

INVENERGY WIND LLC – FOLEY EXHIBIT A

**PURCHASE AGREEMENT FOR
WIND ENERGY AND RECS**

This Purchase Agreement for Wind Energy and RECs ("Agreement") is entered into as of _____, 2006, by and between _____, a _____ corporation with _____, a **limited liability company** with principal offices located at _____ ("Generator"), and Commonwealth Edison Company, an Illinois corporation with principal offices located at 440 South LaSalle, Suite 3300, Chicago, Illinois 60605 ("ComEd" or the "Company"). ComEd and the Generator are hereinafter sometimes referred to collectively as the "Parties", and individually as a "Party".

RECITALS

WHEREAS, ComEd is a public utility and an electric utility under the Illinois Public Utilities Act;

WHEREAS, the Governor of the State of Illinois proposed a Sustainable Energy Plan ("Plan") that was reviewed and endorsed by the Illinois Commerce Commission ("ICC") in a Resolution dated July 19, 2005, in Docket No. 05-0437 ("Resolution");

WHEREAS, the Resolution encouraged electric utilities like ComEd to obtain Renewable Energy Resources in an amount equal to 2% of its retail load obligation in 2007, and stated that 75% of the renewable energy used to meet this voluntary standard should come from wind power;

WHEREAS, the Resolution further stated that any entity participating in the Plan should procure such renewable energy through arms-length transactions;

WHEREAS, in ICC Docket No. 05-0159, the Commission approved ComEd's proposal to procure full requirements supply through an auction process and ComEd will not need to procure additional Energy for retail supply;

WHEREAS, on or about April 4, 2006, ComEd filed a Petition with the ICC seeking various approvals related to the entry into competitively procured power purchase agreements for wind energy and associated RECs ("Petition"), and the ICC approved such Petition on _____, 2006, in Docket No. _____

WHEREAS, Generator is the owner of, or plans to construct, a wind generation facility ("Facility") that utilizes wind power induction generators; and

WHEREAS, in order to proceed with the transactions outlined in the Petition and approved by the Commission, ComEd wishes to enter into a power purchase agreement with Generator to purchase Energy and RECs from the Facility in accordance with the terms herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, ComEd and Generator agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Any capitalized or abbreviated term not elsewhere defined in this Agreement shall have the definition set forth in this Article 1. To the extent this Article '1 defines a term with reference to a document other than this Agreement: (i) if the definition of such term in that document changes, the definition of that term as it is used in this Agreement also shall change, and (ii) if that document no longer uses such term, the term as used in this Agreement shall be defined in accordance with common industry practice, unless otherwise specified herein.

As used in this Agreement, the following terms shall have the respective meanings set forth below.

"Affiliate" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question.

"Agreement" means this Purchase Agreement for Wind Energy and RECS. "Alternate" has the meaning provided in Section 3.9.

"Ancillary Services" means spinning reserve, non-spinning reserve, voltage support, and any and all similar or related services capable of being provided by the Facility, to the extent commonly sold or saleable (or used or usable) in the electric power generation or transmission industry from time to time.

"Applicable Percentage" means the portion of the output of the Facility to which the Company is entitled under this Agreement. The "Applicable Percentage" shall be equal to the Contract Amount divided by the Nameplate Capacity Rating and is listed on Exhibit 1.

"Authorized Representative" has the meaning provided in Section 3.9.

"Bankruptcy Code" means those laws of the United States of America related to bankruptcy, codified and enacted as Title 11 of the United States Code, entitled "Bankruptcy" and found at 11 U.S.C. § 101 et ~~sect~~sec.

"Billing Period" means each Month during the Term.

"Bus" means an interconnection point on the Grid.

"Business Day" means a day on which Federal

Reserve member banks in Chicago, Illinois are open for business; beginning at 0800 CPT and ending at 1700 CPT.

"ComEd" means Commonwealth Edison Company.

"Commercial Operation" shall occur for a wind turbine when (i) the Interconnection Agreement has been executed and delivered, (ii) such wind turbine is able to generate Excess Electricity and deliver such Excess Electricity to the Delivery Point, (iii) such wind turbine has been Commissioned, and (iv) all related facilities and rights have been completed or obtained, including such facilities and rights contemplated by the Interconnection Agreement, to allow regular operation of such wind turbine.

"Commercial Operation Date" means the date designated by Generator as the first date that a sufficient number of wind turbines at the Facility are in Commercial Operation so as to meet the Nameplate Capacity Rating, which date will be no earlier than the day following the day on which (i) the Facility has been Commissioned, and (ii) all related facilities and rights have been completed or obtained, including such facilities and rights contemplated by the Interconnection Agreement, to allow regular operation ~~for 8,760 hours of a year, less hours allowed for Planned Outages.~~

"Commercial Operation Date Milestone" shall have the meaning set forth in Section 3.10 and Exhibit 2.

