



GE Energy

Attachment 3 to the Contract Document.

- (ggg) "Third-Party Software" shall mean any proprietary computer software owned by a third party that the Seller provides to the Buyer.
- (mm) "Unit" shall mean a single wind turbine and its associated generator, together with those accessories associated only with that turbine and any associated MSD.
- (sss) "Unit Price" shall mean that portion of the Contract Price allocable to a single Unit.
- (ttt) "Warranty Period" shall have the meaning ascribed in the Special Condition entitled "Warranty".
- (uuu) "Work" shall mean the procurement, fabrication and supply of the Equipment and the performance of the Services, and corrective actions undertaken pursuant to the Special Condition entitled "Warranty" or otherwise.

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1. Calculated Power Curve GE 1.5xle-50 Hz and 60 Hz

(Cut-in wind speed based on 10 minutes average)

Rotor Diameter: 82.5 m

30	7	0.00
35	9	0.15
40	10	0.35
45	10	0.55
50	10	0.75
55	210	0.90
60	230	1.00
65	382	1.12
70	446	1.25
75	607	1.41
80	629	1.55
85	677	1.71
90	1033	1.88
95	1125	2.06
100	1150	2.25
105	1319	2.45
110	1442	2.67
115	1478	2.90
120	1481	3.15
125	1487	3.41
130	1500	3.68
135	1500	3.97
140	1500	4.27
145	1500	4.58
150	1500	4.91
155	1500	5.25
160	1500	5.61
165	1500	5.97
170	1500	6.35
175	1500	6.74
180	1500	7.14
185	1500	7.55
190	1500	7.97
195	1500	8.41
200	1500	8.86
205	1500	9.32
210	1500	9.79
215	1500	10.27
220	1500	10.76
225	1500	11.26
230	1500	11.77
235	1500	12.29
240	1500	12.82
245	1500	13.36
250	1500	13.91

Table 1: Calculated power curve GE 1.5xle



**2. Validity**

The power curves apply under the following conditions:

- Turbulence of approx. 10% to 15%
- Standard atmosphere according to DIN ISO 2533, air mass density  $1.225 \text{ kg/m}^3$

The nominal power refers to the low-voltage side of the transformer.

Information on the influence of the cold-weather module on the power curves can be found in the supplement to the technical description "Cold Weather Equipment".

**3. Cut-Out and Re-Cut-In Wind Speeds GE 1.5xL - 50Hz and 60 Hz with  
Bochmann Controller**

If the average wind speed exceeds:

- 20 m/s in a 50 s time interval
- 23 m/s in a 30 s time interval or
- 26 m/s in a 5 s time interval

The wind turbine generator system will shut down.

If the average wind speed remains below:

- 17 m/s in a 30 s time interval

The wind turbine generator system will put in again.

**APPENDIX C**  
**(MACHINE POWER PERFORMANCE TEST)**  
**TECHNICAL SPECIFICATION-**  
**MACHINE POWER PERFORMANCE TESTS (MPPT)**

**1. TESTING**

- (a) Having given Seller twenty-four (24) hours notice, Buyer may proceed with Test but shall maintain complete documentation. Both Parties shall have complete access to all measured data and documentation at any time.
- (b) Tests shall be limited to the locations and numbers of Nominated Turbines as described in the Contract.
- (c) The procedure ("Test Procedure") set forth in the publication IEC 61400-12, First edition 1998-02, Wind Turbine Generator Systems - Part 12: Wind Turbine Power Performance Testing (or most recent revision) shall govern the Tests, with the following deviations or additions:
  - 1) If, for a Nominated Turbine, no direction sector satisfies the requirements of Annex A of the Test Procedure, a site calibration is required. This site calibration shall comply with the MEASNET Power Performance Measurement Procedure, version 3, November 2000.
  - 2) Anemometers shall be limited to those which comply with the publication IEC 61400-121, Edition 1.0, Wind Turbines - Part 121: Power Performance Measurements of Grid Connected Wind Turbines. If at the time of the Test, this standard is not yet official, anemometer selection shall be limited to the following: the Risoe P2546A, Thies First Class 4.3350.00.000 (heated), or Thies First Class 4.3350.10.000 (unheated).
  - 3) Anemometers shall be top mounted, and mounting shall comply with the IEA Recommendation 11: Wind Speed Measurements and the Use of Cup Anemometry, 1999.
  - 4) Anemometers shall be calibrated according to the MEASNET Cup Anemometer Calibration Procedure, version 1, September 1997.
- (d) The Parties recognize that conformance with the Test Procedure may require that some Turbines be turned off during certain Tests. Any hours during which Turbines are turned off for purposes of the Tests shall be considered "O (Other) Hours."

**2. EVALUATION**

- (a) WLbase is defined in the Contract as the "Power Curve Guarantee" or PCG.
- (b) The Warranted Power Curve shall be determined as follows:
  - a. If the Measured TI, defined as the normalized and corrected mean of 10-minute TI values between wind speeds of 14.75 and 15.25 m/s (the 15 m/s bin) as a mean over all sectors except those excluded according to the Test Procedure, is between 10 and 15%, then the Standard 10-15% TI power curve shall be used.
- (c) If the Measured TI is less than 10%, the Low Turbulence power curve shall be used. This power curve is available from GE.




- (d) The Nominal Warranted Energy or NWE shall be determined by multiplying the Warranted Power Curve by the Representative Wind Speed Distribution located in the Site Conditions appendix.
- (e) The Uncertainty of the Warranted Energy or Uwarr shall be set at 4%.
- (f) A Nominal Measured Energy or NME shall be determined for each Nominated Turbine by multiplying the air-density corrected Measured Power Curve by the Representative Wind Speed Distribution.
- (g) The Uncertainty of the Measured Energy or Umeas for each Nominated Turbine shall be calculated according to the formula  $U_{meas} = U_{aep} / NME$ , where  $U_{aep}$  is calculated according to equation D-30 of the Test Procedure using the weighted average windspeed of the Representative Wind Speed Distribution.
- (h) The Uncertainty of the Measured Energy or Umeas shall be determined for each Nominated Turbine by calculating, to one decimal place, the mean wind speed of the normalized and corrected data, then calculating the standard deviation of this wind speed as a percentage according to formula D.30 and table 2 on page 23 of the Test Procedure.
- (i) The Average Uncertainty of the Measured Energy or AUmeas shall be determined by taking the square root of the sum of the squares of the Umeas values.
- (j) If AUmeas is less than or equal to Uwarr,  
Warranty Level or  $WL = WL_{base}$ .
- (k) If AUmeas is greater than Uwarr,  
Warranty Level or  $WL = WL_{base} - (AU_{meas} - U_{warr})/2$ .
- (l) If  $ANME/NWE * 100$  is greater than or equal to WL, the Seller satisfies the Power Curve Guarantee, and Purchaser shall issue to Seller a certificate to that effect. If this is not true, subsequent terms of the Contract shall be followed.

### 3. REPORTING

In addition to the reporting requirements of the Test Procedure, the following documentation shall be included as a minimum:

- (a) A description of the measurement mast(s) which includes:
  - a. Photos in all directions from mast base, labeled for direction
  - b. Wind vane offset from true north, in degrees
  - c. Plot of standard deviation of wind direction versus wind direction
- (b) A topographic map which indicates exact locations of neighboring turbines, obstacles, and approximate surface roughness
- (c) Bin averaged turbulence versus wind speed
- (d) Mean air density during test period
- (e) Full documentation of the anemometer calibrations including
  - a. Pre-calibration
  - b. Post-calibration or in-situ calibration
  - c. Method of calibration

- d.  $\sigma(y_n)$  as defined by formula 33 of the MEASNET Cup Anemometer Calibration Procedure, version 1, September 1997
- (f) Uncertainties of each site calibration  $U_{v1j}, U_{v2j}, U_{v3j}, S_{0j}, U_{v4j}$  as defined in the Test Procedure
- (g) Uncertainties of each power performance measurement  $U_{c1}, S_1, U_1, U_{p1}, U_{p1j}, U_{p2j}, U_{p3j}, U_{dpj}, U_{vj}, U_{v1j}, U_{v2j}, U_{v3j}, U_{v4j}, U_{vj}, U_{1j}, U_{11j}, U_{12j}, U_{13j}, U_{14j}, U_{15j}, U_{16j}, U_{17j}, U_{18j}, U_{19j}, U_{20j}, U_{21j}, U_{22j}, U_{23j}, U_{24j}, U_{25j}, U_{26j}, U_{27j}, U_{28j}, U_{29j}, U_{30j}, C_{vj}, C_{1j}, C_{2j}, C_{3j}$  as defined in the Test Procedure
- (h) Exact criteria used to filter data from the complete measurement database to the subset used for power curve evaluation, including number of data points removed per filtering step

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Appendix D

**TURBINE COMPLETION CERTIFICATE**

COMPLETION DATE: \_\_\_\_\_

Buyer: \_\_\_\_\_

Seller: \_\_\_\_\_

Agreement: Turbine Supply Agreement between and Among SkyPower Corp., General Electric Canada and General Electric Company dated as of November 30, 2005.

Project: \_\_\_\_\_

Capitalized terms used herein shall have the meaning set forth in the Contract.

