate in amending this agreement from time to time to include any provision that may be reasonably requested by FPLE or any Mortgagee or Assignee to implement the provisions contained in this agreement or to preserve a Mortgagee's security interest.

#### **14. Mortgage Protection**

Any Mortgagee, upon delivery to Owner of notice of its name and address, for so long as its Mortgage is in existence shall be entitled to the following protections which shall be in addition to those granted elsewhere in this agreement:

14.1 Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Mortgagee shall have the absolute right (a) to assign its Mortgage; (b) to enforce its lien and acquire title to all or any portion of the Wind Farm Assets by any lawful means; (c) to take possession of and operate all or any portion of the Wind Farm Assets and to perform all obligations to be performed by FPLE under this agreement, or to cause a receiver to be appointed to do so; and (d) to acquire all or any portion of the Wind Farm Assets by foreclosure or by an assignment in lieu of foreclosure and thereafter without Owner's consent to assign or transfer all or any portion of the Wind farm Assets to a third party.

#### 14.2 Opportunity to Cure.

14.2(a) During any period of possession of the Easement Properties by a Mortgagee (or a receiver requested by a Mortgagee) and/or while any foreclosure proceedings instituted by a Mortgagee are pending, the Mortgagee shall pay or cause to be paid the fees and all other monetary charges payable by FPLE under this agreement which have accrued and are unpaid at the commencement of the period and those which accrue thereafter during the period. Following acquisition of all or a portion of the Wind Farm Assets by the 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 Mortgagee or party acquiring title to FPLE's Easement shall, as promptly as reasonably possible, commence the cure of all defaults under this agreement and thereafter diligently process such cure to completion, whereupon Owner's right to terminate this agreement based upon such defaults shall be deemed waived; provided, however, that the Mortgagee or party acquiring title to FPLE's Easement 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 Owner upon completion of foreclosure proceedings or acquisition of FPLE's interest in this agreement by such party.

14.2(b) Any Mortgagee or other party who acquires FPLE's interest in the Wind Farm Assets pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on FPLE by this agreement incurred or accruing after the party no longer has ownership or possession of the Wind Farm Assets.

14.2(c) Neither the bankruptcy nor the insolvency of FPLE shall be grounds for terminating this agreement as long as all Annual Installment Payments and all other monetary charges payable by FPLE under this agreement are paid by the Mortgagee in accordance with the terms of this agreement.

#### 14.3 New Easement.

14.3(a) If this agreement terminates because of FPLE's default, if the Easements are foreclosed, 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, FPLE or any Mortgagee or Assignee shall have arranged to the reasonable satisfaction of Owner for the payment of all fees or other charges due and payable by FPLE as of the date of such event, then Owner shall execute and deliver to FPLE or such Mortgagee or Assignee or to a designee of one of these parties, as the case may be, new easements to the Easement Properties which (i) shall be for a term equal to the remainder of the Term (or the Renewal Term, if applicable) 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 FPLE or any Mortgagee or Assignee prior to rejection or termination of this agreement); and, (iii) shall include that portion of the Wind Farm Assets in which FPLE or such other Mortgagee or Assignee had an interest on the date of rejection or termination.

14.3(b) After the termination, rejection or disaffirmation of this agreement and during the period thereafter during which any Mortgagee shall be entitled to enter into new easements for the Easement Properties, Owner will not terminate the rights of any Assignee unless in default under its Assignment.

14.3(c) If more than one Mortgagee makes a written request for new easements pursuant to this provision, the new easements shall be delivered to the Mortgagee requesting such new easements whose Mortgage is prior in lien, and the written request of any other Mortgagee whose lien is subordinate shall be void and of no further force or effect.

14.3(d) The provisions of this Section 14 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 14 were a separate and independent contract made by Owner, FPLE and each 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 easements, such Mortgagee may use and enjoy the Easement Properties without hindrance by Owner or any person claiming by, through or under Owner; provided that all of the conditions for the new easements as set forth above are complied with.