"Commercially Reasonable Efforts" means, with respect to any action required to be made, attempted or taken by a Party under this Agreement, the level of effort in light of the facts known to such Party at the time a decision is made that: (i) can reasonably be expected to accomplish the desired action at a reasonable cost, (ii) is consistent with Prudent Utility Practices, and (iii) takes into consideration the amount of notice of the need to take such action, the duration and type of action, the regulatory and statutory obstacles involved, the parties opposing such action, and the competitive environment in which such action occurs.

"Commissioned," as to any equipment, means that such equipment has been functionally tested to ensure that it meets its manufacture and design specifications and is suitable for continuous operation, and has been placed in service.

"Condition Precedent" shall have the meaning set forth in Section 2.1(b).

"Confidential Business Information" shall have the meaning set forth in Section 12.1.

"Construction Service Agreement" means an agreement relating to the construction and installation of the Interconnection Facilities.

"Contract Amount" means the amount of capacity identified as "Contract Amount" on Exhibit 3.

"Contract Price" means the price identified as "Contract Price" on Exhibit 3.

"Contract Year" means a twelve month period during the Term commencing on the first day of the Term and ending on the day prior to the anniversary of the just ending Contract Year; provided, however, if the first day of the Term is not January 1, 2007, then the first Contract Year shall begin on the first day of the Term and end on December 31, 2007.

"CPT" means Central Prevailing Time (the time then prevailing in the Central Time Zone of the United States).

"Defaulting Party" has the meaning set forth in Section 7.1.

"Delivery Point" means the point where the Facility is interconnected with the Grid, as described in Exhibit 1. Provided, however, that if the Facility is not located within either the PJM or MISO service areas, **as such service areas exist on the Effective Date**, the Parties shall agree as to the Delivery Point, which shall be the nearest Bus or interface on the Grid operated by either PJM or MISO for which PJM or MISO provides a LMP.

"Development Security" has the meaning set forth in Section 8.3(a).

"Early Termination" has the meaning set forth in Section 2.2.

"Early Termination Date" means the date upon which an Early Termination becomes effective as specified in Section 2.2.

"Effective Date" means the date upon which this Agreement is executed by the Parties.

"Electric Reliability Organization" has the meaning ascribed to such term in section 215 of the Federal Power Act.

"Energy" means three-phase, 60-cycle alternating current electric energy, expressed in units of kilowatt-hours or megawatt-hours.

"Estimated Capacity Factor" means the percentage of the total amount of ~~Energy~~ **Excess Electricity** that the Facility is capable of generating that the Generator estimates the Facility will generate on average in any Contract Year during the Term as set forth on Exhibit 1.

"Estimated Annual Energy Output" means the estimated amount of MWh of Excess Electricity that the Generator expects the Facility to deliver to the Delivery Point on an annual basis, as listed on Exhibit 1. The "Estimated Annual Energy Output" shall be equal to: (i) the Applicable Percentage multiplied by (ii) the Nameplate Capacity Rating, multiplied by (iii) the Estimated Capacity Factor, multiplied by ~~iv) 8760 hours~~ **(iv) 8760 hours. For any hours during the year when one or more wind turbines is unavailable due to Force Majeure, the Estimated Annual Energy Output shall be reduced on a pro-rata basis, based on the number of wind turbines that are unavailable and the duration of the Force Majeure.**

"Event of Default" has the meaning set forth in Section 7.1.

"Excess Electricity" means the Applicable Percentage of all of the Energy generated at

the Facility by means of wind generation (other than that needed for the operation of the Facility) that is delivered to the Delivery Point.

"Facility" means the wind electric generation facility owned, or planned to be constructed, by Generator and located at the Premises as described in Exhibit 1.

"FERC" means the Federal Energy Regulatory Commission.

"Final Order" means an order that has been issued, and as to which either (i) all appeals or other challenges have been resolved to the reasonable satisfaction of the Party requesting the order, or (ii) the time for filing appeals or other challenges has expired with no appeal or other challenge having been filed.

"Financing Milestone" shall have the meaning set forth in Section 3.3 and Exhibit 2. ~~¶~~

"Fitch" means Fitch, Inc.

"Force Majeure" means an event ~~not anticipated as of the Effective Date,~~ which is not within the reasonable control of the Party affected thereby, and which by the exercise of due diligence the affected Party is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefor. Force Majeure includes, but is not restricted to: acts of God; fire; explosion; civil disturbance; sabotage; ~~action or restraint by court order or public or government authority, so long as the affected Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action~~**the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means); and the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued).** Force Majeure shall not include the following: (i) the Generator's ability to sell Excess Electricity or RECs to a market at a more advantageous price, **and** (ii) ~~wind speed or the lack of wind, and (iii) interruption or curtailment by the RTO, unless such interruption or curtailment extends for a period of 30 consecutive days.~~

"Forward Contract" has the meaning ascribed to such term in Section 101(25) of the Bankruptcy Code.

"Forward Contract Merchant" has the meaning ascribed to such term in Section 101(26) of the Bankruptcy Code.

"Grid" means the interconnected electric transmission system into which the Excess Electricity generated by the Facility will be delivered, including through direct interconnection with intermediate distribution facilities of ComEd, another Illinois electric utility or an Illinois municipality.