\_\_\_\_\_  
This Turbine Completion Certificate applies to the following Unit under the Agreement:

Unit No.: \_\_\_\_\_

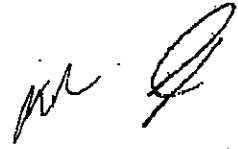
\_\_\_\_\_  
Seller hereby certifies as follows:

1. Turbine Mechanical Completion for such Unit has occurred; and
2. The Field Commissioning and Acceptance Test and Converter Commissioning Test have been successfully completed (except for the Turbine Completion Punch List attached hereto), such checklists have been completed and submitted to Buyer, and the Unit is producing electricity (or in the event that Buyer has failed to provide the Necessary Infrastructure in accordance with the Necessary Infrastructure Schedule for the Unit, such Unit would be capable of regularly producing electricity if connected to operated facilities)

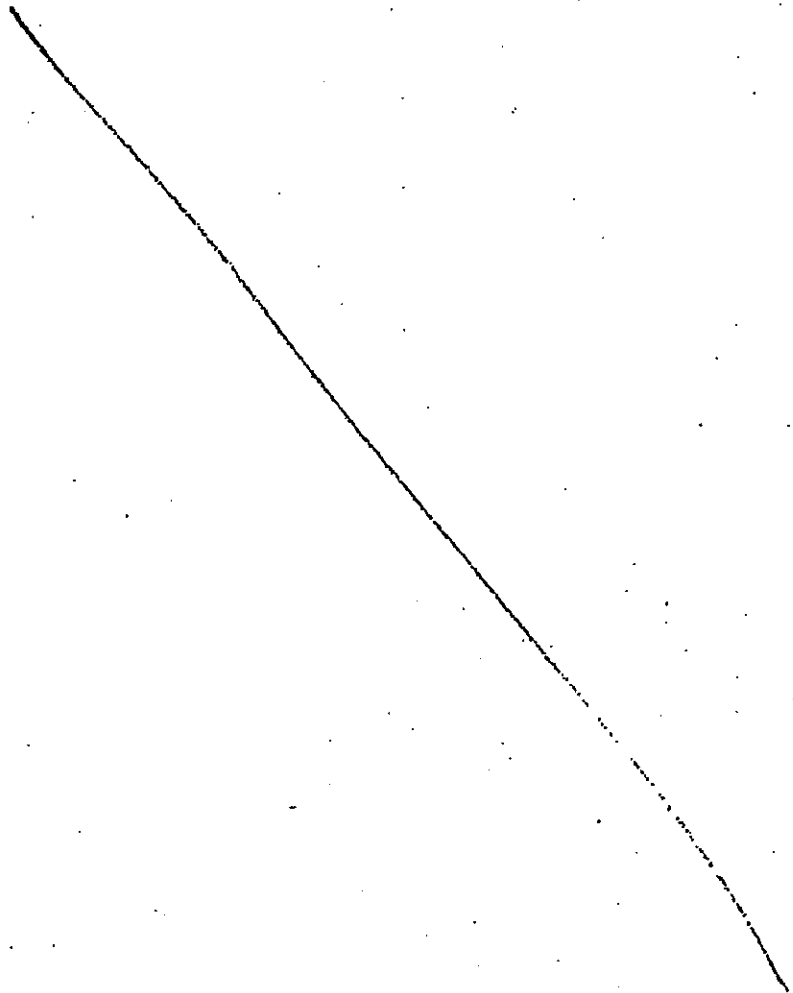
\_\_\_\_\_  
Executed by Seller on \_\_\_\_\_  
Date

\_\_\_\_\_  
Seller

By: \_\_\_\_\_  
(Authorized Signature)



**ATTACHMENT**  
**TURBINE COMPLETION**  
**TURBINE PUNCH LIST**  
**[To Be Attached.]**



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Appendix E

FINAL PROJECT SIGN-OFF CERTIFICATE

DATE OF ISSUANCE: \_\_\_\_\_

Buyer: \_\_\_\_\_

Seller: \_\_\_\_\_

Agreement: Turbine Supply Agreement by and between SkyPower Corp. and General Electric Canada and General Electric Company dated as of November 30, 2005.

Project: \_\_\_\_\_

Capitalized terms used herein shall have the meaning set forth in the Contract.

\_\_\_\_\_  
This Final Project Sign-Off Certificate applies to all the Units under the Contract.

\_\_\_\_\_  
Seller hereby certifies as follows:

1. Turbine Completion Certificates for all Units have been accepted by Buyer;
2. SCADA commissioning and Wind Farm Management System commissioning has been completed;
3. All Punch List items have been completed;
4. All Work has been completed in accordance with the Contract and the Technical Specifications (except for the Final Punch List attached hereto); and
5. This duly completed and executed Final Project Sign-Off Certificate has been executed and delivered by Seller.

\_\_\_\_\_  
Executed by Seller on \_\_\_\_\_  
Date

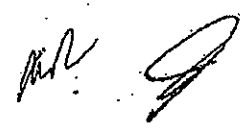
\_\_\_\_\_  
Seller

By: \_\_\_\_\_  
(Authorized Signature)

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Buyer concurs in Seller's certification as set forth above and accepts this Final Project Sign-Off Certificate. If Buyer has not accepted or objected to this Final Project Sign-Off Certificate within ten (10) days after Buyer's receipt, it shall be deemed accepted.

\_\_\_\_\_  
Buyer

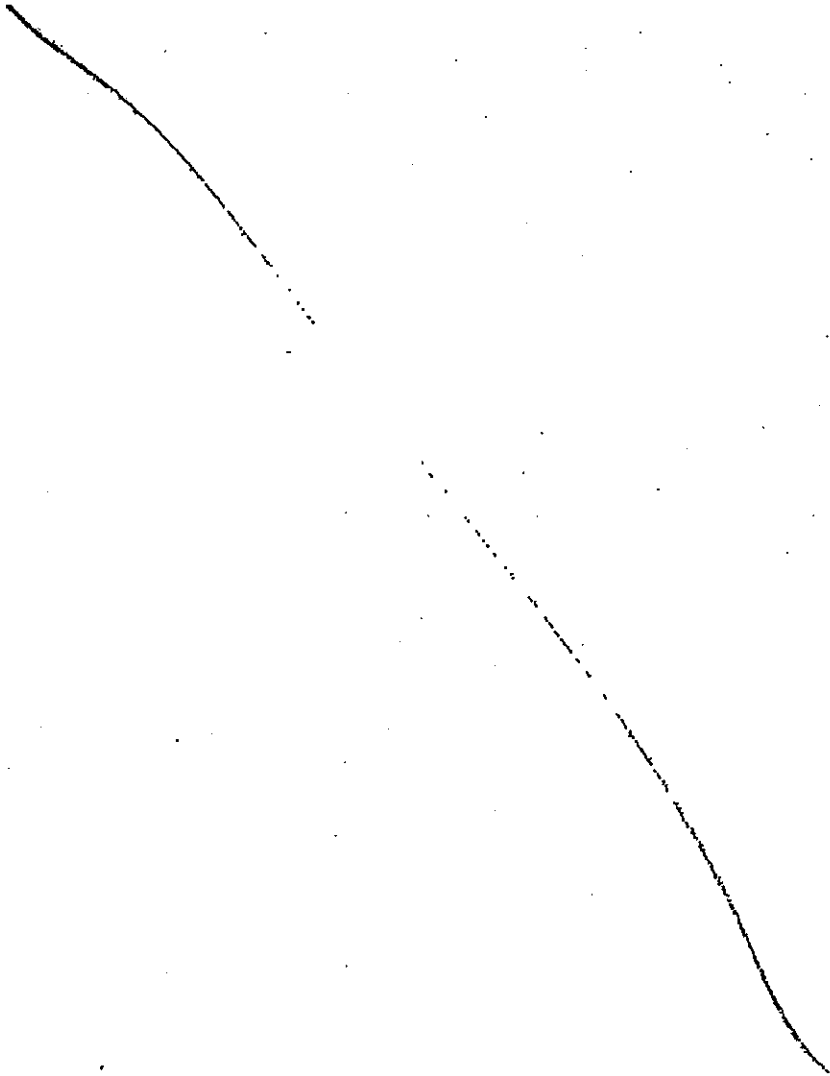
By: \_\_\_\_\_  
(Authorized Signature)

Date: \_\_\_\_\_

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**ATTACHMENT**  
**FINAL PUNCH LIST**  
**[To Be Attached]**



*MR J.*



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**Attachment 1  
Scope of Supply and Options**

**Scope of Work**

General Description. The Equipment includes 134 model 1.5 XLE WTG packages, each (as more fully defined in the Conditions) a "Unit".

Item	Item Price	Quantity	Total Price
<b>Wind Turbine Generator (WTG)<sup>7</sup> ; Includes:</b> 1) Machine Head: 1.5 MW XLE <sup>3</sup> 2) Tower: BOM Hub Height MTS 3-section with T-flange <sup>2</sup> 3) Blade set: 82.5 meter rotor diameter <sup>4</sup> 4) Down Tower Assembly 5) Hub 6) Parts shipped loose <sup>5</sup> 7) GE SCADA (Exhibit B-A4) <sup>6</sup> 8) Special installation tools and shipping fixtures <sup>5</sup> 9) Cold Weather Extreme (CWE) package <sup>8</sup>	\$1,468,000	134	\$US188,712,000
<b>Startup and Commissioning Services (Field Engineering Services) include:</b> 1. Technical advisory support by Field Engineers at the project site during installation, erection, alignment, adjustment, start-up and commissioning <sup>9</sup> 2. Site receiving supervision and inventory control for Seller's scope of supply 3. Supervision of use of specialized installation tools 4. Commissioning of Facility, SCADA, WFMS and LVRT III 5. Two full sets of operations and maintenance manuals on CD in English 6. Transportation management coordination from places of turbine manufacture to the Site <sup>10</sup> 7. Post commissioning inspection 8. Start-Up support during initial operations to assist the O&M Staff. 9. Operation and maintenance services provided by on-site personnel, in accordance with the turbine service	Included in WTG price		

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Attachment 1 - 1

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<p>mental pursuant to a separate operating and maintenance agreement.</p>			
<p>Wind Farm Management System 2 (WFMS), advanced features includes:</p> <ol style="list-style-type: none"> <li>1) Dynamic VAR control</li> <li>2) Power curtailment</li> <li>3) Reactor/capacitor bank coordination</li> <li>4) Line drop compensation</li> </ol> <p>Advisory services to work with the utility, the Buyer, and the design engineer to achieve optimal application of the WFMS</p>	Included in WTG price		
<p>Low Voltage Ride Through III (LVRT III)</p> <ul style="list-style-type: none"> <li>• Will keep wind farm on-line at zero percent(0%) voltage at point of Interconnection for 1 second.</li> </ul>	Included in WTG price		
<p>2 Year Annual Warranty and Service Agreement includes:</p> <ol style="list-style-type: none"> <li>1) Pricing based on 95% availability</li> <li>2) Comprehensive service package designed to manage production capability through planned and unplanned services backed by equipment warranties and performance guarantees</li> <li>3) Scheduled and routine maintenance in accordance with turbine service manual</li> <li>4) All site operations for turbines; includes required reporting, inventory management, and manual resets</li> <li>5) Remote operations support 24/7; includes remote resets, performance analysis and call-out service</li> <li>6) Turbine component repairs or replacements as required (includes all parts, labor and equipment)</li> <li>7) Seller technology Root Cause Analysis solutions; includes initial damage assessments for all Excusable Delay events</li> <li>8) All services backed by full credit of Seller</li> </ol>	Included in WTG price		
<p>Reactive Power Capability includes:</p> <p>+/- 0.9 power factor at WTG terminals compared to standard of 0.85 overexcited to 0.80 underexcited at 1.0pu voltage (575V) and full power (1500kW)</p>	Included in WTG price		
<p>Dedication Event Planning and Assistance</p>	Included in WTG price		
<p><b>Total Contract Price</b></p>			<p><b>\$US195,712,000</b></p>