14.4 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 Mortgagee, this agreement shall not be modified or amended, and Owner shall not accept a surrender, cancellation or release of all or any part of the Wind Farm Assets from FPLE, prior to expiration of the Term (or Renewal Term, if applicable) without the prior written consent of the Mortgagee. This provision is for the express benefit of and shall be enforceable by each Mortgagee as if it were a party named in this agreement.

14.5 No Merger. There shall be no merger of this agreement or of the Easements with the fee estate in the Easement Properties by reason of the fact that this agreement or any interest in the Easements may be held, directly or indirectly, by or for the account of any person or persons who shall own any interest in the fee estate. No merger shall occur unless and until all persons at the time having an interest in the fee estate in the Easement Properties and all persons (including each Mortgagee) having an interest in this agreement or in the estate of Owner and FPLE shall sign and record a written instrument effecting such merger.

14.6 Liens. On the commencement of the Term, the Easement Properties shall be free and clear of all monetary liens other than those expressly approved by FPLE. Thereafter, any assignment of this agreement, mortgage, deed of trust or other monetary lien placed on the Easement Properties by Owner, or permitted by Owner to be placed or to remain on the Easement Properties, shall be subject to this agreement, to any Assignment or Mortgage then in existence on the Wind Farm Assets as permitted by this agreement, to FPLE's right to encumber the Wind Farm Assets, and to any and all documents executed or to be executed by Owner in connection with FPLE's development of all

or any part of the Easement Properties. Owner agrees to cause any monetary liens placed on the Easement Properties by Owner in the future to incorporate the conditions of this Section 14.6.

14.7 Further Amendments At FPLE's request, Owner shall amend this agreement to include any provision which may reasonably be requested by a proposed Mortgagee, provided, however, that such amendment does not impair any of Owner's rights under this agreement or substantially increase the burdens or obligations of Owner under this agreement. Upon the request of any Mortgagee, Owner shall execute any additional instruments reasonably required to evidence such Mortgagee's rights under this agreement.

## 15. Notices

All notices or other communications required or permitted by this agreement shall be in writing. Notices and payments to Owner, shall be deemed given or made when personally delivered; five (5) days after deposit in the United States mail, first class, postage prepaid, certified; or, one (1) business day after dispatch by Federal Express or other overnight delivery service of national scope, addressed as follows:

Owner: Julie Cashman f/k/a Julie Petitgout, a single person,

Telephone: (305) 872-1780

Fax:

E-mail:

Address: 29072 Cedar Drive  
Big Pine Key, FL 33043

### FPLE:

FPL Energy, LLC  
700 Universe Boulevard  
Juno Beach, FL 33408-2683  
Telephone: (561) 691-7171  
Fax: (561) 691-7177

Attn: Business Manager

Any Assignee or Mortgagee:

The address of the Assignee or Mortgagee as shown in the recorded instrument evidencing the Assignment or Mortgage

Any party may change its address for purposes of this paragraph by giving written notice of the change to the other parties in the manner provided in this paragraph.

## 16. Miscellaneous

16.1 Unavoidable Delays. If either party is delayed, hindered in or prevented from performing any act required under this agreement by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, natural disasters, war, civil strife or other violence, the affected party, upon giving notice to the other party, shall be excused from performing the act (except payment of consideration) for the period of the delay. The affected party shall use its reasonable efforts to avoid or remove the causes of nonperformance and shall continue performance whenever the causes for nonperformance are removed.

16.2 Confidentiality. Owner shall not disclose to others (except Owner's family, legal counsel, prospective Mortgagees and Assignees, and financial advisors who recognize and agree to preserve and maintain the confidentiality of such information) the terms of this agreement and information about FPLE's methods, power production, or availability of Wind Farm Improvements unless the information is already in the public domain. Owner also agrees not to use such information for Owner's own benefit or permit its use by others for their benefit or to the detriment of FPLE.

16.3 Runs With the Land. The Easements and any restrictions in this agreement shall run with the land affected and shall be binding on, and inure to the benefit of, Owner and FPLE, Mortgagees, Assignees, and their respective successors and assigns, heirs, personal representatives, tenants, or persons claiming through them.