~~"Guaranty" means a guaranty, hypothecation agreement, margins or security agreement or any other document (whether in the form attached as Exhibit 6 or another substantially similar form approved by the Company).~~

~~"Guarantor" means any Person who meets the Company's creditworthiness standards for Generators and has the authority to, and does, guarantee the Generator's financial obligations under this Agreement.~~

"ICC" means the Illinois Commerce Commission.

"Interconnection Agreement" means that generation interconnection agreement between the Generator and ~~either or both the RTO and the entity (if different from the RTO) that owns the Grid to which the Facility is interconnected~~ **the Interconnection Provider** that contains the rights and obligations of those Persons with respect to the interconnection of the Facility with the Grid, and prescribing the methods and procedures to be used for the safe operation and maintenance of the Facility Interconnection Facilities.

"Interconnection Provider" means either or both the RTO and the entity (if different from the RTO) that owns the Grid to which the Facility is interconnected.

"Interconnection Facilities" means all the facilities installed for the purpose of interconnecting the Facility to the Delivery Point, including all transformers and associated equipment, relay and switching equipment, and safety equipment.

"Interest Rate" means, on any date, the per annum rate of interest equal to the ~~prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates"~~ **Prime Rate** plus 200 basis points, provided that the Interest Rate shall never exceed the maximum rate permitted by applicable law.

"kW" means kilowatt.

"Letter of Credit" has the meaning set forth in Section 8.6. The Letter of Credit must be in the form of Exhibit 6, or another substantially similar form ~~approved by~~ **reasonably acceptable to** the Company.

"Locational Marginal Price" or "LMP" means the hourly integrated market clearing marginal price for Energy at the location the ~~Energy~~ **Excess Electricity** is delivered to or received on the Grid as established by the RTO.

"MAIN" means the Mid-America Interconnected Network or any successor thereto. If MAIN ceases to exist, the successor to MAIN shall be any regional reliability organization to which ComEd belongs. Any regional entity to which an Electric Reliability Organization delegates authority to enforce reliability standards upon ComEd shall be deemed to be successor to MAIN.

"Major Permits" shall have the meaning set forth in Section 3.4 and Exhibit 2.

"Major Permit Milestone" shall have the meaning set forth in Section 3.4 and Exhibit 2.

"Master Netting Agreement" has the meaning ascribed to such term in Section 101(38A) of the Bankruptcy Code.

"Master Netting Agreement Participant" has the meaning ascribed to such term in Section 101(38B) of the Bankruptcy Code.

"Minimum Rating" has the meaning set forth in Section 8.2.

"MISO" means the Midwest Independent Transmission System Operator, Inc. or its successor.

"Moody's" means Moody's Investors Service, Inc.

"Month" means a calendar month (or any partial calendar month at the outset of the Term in the event that the Term commences during a calendar month).

"MW" means megawatt.

"MWh" means megawatt hour.

"Nameplate Capacity Rating" of the Facility shall be as set forth in Exhibit 1.

"NERC" means the North American Electric Reliability Council, or any successor thereto. Any organization certified by the FERC as an Electric Reliability Organization shall be considered a successor to NERC.

"Non-Defaulting Party" means (i) if the Company is the Defaulting Party, the Generator; or (ii) if the Generator is the Defaulting Party, the Company.

"Operational Security" has the meaning set forth in Section 8.4.

"Person" shall mean any individual, entity, corporation, general, or limited partnership, limited liability company, joint venture, estate, trust, association or other entity or governmental authority.

"PJM" mean the PJM Interconnection L.L.C. or its successor.

~~"Planned Outage" means the removal of the Facility from service to perform work on specific components that is scheduled well in advance and has a predetermined start date and duration (e.g., annual overhaul, inspections or testing).~~

"Premises" shall mean the location of the Facilities as set forth in Exhibit 1.

"Prime Rate" means, on any date, the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates", provided that the Prime Rate shall never exceed the maximum rate

permitted by applicable law.

"Prudent Utility Practice" means any of the practices, methods and acts required or approved by the RTO or engaged in or approved by a significant portion of the electric utility industry for generating facilities similar in size and operating characteristics to the Facility in the geographic region covered by MAIN during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. "Prudent Utility Practice" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the geographic region covered by the RTO or MAIN.

"PTCs" means production tax credits applicable to electricity produced from certain renewable resources pursuant to 26 U.S.C. § 45, or such substantially equivalent tax credit that provides Generator with a tax credit based on energy production from any portion of the Facility.

"PURPA" means the Public Utility Regulatory Policy Act of 1978.

"Renewable Energy Certificate" or "REC" means the Applicable Percentage of any credits, credit certificates, offsets or other benefits or similar items created, allocated, assigned or otherwise awarded or certified in connection with the Facility by any Requirement of Law and/or independent certification board or created pursuant to private bilateral contracts, in each case generally recognized in the electric power generation industry, whether existing now or in the future and whether foreseen or unforeseen, but specifically excluding any and all state and federal production tax credits, investment tax credits and any other tax credits or tax benefits which are or will be attributable to or generated by the Facility. Without limiting the foregoing, a REC shall include all credits, credit certificates, offsets or other benefits or similar items and the exclusive rights to claim that the electric energy was generated by the specific wind generation unit, fuel or resource. One REC shall represent the credits, credit certificates, offsets or other benefits or similar items associated with one (1) MWh of wind-generated Energy Excess Electricity.