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Attachment 1 - 2

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1. Includes generator, main shaft, bearings, drive train couplings, rotor hub, gearbox (with first oil fill), generator cooling system, hydraulic system, yaw drive system, blade pitch mechanism including drive motors and control system, wind speed and direction sensors, lightning protection system, braking system, instrumentation, and other related components as described in the Technical Specifications of the sales contract between Buyer and Seller. No logo. All components to be supplied complete as required for assembly (i.e. bolts, connectors, etc.).
2. 80m three section steel tower with "T"-flange base for bolting to concrete foundation and embedded "T"- Flanges for each foundation. The actual height of the tower is 78.95m. Tower sections to be supplied with loose parts kit (lugs, bolts, connections) required for erection. Supply does not include anchor bolt templates, anchor bolts, rigging equipment, and lifting beam. Tower internals including ladders, platforms, power cabling (with all necessary terminations), fall protection, lighting and other items as described in the Technical Specifications of the sales contract between Buyer and Seller.
3. Parts Shipped Loose kit consists of a variety of minor components and parts that are utilized for the installation and operation of each WTG.
4. Blade sets consist of three fiberglass epoxy resin blades in accordance with the Technical Specifications of the sales contract between Buyer and Seller.
5. Special Installation tools kit: Pitch Drive Control Box and set of 3 Blade Trailing Edge Protectors. GE will supply one special installation tools kit per heavy lift crane and an additional for each project phase. Tools and fixtures are loaned for the project and will be shipped back to GE at Buyer's expense. GE will share data on the shipping fixtures specifications six (6) weeks prior to 1<sup>st</sup> delivery of units in 2006 and 2007. GE is not responsible for any loss or damages due to the use of these fixtures.
6. Base GE SCADA system features:
  - A basic communication rack that can support up to four (4) single-mode communication loops (that connect the first WTG in the loop to the master SCADA communication rack) and four (4) multi-mode loops. Supports up to 135 turbines.
  - One (1) Metmast SCADA Package (enclosure, datalogger, anemometer, windvane, sensors, cable, boom) per wind farm is included.
  - Integrated system for operating and managing the windfarm.
  - Based on open architecture software technology, such as Ethernet, SQL, and OPC
  - Accommodates meeting the fast-evolving requirements for windfarm management, including, interfacing to external applications, full suite of reports, remote connectivity and control, and fault management.
  - Data integrity, integrated functionality, and open architecture allow for this system to adapt to maintain compatibility with evolving standards and demands of windfarm operations.

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Attachment 1-3

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- 7. Corrosion protection per ISO 12944-2: external components rated to C3; internal rated to C2. The corrosion protection technical parameters are not a representation or validation of Buyer's site requirements.
- 8. Temperature Range:
  - o Operation: -30°C to +40° C.
  - o Survival: -40°C to +50° C.
- 9. While Buyer shall be responsible for the installation, erection and ensuring each Unit achieves Mechanical Completion, Seller shall provide technical advisory support in connection with Buyer's or its contractors' installation and erection efforts, provided that notwithstanding the foregoing, the Parties understand and recognize that Seller is not the Buyer's engineer, which engineer shall have primary responsibility for advising Buyer regarding the installation and erection of the Units.

Above 1000m elevation, the maximum operating temperature is reduced per DIN IEC 60034-1 (e.g., maximum operating temperature reduced to 30° C at 2000m).

- 10. Buyer is responsible for, including but not limited to, selecting transportation carrier(s), paying directly transportation carrier for transportation services, documentation, demurrage, road survey, permitting, police escort. Seller shall send shipping fixtures information to the selected carriers and shall coordinate delivery of equipment to the Site. Seller shall provide transportation management services. Seller shall work with Buyer and its designated carriers to help facilitate safe and timely delivery to the Site and Seller shall be responsible for managing all transportation logistics. Seller shall provide Buyer with Delivery locations for all Equipment provided hereunder at least sixty (60) days prior to the first delivery of Units pursuant this Contract.

Additional notes

Seller to provide technical specifications for MET tower sensors. Neither the MET tower sensors nor the MET tower itself are part of Seller's scope of supply.

Seller shall, at its expense, promptly provide Buyer with a copy of any Germanischer Lloyd certifications ("GL Certifications") that Seller or a Supplier has received, or will receive, for the Equipment.

Options.

The Buyer shall have the option to purchase the following Equipment or Services within the times and for the prices stated.

Number	Exercise Date	Description	Effect on Contract Price
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Attachment 1 - 4

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1	TBD	Training for employees at GE's training facility in Tehachapi, CA Travel and living expenses are at Buyer's cost	\$6000/Person
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Attachment 1-5

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**Attachment 2  
Schedule**

**Guaranteed Major Component Delivery Dates (All Dates represent the date at which the Components will be ready to Ship)**

<b>Delivery Number</b>	<b># Units</b>	<b>Total</b>	<b>Major Component(s)</b>	<b>Scheduled Major Component Delivery Date (week of)</b>
1	5	1-5	GE 1.5 XLE WTG	7/10/2006
2	5	6-10	GE 1.5 XLE WTG	7/17/2006
3	5	11-15	GE 1.5 XLE WTG	7/24/2006
4	5	16-20	GE 1.5 XLE WTG	7/31/2006
5	5	21-25	GE 1.5 XLE WTG	8/7/2006
6	1	26	GE 1.5 XLE WTG	8/14/2006
7	7	27-33	GE 1.5 XLE WTG	4/30/2007
8	7	34-40	GE 1.5 XLE WTG	5/7/2007
9	7	41-47	GE 1.5 XLE WTG	5/14/2007
10	7	48-54	GE 1.5 XLE WTG	5/21/2007
11	7	55-61	GE 1.5 XLE WTG	5/28/2007
12	7	62-68	GE 1.5 XLE WTG	6/4/2007
13	7	69-75	GE 1.5 XLE WTG	6/11/2007
14	7	76-82	GE 1.5 XLE WTG	6/18/2007
15	7	83-89	GE 1.5 XLE WTG	6/25/2007
16	7	90-96	GE 1.5 XLE WTG	7/2/2007

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Attachment 2 - 1

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17	7	97-103	GE 1.5 XLE WTG	7/9/2007
18	7	104-110	GE 1.5 XLE WTG	7/16/2007
19	7	111-117	GE 1.5 XLE WTG	7/23/2007
20	7	118-124	GE 1.5 XLE WTG	7/30/2007
21	7	125-131	GE 1.5 XLE WTG	8/6/2007
22	3	132-134	GE 1.5 XLE WTG	8/13/2007

Delivery of 1st units in 2007 will start at the beginning of the week of April 30, 2007 unless delayed by transport restrictions (Quebec Ministry of Transport Frost & Thawing Law) but in no case later than the week of May 28, 2007.

Seller shall provide Buyer with Delivery locations for all Equipment provided hereunder at least sixty (60) days prior to the first delivery of Units pursuant this Contract.

**Commercial Operation**

The schedule for Commercial Operation for each Unit is equal to Mechanical Completion for such Unit + 14 days.

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Attachment 2-2

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**Attachment 3  
Price, Payments and Termination Charges**

**Article 1. Price**

In consideration of the supply of the Equipment and the performance of the Services, the Buyer will pay to the Seller the sum of **\$196,712,000.00 (US)** (the "Contract Price"). The Contract Price and Payment Schedule shall be adjusted as necessary to take account of Changes, additional Work or other adjustments provided for in this Contract.

Upon Buyer's request, which request shall be made on or before December 1, 2005, Seller shall convert all amounts under the Contract appearing in US Dollars to Canadian Dollars, and such conversion shall be at the official exchange rate listed by the Bank of Canada as of noon on the day Buyer makes the request (the "Currency Conversion"). If there is a Currency Conversion, all payments hereunder shall be made in Canadian Dollars.

**Article 2. Payment Schedule**

**2006 Shipments - Payment and Termination (26) 1.5XLE WTGs**

Month	Event	Payment		Termination
		Monthly Payment	Cumulative	
Jul-05		0.00%	0.00%	0.00%
Aug-05		0.00%	0.00%	0.00%
Sep-05		0.00%	0.00%	0.00%
Oct-05		0.00%	0.00%	0.00%
Nov-05		0.00%	0.00%	0.00%
Dec-05	Calendar Payment - Termination Flange Dec Int	50.00%	50.00%	20.00%
Jan-06		0.00%	50.00%	25.00%
Feb-06		0.00%	50.00%	30.00%
Mar-06		0.00%	50.00%	35.00%
Apr-06		0.00%	50.00%	40.00%
May-06		0.00%	50.00%	45.00%
Jun-06		0.00%	50.00%	50.00%
Jul-06	WTG Readiness to Ship	40.00%	90.00%	100.00%
Aug-06	Commissioning	7.50%	97.50%	100.00%
Sep-06	Acceptance	2.50%	100.00%	100.00%
Oct-06		0.00%	100.00%	100.00%
Nov-06		0.00%	100.00%	100.00%
Dec-06		0.00%	100.00%	100.00%
Jan-07		0.00%	100.00%	100.00%
Feb-07		0.00%	100.00%	100.00%
Mar-07		0.00%	100.00%	100.00%
Apr-07		0.00%	100.00%	100.00%
May-07		0.00%	100.00%	100.00%
Jun-07		0.00%	100.00%	100.00%
Jul-07		0.00%	100.00%	100.00%
TOTAL		100.00%	100.00%	100.00%



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2007 Shipments - Payment and Termination (108) 1.5XLE WTGs

Payment				Termination
Month	Event	Monthly Payment	Cumulative	Termination
Jul-05		0.00%	0.00%	0.00%
Aug-05		0.00%	0.00%	0.00%
Sep-05		0.00%	0.00%	0.00%
Oct-05		0.00%	0.00%	0.00%
Nov-05		0.00%	0.00%	0.00%
Dec-05	Termination Ramp: Dec 1st	0.00%	0.00%	0.00%
Jan-06		0.00%	0.00%	0.00%
Feb-06		0.00%	0.00%	11.00%
Mar-06		0.00%	0.00%	14.00%
Apr-06		0.00%	0.00%	17.00%
May-06		0.00%	0.00%	20.00%
Jun-06		0.00%	0.00%	20.00%
Jul-06		0.00%	0.00%	20.00%
Aug-06		0.00%	0.00%	20.00%
Sep-06		0.00%	0.00%	20.00%
Oct-06		0.00%	0.00%	20.00%
Nov-06		0.00%	0.00%	25.00%
Dec-06	Calendar Payment - Due 12/31	50.00%	50.00%	20.00%
Jan-07		0.00%	50.00%	35.00%
Feb-07		0.00%	50.00%	40.00%
Mar-07		0.00%	50.00%	50.00%
Apr-07		0.00%	50.00%	50.00%
May-07	WTG Readiness to Ship	40.00%	90.00%	100.00%
Jun-07	Commissioning	7.50%	97.50%	100.00%
Jul-07	Acceptance	2.50%	100.00%	100.00%
TOTAL		100.00%	100.00%	100.00%

2006 and 2007 Payment Schedule Notes:

Calendar Payments for the 2006 phase and the 2007 phase are due 30 days after invoicing, provided that Seller shall not issue its invoice for the 2006 phase prior to December 1, 2005, and Seller shall not issue its invoice for the 2007 Units prior to December 1, 2006.