16.4 Memorandum. Owner and FPLE shall execute in recordable form, and FPLE at its expense shall then record, a memorandum of this agreement satisfactory in form and substance to FPLE and Owner. Owner consents to the recordation of the interest of any Mortgagee or Assignee in the Easement Properties.

16.5 Entire Agreement/Amendments. This agreement constitutes the entire agreement between Owner and FPLE respecting its subject matter and replaces and supersedes any prior agreements. Any agreement, understanding or representation respecting the subject matter of this agreement not expressly set forth in this agreement or a later writing signed by both parties, is null and void. This agreement and the Easements shall not be modified or amended except in a writing signed by the parties or their successors in interest.

The parties understand that following construction of the Wind Farm Improvements it will be necessary to amend this agreement to substitute **Exhibit C** for **Exhibit B**. The parties agree to cooperate in this approval and substitution of exhibits and in executing any additional agreements or amendments reasonably needed by the parties for their business purposes so long as they do not adversely affect the rights of either party or violate the terms and spirit of this agreement.

16.6 Legal Matters. This agreement shall be governed by and interpreted in accordance with the laws of the State of Iowa. In the event that litigation is filed regarding this agreement, said litigation shall be filed solely in the Iowa District Court for Hancock County, Iowa. The parties agree to first attempt to settle any dispute arising out of or in connection with this agreement 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.** The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this agreement. In any dispute arising out of or in connection with this agreement, a party that obtains an award substantially the same as the award sought shall be entitled to payment of its reasonable attorneys' fees in connection with the action. Time is of the essence with regard to the terms and conditions of this agreement.

16.7 Partial Invalidity. Should any provision of this agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions of this agreement shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this agreement, the parties agree that in no event shall the Term (or a Renewal Term, if applicable) be for longer periods than the longest periods permitted by applicable law.

16.8 Tax Credits. If under applicable law FPLE becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, state or federal government, then, at FPLE's option, Owner and FPLE shall amend this agreement or replace it with a different instrument so as to convert FPLE's interest in the Easement Properties to a substantially similar interest that makes FPLE eligible for such tax credit, benefit or incentive.

16.9 Approvals. No approval required by this agreement shall be unreasonably delayed. Unless a longer or shorter time is specified, all approvals required of either party shall be given or refused in writing within ten (10) days after receipt of the request for approval. Any delay of a requested approval longer than ten (10) business days shall be deemed an approval. Approvals shall not be unreasonably withheld except in instances where this agreement specifically permits a party to act in its sole discretion.

16.10 Authorization of Other Users. FPLE in its discretion may authorize other persons or entities to use the Easement Properties for the purposes stated in this agreement.

16.11 Lateral Support. FPLE shall have and exercise the right of subjacent and lateral support for Wind Farm Improvements on the Easement Properties to whatever extent is necessary for the safe construction, operation and maintenance of Wind Farm Improvements. Owner expressly covenants that Owner shall not excavate so near the sides of or underneath the Wind Farm Improvements as to undermine or otherwise adversely affect their stability.

FPLE

By: \_\_\_\_\_

Dean Gosselin, Vice President

OWNER(S)

Julie Cashman  
Julie Cashman f/k/a Julie Petitgout

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







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EXHIBIT A  
PETITGOUT NO. 4

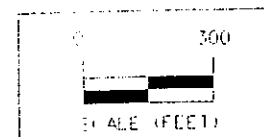
The North One-half (N ½) of Section Twenty-two (22), Township Ninety-four (94) North, Range Twenty-four (24), West of the Fifth Principal Meridian, Hancock County, Iowa.