"Renewable Energy Resources" means Energy that is generated from one of the following sources: wind, solar thermal energy, photovoltaic cells and panels, dedicated crops grown for energy production and organic waste biomass, methane recovered from landfills, hydropower that does not involve the construction of new dams or significant expansion of existing dams, and other such alternative sources of environmentally preferable energy.

"Replacement RECs" means RECs that the Generator provides to ComEd as provided for in Section 4.2(~~(b)~~(ii)) due to the failure of the Generator to meet the minimum output requirements in this Agreement.

"Requirement of Law" means any federal, state and local law, statute, regulation, rule, code, ordinance, resolution, order, it, judgment or decree enacted, adopted, issued or promulgated by any federal, state, local or other governmental authority or regulatory body or

RTO or court (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"Resolution" has the meaning set forth in the Recitals.

"RTO" means the entity that controls and operates the Grid to which the Facility is interconnected. If the Facility is not located in either the PJM or MISO service areas, "RTO" shall mean the entity that controls and operates the electric distribution or transmission system to which the Facility is interconnected.

"RTO Requirements" means all the RTO agreements, all tariffs, operational manuals, rules and regulations established by the RTO, and the normal business practices, as they may be amended and modified from time to time, of the RTO.

"S&P" means Standard and Poor's Rating Services.

"Safe Harbor Provisions of the Bankruptcy Code" means Sections 101(25), 101(26), 101(38A), 101(38B), 362(b)(6), 362 (b)(27), 546(e), 546(j), 556, 561, 562 and 767 of the Bankruptcy Code together with other sections pertaining or referring to any of them and any future amendments to the Bankruptcy Code which provide protections, rights or remedies to non-bankrupt Forward Contract Merchants or Master Netting Participants against bankrupt counterparties under Forward Contracts or Master Netting Agreements.

"Security Instrument" has the meaning set forth in Section 8.6.

"Sustainable Energy Plan" or "Plan" means the proposal by the Governor of the State of Illinois that was sent to the ICC on February 11, 2005, and endorsed by the ICC in its Resolution dated July 19, 2005, setting forth standards for the procurement of Renewable Energy Resources by Illinois electric utilities and alternative retail electric suppliers.

"Term" has the meaning set forth in Section 2.1.

"Termination Date" has the meaning set forth in Section 2.1.

1.3 Interpretation

In this Agreement, unless a different intention clearly appears:

- (a) the singular includes the plural and vice versa;
- (b) the reference to any Party includes such Party's legal and/or permitted successors and assignees, and reference to a Party in a particular capacity excludes such Party in any other capacity or individually;
- (c) the reference to any gender includes the other gender;
- (d) reference to any document other than this Agreement refers to such documents as may be amended, modified, replaced or superseded from time to time, or any

successor document(s) thereto;

(e) reference to any Article, Section or Exhibit means such Article, Section or Exhibit of this Agreement unless otherwise indicated;

(f) "hereunder", "hereof", "hereto", and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision;

(g) "including" (and with correlative meaning "include"), when following any general statement or term, is not to be construed as limiting the general statement or term to the specific items or matters set forth or to similar items or matters, but rather as permitting the general statement or term to refer to all other items or matters that could reasonably fall within its broadest possible scope;

(h) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and through means "through and including";

(i) reference to any law or regulation refers to such law or regulation as may be amended, modified, replaced or superseded from time to time, or any successor law(s) or regulation(s) thereto; and

~~(j) reference to "termination of this Agreement," "this Agreement is terminated," "this Agreement may be terminated" and similar phrases used in this Agreement refer to the termination of deliveries under this Agreement and related on-going rights and obligations, and does not imply or mean a termination of rights, remedies, obligations and provisions which by their nature or as provided elsewhere in the Agreement survive termination.~~

ARTICLE 2 TERM AND TERMINATION

2.1 Term; Conditions Precedent.

(a) This Agreement shall be effective on the Effective Date. The term ("Term") hereof shall begin on the later of (i) January 1, 2007, or (ii) the date upon which the ~~first wind turbine at the~~ Facility achieves Commercial Operation, and shall, unless sooner terminated as provided herein, end on December 31, 2026 ("Termination Date").

(b) Notwithstanding any provisions of this Agreement to the contrary, Generator shall have the right, unless waived by Generator in writing, to terminate this Agreement, without any further financial or other obligation to ComEd as a result of such termination, by notice to ComEd as a consequence of the failure to occur of any of the following conditions precedent (each a "Condition Precedent"):

(i) On or before the date that is | | days after the Effective Date, Generator shall have entered into the Interconnection Agreement.

(ii) On or before the date that is | | days after the Effective Date, Final Orders shall have been issued granting all permits and approvals, including zoning, necessary for the construction, operation or maintenance of the Facility.