Payment for the Equipment and the performance of the Services shall be made as set forth in the schedule below without setoff of any kind. Progress Payments shall be due and payable on the twenty fifth (25th) day of the calendar month as indicated in the Payment Schedule, remitted via wire transfer.

If any payments due hereunder falls on a weekend or holiday, the payment shall be due on the next business day. Wire transfer instructions shall be provided on each invoice. Late payments shall be subject to an interest charge equal to two percent in excess of the prime rate as published in the Wall Street Journal, at that time.

For those payments tied to milestones, it is understood and agreed if the Seller completes the milestone in advance of what is indicated on the Payment Schedule, in no event shall the Buyer



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be required to make payment for such milestone prior to ninety (90) days from the milestone date identified on the Payment Schedule.

Event/Milestone	Satisfaction/Achievement	Payment Notes
Calendar Payment	No Special Action Required by Buyer or Seller to Satisfy/Achieve the Event/Milestone	Subject to the Payment and Termination Notes above, Buyer shall pay Seller 30 days after Seller's Invoice
WTG Readiness to Ship	Seller must Deliver all the Major Components of a given Unit to Buyer in accordance with the Special Conditions. Thereafter, Seller shall issue an invoice to Buyer for such milestone event	Due within five business days from Buyer's receipt of Seller's Invoice. Buyer to pay Seller, pro rata for each Unit that is Delivered to Buyer, based on a price per Unit of US\$1,468,000 (prior to a Currency Conversion). For example, after Seller satisfies this milestone for a Unit and invoices Buyer, Buyer shall pay Seller within five business days an amount equal to $.40 \times \text{US\$1,468,000} = \text{US\$587,200}$
Commissioning	Seller's delivery, and Buyer's acceptance, of a Turbine Completion Certificate. Thereafter, Seller shall issue an invoice to Buyer for such milestone event	Due within thirty days from Buyer's receipt of Seller's invoice. Buyer to pay Seller, pro rata for each Unit that is Delivered to Buyer, based on a price per Unit of US\$1,468,000 (prior to a Currency Conversion). For example, after Seller satisfies this milestone for a Unit and invoices Buyer, Buyer shall pay Seller within thirty days an amount equal to $.075 \times \text{US\$1,468,000} = \text{US\$110,100}$
Acceptance – Due Net 30 days	Seller's delivery, and Buyer's acceptance, of the Final Project Sign Off Certificate for the 2006 phase, and the 2007 phase, respectively	Due within thirty days from Buyer's receipt of Seller's invoice. Buyer to pay Seller based on portion of Contract Price attributable to the phase

**Termination Schedule Notes:**

- Termination for convenience shall occur upon written notification and payment of the charges per the termination schedule.
- Termination ramps the first day of each indicated month unless indicated differently on the termination schedule.
- Termination ramps referenced to events occur upon achievement of the event, independent of the calendar date.
- Upon the earlier of shipment or title transfer of any Major Component that is part of a Unit, the termination amount for that Unit is 100%.
- Cumulative termination amounts listed reflect the minimum termination value, which may be increased by title passage of any subset of a Unit.



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- Unless title to a Unit has already passed to Buyer in accordance with the Contract, title to terminated wind turbine-generator(s) remain with Seller upon payment of termination charges.

**Article 3. Reserved**

**Article 4. Passage of Title**

Title to each portion of the Equipment shall pass from the Seller to the Buyer as follows:

Title for all Major Components transfers to Buyer upon notification of Readiness to Ship, EXW (INCOTERMS 2000) ExWorks place of manufacture on a pro-rata basis, for equipment manufactured in either the United States or Canada. For equipment manufactured outside of the United States or Canada, the title will transfer DEQ (INCOTERMS 2000) delivered Ex Quay which means when the goods are placed at the disposal of the Buyer not cleared for import on the quay (wharf) at the named port of destination.

Notwithstanding the foregoing, title to spare parts to be exported from the United States of America shall pass from the Seller to the Buyer immediately after each item departs from the territorial land, seas and overlying airspace of the United States. For the purposes of this clause, the territorial seas of the United States shall be deemed to extend to twelve nautical miles from the baseline of the country determined in accordance with the 1982 United Nations Convention of the Law of the Sea.

Title to Services shall pass from the Seller to the Buyer as performed.

If this Contract is terminated for the convenience of the Buyer pursuant to the Special Condition entitled "Termination for Convenience", the Seller shall retain title to each terminated Unit, unless title to a Unit has already passed to Buyer in accordance with the Contract. Title to each item of Equipment comprising the un-terminated Units shall pass to the Buyer upon the later of (x) payment to the Seller of 100% of the Unit Price of each un-terminated Unit and of the termination charges calculated in accordance with this Attachment 3, and (y) when title to such item of Equipment would otherwise have passed pursuant to this Section.



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**Attachment 4  
Governing Law, Disputes and Limitations of Liability**

**Article 1. Governing Law; Disputes**

This Contract shall be construed and interpreted in accordance with the laws of the State of New York, excluding their conflict of law rules (the "Governing Law of the Contract").

**Article 2. Dispute Resolution**

(a) Referral to Senior Management. Any controversy, dispute or difference between the Parties to this Contract, if not amicably settled by the Parties within thirty (30) days following notice of dispute, shall be referred to senior management of the Parties for resolution. In the event the dispute has not been resolved within forty-five (45) days following referral to senior management, or such longer period as the Parties may mutually agree, then either Party may then pursue their remedies at law or in equity.

(b) Venue. Any legal action or proceeding with respect to this Contract shall be brought in the United States District Court for the Southern District of New York or, if such court lacks jurisdiction, in the Supreme Court of the State of New York in New York County. Each of the Parties hereby accepts and consents to, generally and unconditionally, the jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each of the Parties irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such Party at the address first set forth in the General Conditions. Each of the Parties hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Contract brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

**Article 3. Limitation of Liability**

(a) Limitation. The total liability of either Party for all claims arising out of or relating to the performance or breach of the Contract or use of any of the Work shall not exceed the Contract Price. A cause of action hereunder must arise no later than sixty months after the first Unit commences Commercial Operation. Either Party may enforce a claim hereunder by commencing an action or filing an arbitration, as applicable under the dispute resolution clause, before the expiration of the applicable statute of limitations, but not later than seventy two (72) months after Commercial Operation of the Facility.

(b) Consequential Damages. Neither Party shall be liable for loss of profit or revenues, loss of

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Attachment 4 - 1

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product, loss of use of the Work or any associated equipment, interruption of business, cost of capital, cost of replacement, downtime costs, increased operating costs, claims of the other Party's customers for such damages, or for any special, consequential, incidental, indirect, punitive or exemplary damages.

(c) Sale to Third Party. If the Buyer is supplying the Work to a third party, the Buyer shall require the third party to agree to be bound by this Article. If the Buyer does not obtain this agreement for the Seller's benefit, or if the agreement is found void or unenforceable, the Buyer shall indemnify, defend and hold the Seller harmless from and against any and all liability arising out of claims made by the third party in excess of the limitations and exclusions of this Section.

(d) Gratuitous Advice. The Seller shall not be liable for any advice or assistance that is not required under the Contract.

(e) "Seller" Defined. For the purposes of this article, the term "Seller" shall mean the Seller, its Affiliates, Subcontractors and Suppliers of any tier, and their agents and employees, individually or collectively.

(f) Limitations to Prevail. The limitations and exclusions in this Section shall apply regardless whether a claim is based in contract (including warranty or indemnity), tort (including negligence or strict liability), statute, equity or any other extra-contractual theory.

(g) Limitation of Remedies; Overriding Effect. The Buyer's and the Seller's rights, obligations and remedies arising out of or relating to the Work are limited to those rights, obligations and remedies described in the Contract. This Section shall prevail over any conflicting or inconsistent terms in the Contract, unless those terms further restrict the Seller's liability.

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Attachment 4 - 2

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Attachment 5

(a) Calculation of Annual Liquidated Damages for Deficiency in Power Curve

The annual liquidated damages for failure to meet the Power Curve Guarantee with respect to either phase of the Facility is calculated with the following formula; and shall be paid annually:

$LD = \text{Power Curve Deficiency} * \text{Power Curve LD Rate} * \text{Deficiency Years} * \text{Number of Units in the Facility phase being guaranteed}$

Where:

LD = annual liquidated damages to be paid by Seller.

Power Curve Deficiency = [PCG (effective) - Test Result]

PCG (effective) = The Power Curve Guarantee set forth in SC-16(a) of the Contract, as adjusted by Appendix C, Machine Power Performance Test.

Test Result =  $((ANME/NCE)*100\%)$ , where ANME (Average Nominal Measured Energy) and NCE (Nominal Calculated Energy) are as defined in the Technical Specification.

Power Curve LD Rate = \$2,000 per each one percent of Power Curve Deficiency, prorated per one-one hundredth of a percent.

Deficiency Years = For each Facility phase, the time period in years (pro-rated for each day of a 365- or 366-day year, as applicable) from the date the last Unit in such phase was Commissioned, through the earlier of the date when the Power Curve Guarantee is met with respect to such phase, or the last day of the Warranty Period, inclusive. In the event that during the Warranty Period after re-testing has shown the Power Curve Guarantee to have been met, further independent tests by Buyer again demonstrate a Power Curve Deficiency, annual liquidated damages will be due from Seller from the date such tests are performed until the earlier of the date when the Power Curve Guarantee is again met, or the last day of the Warranty Period, inclusive.

(b) Calculation of Additional Liquidated Damages for Failure to Achieve Power Curve Guarantee

The additional liquidated damages due in the event that Seller fails to achieve the Power Curve Guarantee on or before the end of the Warranty Period shall be in an amount equal to the present value of Buyer's revenues from power sales lost due to the Power Curve Deficiency, which revenues shall be estimated over the Warranty Period for all Units in the applicable Facility phase and shall be converted to present value using a ten percent (10%) discount rate for the time value of money.

**ATTACHMENT 6**

**Calculation of Liquidated Damages for Deficiency in Availability**

**1. GUARANTEED AVAILABILITY**

During the term of this Agreement, Seller guarantees all Units shall maintain ninety-five percent (95 %) availability on a weighted cumulative average basis during the periods defined in the Special Condition 1-17 and in accordance with the provisions in this Attachment (the "Guaranteed Availability").