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**Petitigout (Cashman), Julie**  
#4

- LEGEND
- |   |                          |
|---|--------------------------|
|  | TURBINE                  |
|  | TURBINE SITE EASEMENT    |
|  | CONSTRUCTION EASEMENT    |
|  | 20' ACCESS EASEMENT      |
|  | 1000' SETBACK FROM HOMES |
|  | BURIED COLLECTION LINE   |
|  | ELEC. JUNCTION BOX       |
|  | OVERHEAD COLLECTION LINE |
|  | TURBINE NUMBER           |

ISSUE DATE  
AUGUST 26, 2002



**HANCOCK COUNTY WINDFARM - FPL ENERGY  
EXHIBIT B**

**EXHIBIT D**  
**CIEMME SITE - PROPERTY #4A, JULIE CASHMAN**

**SNYDER & ASSOCIATES**



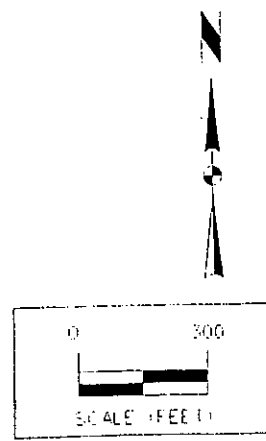
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Sheet of



- LEGEND**
- TURBINE
  - TURBINE SITE EASEMENT
  - CONSTRUCTION EASEMENT
  - 20' ACCESS EASEMENT
  - 1000' SETBACK FROM HOMES
  - BURIED COLLECTION LINE
  - ELEC. JUNCTION BOX
  - OVERHEAD COLLECTION LINE
  - 10-30 TURBINE NUMBER

ISSUE DATE  
AUGUST 26, 2002



HANCOCK COUNTY WINDFARM - FPL ENERGY		Sheet of	
KLEMM SITE - PROPERTY #4B, JULIE CASHMAN		100.0190 8-	
SNYDER & ASSOCIATES		Sheet of	
ATLANTA, GA 30308 1000 WHITE ST. SW. 770-538-0000		JULIE CASHMAN 1000 WHITE ST. SW. 770-538-0000	

**HOLDING PAGE FOR EXHIBIT C**

As Built Easement Plan

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## 25 YEAR PAYMENT SCHEDULE

Assumptions	
CPI (Inflation Rate)	2.50%

6 WTGs  
0 WTGs (on property line)

Payment No	Payment Due Date	Annual WTG & Access Easement Payments		Additional Access Road Annual Payments	Additional Annual Payments	Additional One-Time Payments	Total Landowner Payment
		WTGs Payments	WTGs (on property line) Payments				
1 (*)	8/1/02	\$12,000.00	\$0.00	\$0.00	\$0.00	\$5,520.00	\$17,520.00
2	8/1/03	\$12,300.00	\$0.00	\$0.00	\$0.00		\$12,300.00
3	8/1/04	\$12,607.50	\$0.00	\$0.00	\$0.00		\$12,607.50
4	8/1/05	\$12,922.69	\$0.00	\$0.00	\$0.00		\$12,922.69
5	8/1/06	\$13,245.75	\$0.00	\$0.00	\$0.00		\$13,245.75
6	8/1/07	\$13,576.90	\$0.00	\$0.00	\$0.00		\$13,576.90
7	8/1/08	\$13,916.32	\$0.00	\$0.00	\$0.00		\$13,916.32
8	8/1/09	\$14,264.23	\$0.00	\$0.00	\$0.00		\$14,264.23
9	8/1/10	\$14,620.83	\$0.00	\$0.00	\$0.00		\$14,620.83
10	8/1/11	\$14,986.36	\$0.00	\$0.00	\$0.00		\$14,986.36
11	8/1/12	\$15,000.00	(**)	\$0.00	\$0.00		\$15,000.00
12	8/1/13	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
13	8/1/14	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
14	8/1/15	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
15	8/1/16	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
16	8/1/17	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
17	8/1/18	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
18	8/1/19	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
19	8/1/20	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
20	8/1/21	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
21	8/1/22	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
22	8/1/23	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
23	8/1/24	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
24	8/1/25	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
25	8/1/26	\$15,000.00	\$0.00	\$0.00	\$0.00		\$15,000.00
<b>Totals</b>							<b>\$364,960.58</b>

(\*) - Note: For the first payment, half is paid after ground breaking (approx. Sept.), and the other half is paid after Commercial Operation (approx. 12/31/02).

(\*\*) - Note: WTG annual payments will escalate with inflation up to a cap amount of \$2,500/WTG, or \$2,175/WTG (if on property line).