In the event that Generator desires to terminate this Agreement due to the failure of one of the Conditions Precedent, Generator shall notify ComEd no later than thirty (30) days after the date specified in the applicable clause of this Section 2.1(b). In the event that Generator does not notify ComEd of its intent to terminate this Agreement by such time, then this Agreement shall remain in full force and effect, and Generator shall be deemed to have waived its right to terminate this Agreement due to the failure of such Condition Precedent; provided, however that Generator shall retain the right to terminate this Agreement in the event of the failure of any other Condition Precedent. Upon the termination of this Agreement pursuant to this Section 2.1(b), ComEd shall return to Generator the Development Security provided by Generator under Section 8.3, and neither Party thereafter shall have any further obligation under this Agreement.

2.2 Early Termination.

This Agreement may be terminated prior to the Termination Date pursuant to the following:

(a) By the Non-Defaulting Party if an Event of Default occurs as provided for in Article 7;

(b) By either Party if, in the case of a Force Majeure event, a Party fails to substantially perform its obligations under this Agreement on account of such Force Majeure event for a period exceeding ~~60~~**365** days after the occurrence of such Force Majeure event; ~~provided that such 60 day period may be extended, by the agreement of both Parties, to a date not, however, that ComEd shall only be permitted to terminate this Agreement due to a Force Majeure affecting the Facility if such Force Majeure affects all of the wind turbines at the Facility. If a Force Majeure affecting less than all of the wind turbines at the Facility continues for a period~~ exceeding ~~180~~**365** days after the occurrence of the Force Majeure event ~~if (i) such Force Majeure event may not be remedied within such 60 day period with reasonable diligence, (ii) such Force Majeure event may reasonably be expected to be remedied within such 180 day period, and (iii) the Party not performing its obligations under this Agreement on account of such Force Majeure event promptly undertakes to remedy such Force Majeure event and continues with reasonable diligence to effect such remedy within the 180 day period.~~ such Force Majeure event, ComEd shall be permitted to terminate this Agreement with respect to the affected wind turbine(s), but this Agreement shall remain in full force and effect with respect to any other wind turbine(s) at the Facility, and the obligations of the Parties hereunder shall be reduced mutatis mutandis.

~~(c) By ComEd, as provided in Sections 5.1(b)(i) and 5.6.~~

~~(d) By the Generator, if ComEd makes the election provided for in Section 5.1(b)(ii). Provided, however, that the Generator must give notice of such termination within thirty (30) days of receiving notice of ComEd's election under Section 5.1(b)(ii).~~

Termination shall be effective five (5) Business Days after written notice is given, as provided for in Article 13. If this Agreement is terminated pursuant to any of the provisions above, the effective date of such termination shall be deemed the "Early Termination Date".

2.3 Rights and Obligations Surviving Termination.

(a) Termination of this Agreement for any reason shall not relieve the Company or the Generator of any obligation accrued or accruing prior to such termination. If this Agreement is terminated pursuant to:

(i) Section 2.2(a), the Non-Defaulting Party may pursue the remedies provided in Article 7.

(ii) Section 2.2(b), ~~2.2(c) or 2.2(d)~~, the Parties may not pursue the remedies provided for in Article 7, and are entitled to receive only amounts due and owing as of the Early Termination Date.

(b) Sections ~~2.2, 9.1, 9.2~~, 9.3, 9.4, 9.5, 11.2, 11.3, 12.1 and 15.2, this Section 2.3 and ~~Articles 8 and Article~~ Article 14 shall continue in effect after termination and other applicable provisions of the Agreement shall also continue in effect after termination to the extent necessary to provide for final billings, settlements, payments, adjustments, remedies and resolution of disputes.

(c) In the event that the Generator has provided a ~~Guaranty or a Letter of Credit~~ Operational Security under the terms of this Agreement, the Generator will ~~preserve these documents~~ maintain such Operational Security in place until the payments for which they provide security have been made in full; provided, however, that in no case will Generator be required to maintain such Operational Security in place for more than ninety (90) days after the expiration or earlier termination hereof. When Operational Security is no longer required to be maintained in accordance with this paragraph, ComEd shall immediately return any such Operational Security to Generator.

2.4 Forward Contract and Master Netting Agreement

The Parties acknowledge that this Agreement is a Forward Contract, the Parties are Forward Contract Merchants, both generally and with respect to the deliveries of ~~Energy Excess~~ Electricity and RECs pursuant to this Agreement, and, accordingly, the Parties are entitled to the protections of the Safe Harbor Provisions of the Bankruptcy Code. The Parties further acknowledge that this Agreement constitutes a Master Netting Agreement. The Parties therefore agree that this Agreement may be terminated and the remedies hereunder exercised by either Party in accordance with Sections 2.2, 2.3 and Article 7 upon the commencement of a proceeding by the other Party under any chapter of the Bankruptcy Code, and that the automatic stay of Section 362(a) of the Bankruptcy Code shall not apply to such termination.