**1.1 Calculation of Annual Availability**

Availability shall be determined using data for all Units recorded each calendar month by the monitoring and performance system together with Seller's logs. Availability measurement shall commence on the Dates defined in the Special Condition 1-17 and shall be reported to Buyer on a monthly basis. Within thirty (30) days after each Availability period, Seller shall calculate availability for the period rounded to the nearest one-tenth of one percent (0.1%) based on Operation Availability hours divided by Annual Baseline hours:

$$\text{Annual Availability [\%]} = \frac{\text{Operation Availability [Hours]}}{\text{Annual Baseline [Hours]}}$$

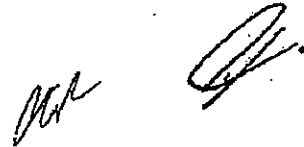
Where:

"Annual Baseline" is the product of the number of Units multiplied by 24 hours and further multiplied by 365 or 366 days, depending on the period.

"Operation Availability" is the cumulative hours Units are available for operation during a period.

The times for a Covered Unit to be considered of availability for operation include:

- a. Periods of Time in which the Unit(s) demonstrate availability for operation according to Contractor monitoring software (SCADA), as described in Section 1.6.
- b. Periods when Routine Maintenance as defined in Section 1.7 is performed. Routine Maintenance hours shall not exceed one sixty (60) hours in any 12 month period, unless both Parties mutually agree to extend the amount for a given year for a major preventive maintenance plan.
- c. Downtime when Unit(s) are not accessible under safe conditions for equipment or personnel according to criteria mutually agreed by both Parties based on Section 1.8.
- d. Downtime or lost data resulting from an unstable connection to Seller's remote center for which Seller is not responsible.



- e. Downtime for which Seller is not responsible, such as the result of weather conditions, grid connection, theft, vandalism, fire, other insurable events or as a result of any Excluded Event.
- f. Downtime as a result of Extra Work, whether performed by Seller or other subcontractors.
- g. Downtime as a result of tests or inspections agreed to by the Buyer.
- h. Time between notification to the Buyer and reception of purchase order by Seller - in case of downtime following an unplanned event and causing replacement of at least one risk sharing Part.

### 1.2 Calculation of Weighted Cumulative Average Availability Liability

At the end of each Availability period, if Weighted Cumulative Average Availability is less than the Availability Guarantee, "Availability Liquidated Damages" shall be calculated as follows:

$$\frac{(\text{Guaranteed Availability} - \text{Weighted Cumulative Average Availability}) \times \text{Availability LD Rate} \times \text{time period represented in Weighted Cumulative Average Availability}}{\text{Availability}}$$

### 1.3 Availability LD

If Units operate below Guaranteed Availability, the liquidated damages shall be \$2,000 per Covered Unit for each percent, prorated per hundredth of a percent, which Average Availability is below Guaranteed Availability ("Availability LD Rate").

### 1.4 Availability Payment and True-Up

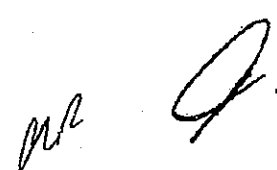
If Weighted Cumulative Average Availability is greater than the Guaranteed Availability, Buyer shall reimburse (without interest) the difference between the value of the excess availability and prior Availability Liquidated Damages ("Availability True-Up Payment"). Availability True-Up Payment shall not be greater than the cumulative amount of Availability Liquidated Damages.

Any payment obligation shall be due no later than fifteen (15) days after the amount is calculated. If payment is due by Seller, such payment shall be Buyer's sole and exclusive remedy for a failure to achieve the Guaranteed Availability.

### 1.6 Definition of SCADA time counters for each Covered Unit availability

In order to support calculations of availability performance, SCADA shall track the following times with incremental counters for each Unit:

- Total time of operation



- Total time Unit has OK status
- Total time Unit has been shut down
- Total time grid is not available
- Total downtime due to weather
- Total maintenance time
- Total repair time
- Total time Buyer has stopped the Unit

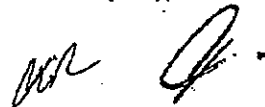
#### **1.7 Routine Maintenance**

- a. All scheduled maintenance services set forth in the O&M manual.
- b. Seller's checklist of visual inspections of Unit components.
- c. Seller's standard electrical and bolt torque checks.
- d. Hydraulic system adjustments as required.
- e. Topping off of fluids as determined by inspection.
- f. Oil sampling, testing and extractions in accordance to O&M manual.
- g. Consumables such as solvents, lubricants and filters, and other consumables defined in the O&M manual necessary for the proper maintenance of the Unit(s).
- h. Scheduled testing of components as required in the O&M manual.
- i. Replace consumable Parts, such as break pads, brushes, filters, lubricants and other components specifically identified as scheduled maintenance items in the O&M manual.
- j. Routine repair or replacement of Parts due to wear and tear as required.
- k. Maintain and calibrate Seller tools, equipment and instruments; replace as required.

#### **1.8 Site Accessibility Under Safe Conditions**

Both Parties agree to establish a common procedure to define when access to the Site or access to the Unit(s) shall be restricted due to unsafe conditions. Such procedure shall describe :

- criteria to determine restricted accessibility, including at least the following elements : wind and ambient temperature conditions, road conditions, personnel safety conditions,
- communication plan to inform designated responsible personnel when accessibility is restricted
- tracking mechanism to record accessibility conditions 24/7 (24 hours, every day)

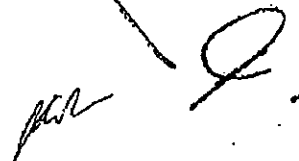


- emergency evacuation plan for personnel on-site while accessibility conditions deteriorate

In application of the above procedure, neither Buyer nor Seller shall have any liability or be considered to be in breach or default of its obligations under this Agreement to the extent that performance of such obligations is delayed or prevented, directly or indirectly, due to Site or Unit(s) restricted access for unsafe conditions.

"Excluded Event" means an Excusable Event, an Assumption Violation, improper operation and the use of goods or services provided by a party other than Contractor, or Contractor's subcontractors, acting under this Agreement, or the presence of foreign objects or contaminants including, without limitation, chemicals, salt air and harmful gases in the physical environment affecting the Covered Unit(s).

"Extra Work" means goods or services beyond Operations & Maintenance scope of work that Contractor provides or performs.

A handwritten signature in black ink, consisting of a stylized first name followed by a last name with a large initial.

Execution Version

**OPERATIONS AND MAINTENANCE  
AGREEMENT**

FOR THE RIVIERE DU LOUP PROJECT

BETWEEN AND AMONG

SKYPOWER CORP.

as Owner

and

GENERAL ELECTRIC CANADA,

and

GENERAL ELECTRIC COMPANY

as Operator

Dated as of November 30, 2005

Operations and Maintenance Agreement - Americas  
Skypower Final OM Agreement (2).DOC  
GE Wind Energy - Confidential  
For Internal Review



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## OPERATIONS & MAINTENANCE AGREEMENT

This OPERATIONS & MAINTENANCE AGREEMENT (this "Agreement"), dated as of November 30, 2005, (the "Effective Date") is made between and among SkyPower Corp., a corporation incorporated under the laws of Canada (the "Owner"), General Electric Canada, a partnership organized and existing under the laws of the Province of Ontario, Canada ("GE Canada") and General Electric Company, a corporation organized and existing under the laws of the State of New York, U.S.A., ("GE"), GE and GE Canada are collectively referred to as the "Operator". The Owner and the Operator are also referred to, individually, as a "Party" or, collectively, as the "Parties."

### RECITALS

A. The Owner and GE and GE Canada have entered into the Turbine Sale Agreement pursuant to which the Owner agreed to purchase, and GE and GE Canada agreed to sell, one hundred and thirty four (134) GE Wind Energy 1.5 XLE wind turbine generators and related services, as set forth in the Turbine Sale Agreement.

B. Under the Turbine Sale Agreement, GE and GE Canada agreed that they would provide certain usual and customary operation and maintenance services for the Turbines for a two-year period, at no additional charge to Owner, except as provided herein.

C. The Owner desires to contract with the Operator for (i) the Services (defined below) for the Turbines and (ii) the Out of Scope Work for the Turbines on the terms and subject to conditions set forth herein.

D. The Operator desires to provide the Services on the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises stated herein and in the Turbine Sale Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

### ARTICLE 1 DEFINITIONS

#### 1.1 Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Affiliate" shall mean any Person directly or indirectly controlling or controlled by or under direct or indirect common control with another Person. For the purposes of this definition, "control" when used with respect to a Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. The terms "controlled" and "controlling" have meanings correlative to the foregoing. Notwithstanding the foregoing, the Owner shall not be considered an Affiliate of the Operator for purposes of this Agreement.

"Agreement" shall have the meaning set forth in the Preamble to this Agreement.

"Business Day" shall mean a day other than a Saturday, a Sunday or any other day which shall be in Quebec; a legal holiday or a day on which banking institutions are authorized or required by law to close.

"Change in Law" shall mean the enactment, adoption, promulgation, modification, or repeal, in each case, after the date of this Agreement of any Governmental Requirement or any change in the interpretation of any Governmental Requirement by any Governmental Authority or court of law, that materially adversely affects Operator's costs or schedule for performing the work required pursuant to this Agreement, provided that a change in applicable tax law shall not be a Change in Law pursuant to this Agreement.

"Commercial Operation" shall mean with respect to each Turbine, the date that such Turbine is capable of safely generating electric power for commercial use, and with respect to the Project, the date that all Turbines have achieved Commercial Operation.

"Default" shall have the meaning set forth in Section 9.1. The verb "Defaulting" shall have a correlative meaning.

"Default Rate" shall mean the lesser of (a) a rate per annum equal to the prime rate for Canadian commercial loans by the main branch in Toronto of the Toronto Dominion Bank on the same day it is made effective by such bank, or (b) the maximum rate that can be charged under applicable law.

"Effective Date" shall have the meaning set forth in the Preamble to this Agreement.

"Electrical Infrastructure" shall mean, collectively, the pad mounted transformers, high voltage feeder lines, switches and related facilities through which the electrical power generated by each Turbine that is part of the Project is collected and transferred to the Interconnection Facilities.

"Emergency" shall mean an event occurring at the Project or any adjoining property that poses actual or imminent risk of serious personal injury or material physical damage to one or more Turbines requiring, in the good faith determination of the Operator, immediate preventative or remedial action by the Operator.

"Expenses" shall mean the following costs, excluding therefrom any items that are included as part of Operator's labor in accordance with the Labor Price List and any parts purchased from Operator in accordance with the Parts Price List, (a) direct costs of Turbine components and spare

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parts or other items required for any Out of Scope Work in accordance with the terms hereof, including materials, supplies, equipment and vehicles, rental equipment and vehicles, subcontracted services, spare parts, and such other items, with any parts supplied by Operator or an Affiliate to be provided at the then list price of such parts; and (b) actual third party costs incurred by Operator for any Out of Scope Work.