ARTICLE 3

FACILITY DESCRIPTION AND DEVELOPMENT



3.1 Facility Description

Exhibit 1 contains a complete written description of the Facility, including identification of the wind turbines and other Facility components. The Facility shall include any reasonable modifications made to the Facility after the ~~effective date~~ **Effective Date** (which modifications shall not, in any event, change the Facility location, the anticipated Delivery Point, or the Estimated Capacity Factor, or materially change the Nameplate Capacity Rating ~~or its Estimated Capacity Factor~~ set forth in Exhibit 1) as may be required after the ~~date hereof~~ **Effective Date**. Generator shall provide prompt written notice to the Company of any such modifications and a brief description of the reasons for the modifications and confirmation that such modifications shall not affect the Nameplate Capacity Rating of the Facility or its Estimated Capacity Factor. Provided, however, that the generator may modify or revise the Nameplate Capacity Rating in accordance with Section 3.10 and 4.1(e).

3.2 Facility Design

Generator will be responsible for designing the Facility in compliance with all applicable permits, in material compliance with each applicable Requirement of Law, and according to Prudent Utility Practice. ComEd will cooperate as necessary in Facility design, upon Generator's reasonable request. The Facility will be capable of supplying wind-generated Energy in a safe and reliable manner, consistent with ~~the requirements of each applicable Requirement of Law,~~ the Interconnection Agreement and Prudent Utility Practice, and in material compliance with each applicable Requirement of Law.

3.3 Facility Financing

Generator will be responsible for obtaining all financing necessary to construct and operate the Facility for the Term of the Agreement on a schedule consistent with the requirements of this Agreement, and will provide ComEd with evidence of completion of financing arrangements by the milestone date set forth in Exhibit 2 ("Financing Milestone").

3.4 Facility Permitting

Generator will be responsible for obtaining and maintaining all licenses, permits and approvals necessary for the construction and operation of the Facility, including land use permits, environmental review and authorizations, grading and building permits, and licenses necessary to operate, deliver and sell the Excess Electricity of the Facility, except for those licenses specifically required to be obtained or maintained by ComEd, and will provide ComEd with evidence that it has obtained all essential permits ("Major Permits" as identified in Exhibit 2) by the milestone date set forth in Exhibit 2 ("Major Permits Milestone").

3.5 Construction and Testing

Generator will be responsible for constructing and testing the Facility in compliance with all applicable permits, ~~each applicable Requirement of Law,~~ the Interconnection Agreement and Prudent Utility Practice, and in material compliance with each applicable Requirement of Law.

3.6 Notification to ComEd

Generator will provide written notice to ComEd when construction and preliminary testing of the Facility are complete.

3.7 Interconnection.

~~(a)~~ Generator shall, on or prior to the Effective Date, have entered into both an Interconnection Agreement and, if necessary, a Construction Service Agreement that will enable the Facility to interconnect with, and deliver Excess Electricity into, the Grid at the Delivery Point. Generator will operate, maintain and control during the Term, at Generator's sole cost and expense, all of the Interconnection Facilities located at the Facility up to the Delivery Point, and Generator will be solely responsible for all of the costs and expenses associated with interconnection of the Facility at its Nameplate Capacity Rating up to the Delivery Point including, to the extent required in the Interconnection Agreement, the costs of any system upgrades beyond the Delivery Point necessary to interconnect with the Grid for delivery of Excess Electricity to the Delivery Point. ~~(b) Generator shall also be responsible for all costs or charges, in addition to those identified in the Interconnection Agreement, that are required by the RTO to enable the Grid to accept Excess Electricity from the Facility.~~

3.8 Metering.

(a) Meter equipment will be installed, owned, operated, maintained and tested in accordance with the terms of the Interconnection Agreement.

(b) The Interconnection Agreement must provide that the meter equipment will have telemetering equipment that will be capable of telemetering data to both the RTO and ComEd.

3.9 Operating Procedures

(a) The Parties will endeavor to develop written operating procedures for the operation of the Facility ("Operating Procedures") before the Commercial Operation Date, which Operating Procedures will only be effective if made by mutual written agreement of the Parties. The Operating Procedures shall cover the protocols under which the Parties will perform their respective obligations under this Agreement and will include procedures concerning the following: (1) the method of day-to-day communications; (2) key personnel lists for Generator and ComEd; (3) the disposition of Energy Excess Electricity and RECs generated prior to the commencement of the Term; and (4) interactions with the RTO.

(b) As a means of securing effective cooperation and interchanges of information and of providing consultation on a prompt and orderly basis between the Parties in connection with various administrative, commercial and technical issues that may arise during the performance of this Agreement, the Operating Procedures shall also provide that each Party shall appoint an

authorized representative (with respect to each Party, the "Authorized Representative") and may appoint an alternate (with respect to each Party, the "Alternate") to act in its Authorized Representative's absence. The Authorized Representatives and Alternates shall be managers well experienced with regard to matters relating to the implementation of the Parties' rights and obligations under this Agreement with full authority to act for and on behalf of the Party appointing them. Each Party will notify the other in writing of the name of its Authorized Representative and Alternate so appointed and these appointments will remain in full force and effect until written notice of substitution is delivered by such Party to the other Party.