"Financing Agreement" shall mean any Financing Agreement made by Owner for purposes of the construction or financing of the Project.

"Governmental Authority" shall mean the government of any federal, state, municipal or other political subdivision exercising jurisdiction over the Project or, with respect to their rights and obligations hereunder or with respect to the Turbines, the Parties, including all agencies and instrumentalities of such governments and political subdivisions.

"Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of any Governmental Authority, in effect on the date hereof, including all authorizations, consents, approvals, registrations, exemptions, filings, Permits and licenses with or from any Governmental Authority, applicable to the Project or, with respect to their rights and obligations hereunder or with respect to the Project, the Parties.

"Insurance Policies" shall mean all policies of insurance maintained by the Owner with respect to the Project pursuant to Section 7.2 and all insurance policies required to be maintained by the Operator pursuant to Section 4.1.12.

"Labor Price List" shall have the meaning set forth in Section 4.2.4.1.

"Lenders" shall mean, collectively, the financial institutions providing financing for the Project and party to a Financing Agreement.

"Maintenance Facility" shall have the meaning set forth in Section 7.8

"Out of Scope Work" shall mean any inspection, maintenance and repair or other services provided pursuant to Section 4.2 hereto that are not included in the Services and that are not performed as warranty repairs pursuant to the Turbine Sale Agreement. Out of Scope Work shall include Emergency services and those items identified in Exhibit E attached hereto.

"Operation and Maintenance Manual" or "O&M Manual" shall mean the manual provided by the original equipment supplier with respect to the operation and maintenance of the Turbines, as amended, supplemented, or upgraded from time to time.

"Operating Force Majeure Events" shall mean acts, events, or occurrences beyond the reasonable control of Operator, including, without limitation, (i) war, hostilities, insurrection, riot, vandalism or other public disorder or civil disturbance, expropriation or confiscation, strikes, lockouts or other labor disputes, a Change in Law, acts of God, fires, hurricanes, thunder storms (including imminent thunder storm watches or imminent warnings declared for the area including the Project Site by the Canadian National Weather Service), tornadoes (including imminent tornado watches or imminent warnings declared for the area including the Project Site

by the Canadian National Weather Service), ice, snow or hail conditions that create a threat of imminent danger to employees of Operator, mudslides, earthquakes, lightning (including lightning blade strikes or explosions); epidemic or quarantine; material damage to any part of the Project caused by persons other than Operator, its Affiliates or their respective subcontractors; a condition at the Project Site that prevents or substantially hinders Operator in the performance of its obligations hereunder, which condition would not reasonably have been discovered by a Turbine Operator comparable in experience to Operator conducting a competent and diligent visual inspection or other inspection or analysis performed by Operator or its Affiliates, (ii) wind velocity as a constant speed or in gusts is such that a reasonable professional qualified operator engaged in the business of performing the Services on wind energy generation facilities comparable to the Project would not perform the work needed at such time due to risks to persons or property, (iii) delays due to conditions that prohibit or limit access to the Project Site or that create unsafe working conditions, and that are caused by severe inclement weather within the vicinity of the Project Site, (iv) transmission outages or sudden disruptive electrical events or disturbances on the grid side of the Project's substation and (v) an Outside of Tolerances Event with respect to a Turbine or a foundation.

"Operator" shall have the meaning set forth in the Preamble to this Agreement.

"Operator's Representative" shall have the meaning set forth in Section 6.7.

"Outside of Tolerances Event" shall mean an event during which the actual operating and extreme conditions at the Project Site exceed the site specific characteristics for extreme conditions which are as follows:

(a) with respect to the Turbines:

(i) a hub height extreme wind speed velocity of 59.5 mps;

(ii) any other extreme conditions including extreme temperatures ((i) operating the Turbines at temperatures of less than -35° C or greater than + 40° C, or (ii) at any time (whether operating or not) temperatures of less than -40° C or greater than + 50°C); or

(iii) extreme electrical network conditions outside the range specified in the Technical Specifications;

provided Operator is able to demonstrate that (A) such extreme condition occurred; (B) the protective systems of the Turbine were installed and operational; and (C) physical damage occurred to a Turbine as a result of the extreme condition which required repair to the Turbine provided that such damage was not caused by the negligence or breach of this Agreement by Operator.

"Owner" shall have the meaning set forth in the Preamble to this Agreement.

"Owner's Representative" shall have the meaning set forth in Section 6.7.

"Part" or "Parts" means new or refurbished parts whose primary purpose is to replace worn or consumed parts or components of the Project.

"Parts Price List" shall have the meaning set forth in Section 4.2.4.1.

"Permits" means any valid waiver, exemption, variance, franchise, permit, authorization, license or similar order, of or from any federal, state, county, municipal, local, regional, or other governmental body, instrumentality, agency, authority, court or other body having jurisdiction over the matter in question.

"Person" shall mean any individual, corporation, partnership, limited liability company, association, trust or other entity.

"Power Agreement and Interconnection Agreement Provisions" shall mean the provisions of any Power Agreement and Interconnection agreement entered into by Owner with respect to the Project.

"Power Purchaser" shall mean the party to the Power Agreement and purchaser of power from the Project.

"Project" shall mean the wind -powered electric generating facility constructed on the Project Site, including, without limitation, all buildings, improvements and fixtures, together with all necessary or useful appliances, parts, equipment, instruments, appurtenances, and accessories, which are now or may from time to time be incorporated in or made a part of or owed or leased by the Owner in connection with the Project, and specifically including the Turbines, the SCADA System, the Electrical Infrastructure, the Interconnection Facilities, the roads on the Project Site and any and all additions, modifications, supplements or replacements thereof.

"Project Site" shall mean the real property subject to the Site Agreements.

"Prudent Wind Industry Practices" means those practices, methods, equipment, specifications and standards of safety and performance, as the same may be changed from time to time, as are commonly used in operations of privately owned wind generated electric power generation facilities similar to the project, which in the exercise of reasonable judgment and in light of the facts known at the time the decision was made, are considered good, safe and prudent practice in connection with the operation and maintenance of wind generation facilities similar to the Project.

"Regular Business Hours" shall mean 9:00 a.m. to 5:00 p.m. (or each other 8-hour period established by Operator) on each Business Day.

"Scheduled Maintenance" shall mean those inspection and maintenance services described in Section 4.1 hereof.

"Services" shall mean the services the Operator is required to perform under Section 4.1 hereto.

"Site Agreements" shall mean, collectively, those certain leases between Owner and underlying fee owners of the Project Site, which agreements allow Owner to construct and operate the Project thereon.

"T-1 Line" shall mean a broadband communications line with a bandwidth capacity greater than or equal to 1.5 megabytes per second.

"Turbine" shall have the same meaning ascribed to word "Equipment," as defined in the Turbine Sale Agreement.

"Turbine Sale Agreement" shall mean that certain Turbine Supply Agreement by and between Owner, GE and GE Canada, dated as of the date hereof.

"Unit" shall have the same meaning ascribed to word "Unit" as defined in the Turbine Sale Agreement.

## 1.2 Interpretation.

This Agreement, Appendices and all Attachments are intended to be complementary and what is set forth in any one document is as binding as if set forth in each document. The Agreement is intended to set forth all necessary specifications and requirements for the Services. In case of any conflict, discrepancy, error or omission in the Agreement discovered by Operator, Operator shall immediately give Notice to Owner of same for Owner's instruction as to how to remedy such conflict, discrepancy, error or omission, and such instruction shall be final and shall either be complied with by Operator, if Operator agrees with Owner, or the matter shall be resolved pursuant to the dispute resolution procedures set forth in Section 10.4.

As used in this Agreement, the terms "herein," "herewith," and "hereof" are references to this Agreement, taken as a whole, the term "includes" or "including" shall mean "including, without limitation," and references to a "Section," "Subsection," "Clause," "Article," "Exhibit," "Appendix," or "Schedule" shall mean a section, subsection, clause, article, exhibit, appendix or schedule of this Agreement, as amended, as the case may be, unless in any such case the context requires otherwise. Except as otherwise indicated, all dollar amounts are expressed in Canadian dollars. All references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made, and reference to Laws includes any amendment or modification thereto. All references to a Party shall include its permitted successors and assigns. The singular shall include the plural and the masculine shall include the feminine and neuter, and vice versa. Each representation and warranty in the Agreement shall have independent significance; the fact that there exists another representation or warranty on the same subject matter shall not mitigate or detract from any breach by either Party of any other representation or warranty. The mere listing of a document or item of information or attaching a copy thereof shall not be adequate to disclose an exception to a representation or warranty made in the Agreement, unless the representation or warranty has only to do with the existence itself of the document or item.

**ARTICLE 2**  
**ENGAGEMENT OF OPERATOR**

The Owner hereby engages the Operator to provide the Services to the Turbines and, if and to the extent provided for hereunder or requested by Owner in writing, to provide Out of Scope Work to the Turbines. The Operator hereby accepts such engagement and agrees to perform such services in accordance with the terms and conditions hereof. GE and GE Canada shall have joint and several liability for any obligations of Operator hereunder.

**ARTICLE 3**  
**TERM OF AGREEMENT**

Unless sooner terminated as set forth in Article 9, this Agreement shall commence as of the date of Commercial Operation of each Unit of the Project and terminate two (2) years thereafter for each Unit (the "Term"); unless Owner and Operator agree to extend the term at least thirty days before the expiration of the then current term.

**ARTICLE 4**  
**SPECIFIC DUTIES REGARDING THE SERVICES**

**4.1 Scope Of Services**

During the Term of this Agreement, the Operator shall provide the following services and the items described in Exhibit A attached hereto (but not including the Out of Scope Work) (the "Services"):

- 4.1.1 Perform, or cause to be performed by subcontractors, all operation and Scheduled Maintenance as specified in the Operation and Maintenance Manual and all additional services for the Project specified in Parts I and II of Exhibit A attached hereto, and shall replace or repair all consumable parts; provided, however, that the repair and replacement of any consumable parts or items incorporated into the Turbines and not specifically identified as Scheduled Maintenance items in the Operations and Maintenance Manual shall constitute a Out of Scope Work. While Operator shall be permitted to have Services or Out of Scope Work performed by subcontractors, Operator shall not be relieved of any of its obligations or liabilities under this Agreement by reason of any such subcontract.
- 4.1.2 Use commercially reasonable efforts to schedule all Scheduled Maintenance activities in low wind periods; provided, however, that if Operator is prevented from performing its obligations under this Agreement by a delay in the receipt or approval or consent from Owner, Operator's obligations hereunder shall be excused and diminished to the extent caused by such delay.
- 4.1.3 Remove from the Turbines, and place into Owner-supplied containers on the Project Site all hazardous and non-hazardous wastes resulting from performing the Services, in accordance with all applicable Governmental Requirements and in a non-negligent

manner. Owner shall dispose of such hazardous and non-hazardous wastes. All such wastes shall remain the property of Owner.

- 4.1.4 Establish and maintain a complete inventory of the consumables, materials, components and spare parts required for the reasonable and timely performance of the Services hereunder in accordance with the Operation and Maintenance Manual. The Operator shall review the adequacy of the inventory of consumables, spare parts, components and materials on a quarterly basis, based upon the Operator's experience with respect to the previous utilization of such consumables, spare parts, components and materials, and shall make changes in such inventory deemed reasonably necessary by the Operator. Any turbine spare parts kept at the Project Site shall be owned by Operator until incorporated into the Project except for any additional spare parts obtained at Owner's request, which shall be owned by Owner and maintained and kept by the Operator.
- 4.1.4.1 Spare parts used in Services shall be new and of at least equal quality as the parts they are intended to replace; provided, however, that Operator may use rebuilt or reconditioned parts as spare parts if the use of such rebuilt or reconditioned parts is customary in the maintenance of similar wind generating turbines and if such rebuilt or reconditioned parts are of at least equal quality and similar expected lifespan as the parts they are intended to replace.
- 4.1.4.2 If Owner desires to maintain additional spare parts inventory in excess of the spare parts inventory described above, Operator shall maintain a segregated additional spare parts inventory on behalf of Owner; provided, however, that Owner shall bear the costs of purchasing and storing such additional spare parts inventory and shall pay or reimburse Operator for such costs in accordance with Article 5.
- 4.1.5 Provide for the storage of spare parts and components and other materials and supplies required for the performance of Operator's duties and obligations hereunder at the Maintenance Facility provided by Owner.
- 4.1.6 Make available all labor, vehicles, equipment, tools and clothing as are reasonably prudent and necessary to accomplish the Services and Out of Scope Work, including electronic test equipment and special tools, if any, recommended or supplied by the supplier and/or the manufacturer of the components.
- 4.1.7 Provide remote monitoring and remote resets of the Turbines in accordance with the Operation and Maintenance Manual. Provide administrative and procurement services related to the Services and Out of Scope Work as necessary.
- 4.1.8 Maintain complete and accurate records of all Services relating to the Turbines in a form that allows parts and service records to be tracked by date, Turbine number, part number, repair code, fault code type, response time and repair time.

- 4.1.9 Use commercially reasonable efforts to provide Owner with reports each Business Day regarding the status of each Turbine, including a return to service forecast for any Turbine that is out of service.
- 4.1.10 Provide monthly reports detailing the Scheduled Maintenance, Out of Scope Work, and spare parts and components usage during the previous month. The reports shall be in Microsoft Excel or an electronic format convertible to Microsoft Excel and shall include: operational status production, a description of outages, weather events, utility grid availability, operating hours for each Turbine and the Windsystem, curtailment information, and all maintenance, repairs, warranty work and Out of Scope Work and Emergency Out of Scope conducted. The report shall be submitted to Owner within twenty (20) days after the end of each calendar month.
- 4.1.11 As necessary, the Operator's Representative and Owner's Representative shall meet to discuss any technical issues, which have arisen with the Turbines, Scheduled Maintenance and Out of Scope Work performed during such preceding period, and to review the current Scheduled Maintenance calendar, which may be revised by mutual agreement.
- 4.1.12 Maintain the insurance coverage described on Exhibit B as required to be provided by the Operator; provided, however, that all such insurance coverage shall be available at commercially reasonable rates. To the extent such insurance coverage is not available at commercially reasonable rates, the Operator shall notify the Owner of the then-current rates and maintain such insurance coverage only to the extent reasonably agreed in writing by the Operator and the Owner. Operator's subcontractors shall maintain the insurance coverages consistent with the coverage maintained by prudent subcontractors for projects of similar location and size as the Project.
- 4.1.13 Provide notices to Owner, to the extent that Turbine performance may be involved or impacted, all in reasonable detail and promptly upon learning of the event requiring notice, as follows:
- (a) Notice to Owner of any defect or other material defect or failure in or of any part or element of the Project, regardless of whether such defect may be the subject of a warranty claim;
  - (b) Notice of any actual or potential violation of any Governmental Requirement, including environmental protection laws, rules, or regulations, or the terms of any Permit regarding environmental protection;
  - (c) Notice of all events, occurrences, conditions, and issues of which Operator becomes aware and that Operator reasonably considers are material to, or are likely to have a material effect on, the Project or the operation, maintenance, or results of operations thereof.

#### 4.2 Out of Scope Work.

- 4.2.1 Operator shall promptly send a written or electronic notice ("Out of Scope Work Notice") to Owner with respect to any item in the Turbine discovered by Operator which shall require Out of Scope Work and that is not covered by a warranty under the Turbine Sale Agreement or other agreement. Each Out of Scope Work Notice delivered to Owner shall include a description of the perceived problem and the proposed Out of Scope Work to be performed, and an estimate of the costs of such Out of Scope Work. Such estimate will be based on the Out of Scope Work being performed during Regular Business Hours. At Owner's request, Operator shall provide a revised estimate for expedited Out of Scope Work, including overtime labor, additional personnel requirements and expediting delivery of parts. Owner shall within three (3) Business Days from the receipt of each such Out of Scope Work Notice either authorize Operator to initiate the necessary Out of Scope Work or inform Operator that an authorized subcontractor or representative of Owner will initiate the Out of Scope Work. If Owner fails to respond to any Out of Scope Work Notice within such three (3) Business Days, Operator may consider the Out of Scope Work Notice to be rejected by Owner. Whether instigated by an Out of Scope Work Notice or a request by Owner, Operator shall provide the Out of Scope Work during Regular Business Hours unless otherwise reasonably requested by Owner.
- 4.2.2 In addition to Operator providing a Out of Scope Work Notice to Owner, Owner may, by written notice to Operator, request that Operator provide Out of Scope Work for any problems at the Turbine of which Owner becomes aware. Operator shall within three (3) Business Days respond to Owner with the proposed Out of Scope Work to be performed and an estimate of the costs of such Out of Scope Work. Such estimate will be based on the Out of Scope Work being performed during Regular Business Hours. At Owner's request, Operator shall provide a revised estimate for expedited Out of Scope Work, including overtime labor, additional personnel requirements and expediting delivery of parts.
- 4.2.3 In the event of an Emergency that Operator in a good faith judgment believes that Out of Scope Work is necessary, Operator shall perform such required Out of Scope Work without the requirement of a Out of Scope Work Notice or prior approval of Owner, but shall notify Owner promptly after the work is undertaken. Operator shall cease operation of a Turbine if, in the opinion of Operator or Owner, continued operation of such Turbine could lead to additional damage to such Turbine or create a danger to persons or property.
- 4.2.4 In connection with Out of Scope Work, Operator agrees to do the following:
- 4.2.4.1 Provide Owner its then-current rates and prices for labor (the "Labor Price List") on or before the Commercial Operation Date and a price list for spare parts and materials (the "Parts Price List") on or before 120 days after the date hereof. The Labor Price List and the Parts Price List shall be the same such lists made available to Operator's or its Affiliate's other customers and applicable to wind power projects located in North America. Operator shall provide Owner with an updated Labor Price List and Parts Price List as updates become available. For failed components not covered under supplier's warranty, Operator shall retain for a period no less than the period

required by insurers of the Project (or such period as reasonably requested by the Owner) any failed components for inspection, and cooperate with such insurers regarding such inspections.

4.2.4.2 Schedule, in coordination with the Owner and Power Purchaser, all power outages and maintenance and repair shutdowns to reasonably minimize revenue loss. Notwithstanding the foregoing, it is understood that the Operator may not be able to determine for scheduling purposes the times for all power outages and maintenance and repair shutdowns in a way that would minimize the Owner's revenue loss, and it is further understood that there may be unscheduled outages and maintenance and repair shutdowns.

4.2.4.3 Provide such technical support as may be reasonable and necessary for the maintenance and repair of the Turbines.

4.2.4.4 Provide written recommendations to the Owner concerning actions (a) to repair any material damage to any major component of the Turbines, and (b) to prevent the recurrence of any such damage to the Turbines.

4.3 [Reserved].

4.4 Limitations on Authority.

Unless approved in writing by the Owner, the Operator shall not have the authority to take the following actions:

4.4.1 The sale, lease, pledge, mortgage, conveyance, license, exchange or other transfer or disposition of any property or assets of the Owner;

4.4.2 Making, entering into, executing, amending, waiving any rights under, modifying or supplementing any contract or agreement on behalf of, binding upon, or in the name of the Owner;

4.4.3 The settling, compromising, assigning, pledging, transferring, releasing or consenting to the same of any claim, suit, debt, demand or judgment against or due by the Owner, or the Operator on behalf of the Owner, or submitting any such claim, dispute or controversy to arbitration or judicial process or stipulating to a judgment, or consent to do same. The Operator agrees that the Owner shall retain control of any such claim, suit, debt or demand and any other litigation regarding the Turbines, except as to the Operator's individual liability; and

4.4.4 Communicating with Governmental Authorities with respect to the Owner or the Project unless required by Law, or agreeing to any penalty payable by the Owner for violation of any Governmental Requirement.

**ARTICLE 5**  
**COMPENSATION**

**5.1 Fee for Services.**

The Parties agree that Owner's payments under the Turbine Sale Agreement include compensation to the Operator for all Services performed by Operator under this Agreement other than Out of Scope Work.

**5.2 Reimbursement for Out of Scope Work.**

For Out of Scope Work, Owner shall pay for (i) labor provided by Operator in accordance with the Labor Price List and parts and materials purchased from Operator in accordance with the Parts Price List, plus (ii) all Expenses incurred by the Operator, plus (iii) a fee equal to twenty-five percent (25%) of the Expenses so incurred. All such amounts shall be payable by Owner within thirty (30) days of the Owner's receipt of an invoice from the Operator detailing such amounts and Expenses incurred in connection with such Out of Scope Work.

**5.3 Interest**

Any amount owed to one Party hereunder by the other Party for more than thirty (30) days after the date such amount is due shall accrue interest for the period beginning on the date said amount was due and continuing until the date that said amount is paid at an annual rate equal to the Default Rate.

**5.4 Taxes**

Owner shall be responsible for any taxes (such as sales taxes or ad valorem taxes) based on the value of components supplied by Operator in performance of Services. If Operator pays such taxes, Owner shall reimburse Operator without additional fees. All such amounts shall be payable by Owner within thirty (30) days of Owner's receipt of an invoice from the Operator detailing such taxes paid by Operator. Notwithstanding the foregoing and for purposes of clarification, the provisions of the Turbine Sales Agreement shall govern taxes and duties associated with warranty repairs under that Agreement.