3.10 Commercial Operation

Unless otherwise excused under the terms of this Agreement, Generator will meet a Commercial Operation Date of not later than December 31, 2007 ("Commercial Operation Date Milestone"). In the event of Generator's unexcused failure to meet the Commercial Operation Date Milestone, the following procedures and remedies will apply:

(a) If Generator does not meet the Commercial Operation Date Milestone, and such failure is not otherwise excused under the terms of this Agreement, Generator will provide ComEd written notice within five Business Days ~~of~~**after** the Commercial Operation Date Milestone to the effect that:

(i) Generator anticipates in good faith that it will meet a Commercial Operation Date within 180 days following the Commercial Operation Date Milestone;

(ii) Generator does not believe in good faith that it will meet a Commercial Operation Date within 180 days following the Commercial Operation Date Milestone, and is not making the election set forth in subsection 3.10(a)(iii) below; or

(iii) Generator does not believe in good faith that it will meet a Commercial Operation Date within 180 days following the Commercial Operation Date Milestone and Generator elects to resize the Facility and such resized Facility is already completed (in which case the Commercial Operation Date shall be deemed to have occurred) or will be completed within 180 days ~~of~~**after** the Commercial Operation Date Milestone and upon any such resizing of the Facility, the Nameplate Capacity Rating, the Contract Amount and the Estimated Annual Energy Output shall be reduced accordingly. In the event that Generator gives notice under this subsection, Generator will provide ComEd a revised estimate of the Commercial Operation Date and make commercially reasonable efforts to meet that revised Commercial Operation Date. The Generator will also provide ComEd with a revised Nameplate Capacity Rating, Contract Amount and Estimated Annual Energy Output for the Facility.

(b) Generator shall be excused from a failure to meet the Commercial Operation Date Milestone where Generator can establish that such a failure is attributable to (i) any delay or failure by ComEd and/or the Interconnection Provider in taking any action or obtaining any consents or approvals from governmental authorities or third parties required for ComEd and/or the Interconnection Provider, as the case may be, to perform ComEd's obligations under this Agreement or the Interconnection Provider's

obligations under the Interconnection Agreement, or (ii) any failure by the Interconnection Provider in permitting, constructing, testing and otherwise readying the Interconnection Facilities for testing and operation of the Facility by the date specified in the Interconnection Agreement, whether or not caused by any conditions or events of Force Majeure (each a "Delay Condition"), and in the event of such a failure, the Commercial Operation Date Milestone shall be extended for a period of time equal to duration of the Delay Condition(s).

(c) ComEd's sole remedies for the failure of the Generator to achieve a Commercial Operation Date, for any delays or extensions of the Commercial Operation Date, or for any resizing of the Facility, are provided in Section 8.3

ARTICLE 4 OBLIGATIONS OF THE PARTIES

4.1 Obligations of the Generator.

(a) Generator shall achieve a Commercial Operation Date by the Commercial Operation Date Milestone, unless such date is extended pursuant to the provisions of Section 3.10.

(b) Generator shall develop a plan, and use Commercially Reasonable Efforts, to meet the milestone dates set forth on the Generator's Milestone Schedule in Exhibit 2. Generator shall report to ComEd on a monthly basis its progress in meeting the milestone dates set forth in the Milestone Schedule using the form attached as Exhibit 4.

(c) During the Term, Generator shall deliver to the Delivery Point and sell to the Company all Excess Electricity, and all RECs associated with such deliveries of Excess Electricity. So long as ~~no Event of Default has occurred and is continuing with respect to~~ ComEd accepts and pays for the Excess Electricity and RECs provided hereunder, Generator will not have the right to sell to third parties any of the Excess Electricity or RECs; provided, however, that during the period commencing on the Effective Date until the beginning of the Term, Generator shall be entitled to sell to any Person all ~~Energy~~Excess Electricity and RECs resulting from the generation of Energy at the Facility for the period prior to the beginning of the Term; and provided, further, that if at any time ComEd curtails the acceptance or purchase of Excess Electricity and RECs, whether or not such curtailment is permitted under this Agreement, Generator may sell such curtailed Excess Electricity and associated RECs to any other Person. Generator shall also have the right to sell the capacity and ~~ancillary services~~Ancillary Services from the Facility to any Person, so long as such sale does not interfere with Generator's obligations under this Agreement.

(d) Generator shall be responsible for qualifying all Excess Electricity as renewable energy under any certification requirements by a governmental agency or independent certification board (including the Environmental Resources Trust EcoPower[®] Program) that may

become commonly used to assess the environmental quality of electric energy during the Term. Generator shall timely prepare and execute all documents and shall take all actions (including any required registration of the Facility, any periodic reporting regarding electric energy generated at the Facility, and any required transfer requests) necessary under any Requirement of Law to cause the RECs to transfer to, and vest in, ComEd; and shall use the Attestation Form attached hereto as Exhibit 5, to confirm the transfer of the right, title and interest of Generator in the RECs associated with the generation of Excess Electricity during the Term to ComEd.

(e) Generator will provide thirty days notice to ComEd of the permanent addition to or removal from service of any turbines during the Term that result in any change to the Nameplate Capacity Rating of the Facility. Generator shall provide ComEd with the revised Nameplate Capacity Rating, and the Applicable Percentage shall be revised accordingly at the time the new turbine comes into or is removed from Commercial Operation. ComEd shall provide the Generator with revised Exhibits 1 and 3 reflecting these revisions. Provided, however, that the Contract Amount shall not be revised except by agreement of the parties as provided in Section 15.7(a)(i).

(f) Generator will comply with all RTO Requirements that are necessary for it to comply with its obligations under this Agreement.

(g) Generator will obtain and maintain all regulatory approvals and certifications necessary to permit its performance under this Agreement.

(h) Generator shall be responsible for providing or securing any and all scheduling, interconnection, metering and transmission service rights, if any, required to effect delivery of the Excess Electricity to the Company at the Delivery Point.

(i) Generator will cooperate with the Company in any regulatory compliance efforts that may be required to maintain the ongoing lawfulness and enforceability of the terms of this Agreement and to fulfill any regulatory reporting requirement associated with this Agreement before the ICC, FERC or any other regulatory body asserting jurisdiction.

~~(j)~~ Generator shall provide to the Company, within the first ten (10) Business Days of each Month after the first Month of the Term, a report setting forth the hourly amounts of Excess Electricity delivered to the Delivery Point in the preceding Month.

4.2 Minimum Output Guarantee

(a) This Section 4.2 shall become effective, if, and only if, a Requirement of Law shall become effective that requires ComEd (or persons acting on its behalf) to purchase or otherwise procure specified levels or amounts of Renewable Energy Resources (the "RPS") and that imposes penalties on ComEd (or persons acting on its behalf) for failure to purchase or otherwise procure such specified levels or amounts.

(b) Generator guarantees a minimum output threshold of Excess Electricity from the Facility in accordance with the following output requirements:

(i) Generator guarantees a minimum output threshold of Excess Electricity

from the Facility for each Contract Year during the Term of at least 80% of the Estimated Annual Energy Output (such 80% the "Yearly ~~threshold~~ **Threshold**"). Provided, however, that if the first Contract Year does not commence on January 1, 2007, the Estimated Annual Energy Output for such Contract Year shall be pro rated accordingly. A tracking account will be established to track actual output of Excess Electricity from the Facility in ~~MWh~~. In each Contract Year, annual output of Excess Electricity from the Facility in excess of the ~~Estimated Annual Energy Output~~ **Yearly Threshold** will be banked in the tracking account. In each Contract Year, if the annual output of Excess Electricity from the Facility for such year is below the Yearly Threshold, the tracking account will be debited by an amount equal to the difference between that Contract Year's annual output and the Yearly Threshold. If at the end of any Contract Year the quantity in the tracking account is less than zero, Generator will pay ComEd an amount equal to (1) ~~the average market value, determined in a commercially reasonable manner, of RECs traded or sold during the Contract Year in which the deficiency occurred that were produced by wind projects located in Illinois and satisfy the criteria of the RPS or, if no such average market value is available or determinable, \$25 per MWh~~ **[STANDARD TO BE DETERMINED]**, multiplied by (2) the number of MWh that the tracking account is less than zero ~~(the "One Year Payment")~~. The charge for this amount shall appear in the first statement issued by ~~ComEd~~ **Seller** pursuant to Section 9.1 in the Contract Year immediately following the Contract Year in which the deficiency occurred. **In the event that Generator makes any payment pursuant to this paragraph, and in any subsequent Contract Year there is positive balance in the tracking account, Generator's prior payments shall be refunded, to the extent of such positive balance with interest at the Prime Rate.**

~~(ii) Generator guarantees a minimum output of Excess Electricity from the Facility, on a five year average basis measured at the end of Contract Years five, ten, fifteen and twenty of the Term, of at least 90% of the Estimated Annual Energy Output for each such five year period (such 90% the "5 Year Threshold"). Provided, however, that if the first Contract Year does not commence on January 1, 2007, the Estimated Annual Energy Output for such Contract Year shall be pro rated accordingly. A separate tracking account will be established to track actual output of Excess Electricity from the Facility in MWh over each such five year period. If the average annual output of Excess Electricity from the Facility for any such five year period is below the 5 Year Threshold, Generator will pay to ComEd an amount equal to (A) the difference between the 5 Year Threshold and the average annual output of Excess Electricity from the Facility for that five year period (expressed in MWh), multiplied by (B) five (5), multiplied by (C) an amount equal to the average market value, determined in a commercially reasonable manner, of RECs traded or sold during the last Contract Year of such five year period that were produced by wind projects located in Illinois and satisfy the criteria of the RPS or, if no such average market value is available or determinable, \$25 per MWh, less (4) any One Year Payments made in respect of any of the Contract Years covered by such five year period (the "Five Year Payment"). The charge for this amount shall appear in the first statement issued by ComEd pursuant to Section 9.1 in the Contract Year immediately following the five year period in which the deficiency occurred.~~