**5.5 Disputed Payments**

If the Owner disputes any amounts included in any invoice provided to the Owner by the Operator, the Owner shall give written notice to the Operator of each such disputed amount and shall pay the full amount of such invoice that is not in dispute within the time periods set forth herein for such payment. The Owner and the Operator shall endeavor diligently and in good faith to resolve any issue with respect to the amount remaining in dispute within thirty (30) days after the date of the Operator's receipt of the notice of the disputed amount. If agreement is not reached within such thirty (30) day period, the Parties will continue

to try to resolve such dispute; provided, however, that either Party may instead submit the dispute to resolution pursuant to Section 10.4.

## ARTICLE 6 COVENANTS OF THE OPERATOR

### 6.1 Standard of Care

The Operator shall perform, and shall cause all of its subcontractors to perform, all of Operator's duties and obligations under this Agreement in accordance with Prudent Wind Industry Practices, in a good, workmanlike and commercially reasonable manner. Owner shall provide Operator with a copy of the Power Agreement and the Interconnection Agreement prior to Commercial Operation of any of the Turbines, and Operator shall, use reasonable commercial efforts to conform its performance of the Services to such Agreements. Operator shall be entitled to adjustment of the Fixed Fee if compliance with the Power Agreement and Interconnection Agreement Provisions subjects Operator to requirements above and beyond normal commercial practice for wind energy projects of a similar size in North America. The Parties acknowledge that normal commercial practice does not include incurring any material costs for purchase or rental of equipment, materials, hardware or specialized third-party required software or significant modifications of the Project or any minimum output requirements. To the extent costs incurred to comply with the Permits for the Project are above and beyond those costs which would be incurred in providing the Services set forth in Exhibit A, such excess costs shall be to Owner's account.

### 6.2 Personnel

The Operator shall at all times employ or retain qualified subcontractors and personnel, properly trained for the work they are to perform, to perform the Services hereunder and shall pay all wages and benefits required by Governmental Requirements. The Operator shall be responsible for all matters relating to labor relations, working conditions, training, employee benefits, safety programs and related matters pertaining to its employees. If the Owner has a reasonable objection to any such person employed or retained by the Operator in relation to the Services, the Owner shall have the right to request that the Operator remove (or cause removal of) such subcontractor or person from the Project Site and the Operator shall use reasonable efforts to comply with such request as soon as practicable.

### 6.3 Warranties.

6.3.1 The Operator warrants the Services performed, Parts repaired or replaced, Out of Scope Work performed under this Agreement, and all labor associated with such work against defects in materials or workmanship for twelve (12) months from completion of performance of the Service, repair or replacement. Operator's sole obligation in the case of a valid warranty claim hereunder is to reperform the Services, Out of Scope Work or repair. All warranty obligations under this Agreement shall cease twelve (12) months after the termination or expiration of this Agreement.

6.3.2 The foregoing warranty shall be void in the event of acts of the Owner or any third party (other than Operator's subcontractors), cause the defects in any performed Service or repair.

6.3.3 The foregoing Section 6.3.1 sets forth the exclusive remedies of the Owner and the sole liability of the Operator for claims based on failure of, or defect in, the Services and Out of Scope Work, whether a claim, however instituted, is based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL. NO IMPLIED OR STATUTORY WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT.

#### 6.4 Consultations; Cooperation with Lenders

Notwithstanding any other provision of this Agreement, the Operator will consult with the Owner, any Lender and any independent experts appointed by the Owner or any Lender to review any matter pertaining directly or indirectly to the Services, and the Operator shall provide them and the Lenders with access, during normal business hours and upon no less than three (3) Business Days' prior written notice, to the Turbines and shall make available to such experts and the Lenders all information, reports, logs and other documents Operator is required to keep under this Agreement, and shall make the Operator's personnel available for consultation with such experts all as reasonably requested.

#### 6.5 Liens

To the extent that Owner timely pays Operator all amounts due hereunder, Operator shall:

- a) pay when due all valid charges for labor and material furnished to Operator or any subcontractor or supplier it retains; provided, however, that Operator retains the right to withhold such payment in the event that it has a good faith dispute with the subcontractor or supplier over the adequacy of the work or services performed.
- b) discharge of record, or bond over with a bond reasonably acceptable to Owner, any lien arising from its non-payment of suppliers or subcontractors, no later than thirty (30) days after written notice is made by Owner.
- c) indemnify and hold harmless Owner from, and defend Owner against, any and all liens or similar claims against the Turbines filed by a subcontractors of Operator in connection with the Services or Out of Scope Work performed, including all expenses and reasonable attorneys' fees incurred in discharging any liens or similar encumbrances; provided, however, that Operator shall have the right to contest any such lien or claim provided it first discharges of record the lien or provides other assurance of payment reasonably satisfactory to Owner.

## 6.6 Maintenance of Records

At any time during the term of this Agreement, Operator agrees to cooperate with requests of Owner (and its authorized representatives) to review and audit the books and records of Operator relating to the Out of Scope Work and to make available to Owner (and its authorized representatives) sufficient supporting documentation to permit the verification of all charges of Operator and Affiliates or business units of Operator hereunder for Out of Scope Work. If, pursuant to such audit or otherwise, the Owner reasonably believes that any amount previously paid to Operator by the Owner hereunder was above the amount required hereunder, the Owner may submit a claim to Operator indicating the amount and reason why Owner believes it overpaid Operator. If Operator agrees with Owner as to all or any portion of such amount, Operator will remit to Owner such amount within thirty (30) days. If Operator disputes Owner's claim in respect of all or any of such amount, Operator and Owner will meet within five (5) days and use their best efforts to agree on the disposition of such disputed item of cost. If Owner and Operator do not resolve such dispute within such thirty (30) day period, such dispute shall be resolved in accordance with the provisions of Section 10.4.2.

## 6.7 Representatives

Within five (5) Business Days after the date hereof, Operator shall appoint an individual representative (the "Operator's Representative") authorized and empowered to act for and on behalf of Operator on all matters concerning this Agreement and Operator's obligations hereunder and Owner shall appoint an individual representative (the "Owner's Representative") authorized and empowered to act for and on behalf of Owner on all matters concerning this Agreement and Owner's obligations hereunder; provided, that neither the Operator Representative nor Owner Representative shall have the authority to amend any provision of this Agreement. In all such matters, each Party shall be bound by the written communications, directions, requests and decisions made by the Operator Representative or the Owner Representative, as the case may be. Operator shall notify Owner in writing of the identity of Operator Representative and Owner shall notify Operator in writing of the identity of the Owner Representative, and each Party shall notify the other in writing of any changes in the identity of its representative.

## 6.8 Hazardous Substances

Operator shall not bring, generate or cause to be present, any hazardous substances at or onto the Project Site other than hazardous substances to be used by Operator in a manner that both: (i) does not violate any applicable Governmental Requirements; and (ii) is consistent with customary business practices for the operation and maintenance of wind turbine generators. Operator shall handle all such hazardous substances in a safe manner and in accordance with applicable Governmental Requirements, and shall not permit any release of a hazardous substance into the environment. Operator shall maintain an accurate record and current inventory of all hazardous substances used by Operator at the Project Site, which records shall identify quantities, locations of storage and use of such hazardous substances, and such records and inventory shall be promptly made available to Owner upon its request. Operator shall promptly report to Owner any discharge, spill or release of hazardous substances caused or

permitted by Operator and provide Owner with information regarding Operator's remediation thereof. Operator shall, at its expense, remediate, or cause the remediation of, any hazardous substances discharged, spilled or released by Operator or its subcontractors, to the extent required by applicable Governmental Requirements.

#### **6.9 Operation and Maintenance Manual**

Operator, or its Affiliates, provide operation and maintenance services for other wind turbine generators manufactured by GE or GE Wind, and located at other projects. To the extent Operator or its Affiliates provide operation and maintenance services (as opposed to services performed pursuant to contractual services agreements ("CSA")) in North America for projects sized fifty (50) megawatts or greater, Operator covenants that the operation and maintenance manuals for such other projects and scope of work set forth therein, shall not be more inclusive or include a greater scope of work than the Operation and Maintenance Manual for this Project. If such other projects' operation and maintenance manual is more inclusive or provides for a greater scope of work by Operator (or its Affiliates), then the Operation and Maintenance Manual herein shall be modified to be equally inclusive and include substantially the same scope of work, as the more inclusive operation and maintenance manual.

**ARTICLE 7**  
**COVENANTS OF THE OWNER**

Owner shall provide for the following items and the items listed in EXHIBIT F attached hereto.

**7.1 Access**

Owner shall provide Operator with access to the Project Site and the Turbines on the Project Site as is necessary for Operator to perform the Services and any Out of Scope Work in a timely manner, including road access suitable to allow support equipment (including cranes) to maneuver on the Project Site in accordance with operating specifications for such equipment and without violation of any permits or easements. In addition, if Owner is using a SCADA System other than that provided by Operator, Owner shall ensure Operator reasonable access to turbine data provided by said SCADA System.

**7.2 Insurance**

Owner shall maintain the insurance coverage described on Exhibit B as being required to be provided by the Owner. Owner's subcontractors shall maintain the insurance coverages consistent with the coverage maintained by prudent subcontractors for projects of similar location and size of the Project. Owner hereby acknowledges that, except for the insurance to be maintained by Operator under Section 4.1.12, the maintenance of insurance with respect to the Project is the sole responsibility of Owner.

**7.3 Permits and Approvals**

Owner shall maintain the Permits and approvals set forth in Exhibit C, including, but not limited to, all Permits and licenses applicable to the Turbine and undertaking, if applicable, all acts and paying all amounts required to satisfy any avian monitoring obligations with respect to the Turbines. Operator will not be required to obtain or maintain Permits or licenses other than those required by Governmental Requirements in the ordinary course to provide maintenance services to customers.

**7.4 Owner Approval**

In addition to the requirements of Section 4.2, in all other circumstances where Operator requests the approval or consent of Owner to any action (or inaction), Owner shall consider and respond to such request as promptly as possible under the circumstances and, if possible, within the response time requested by Operator; provided, that Owner's approval shall not be unreasonably denied, withheld or delayed. If Operator is prevented from performing its obligations under this Agreement by a delay in the receipt of approval or consent from Owner, Operator's obligations hereunder shall be excused and diminished to the extent caused by such delay.

**7.5 Necessary Documents**

GBWB Draft Form - Operations and Maintenance Agreement - Americas

Owner shall provide Operator with copies of all documents (including amendments, supplements, and exhibits) necessary for Operator to perform its duties under the Agreement.

#### 7.6 Waste Disposal

Owner shall arrange and contract for the disposal, transportation, record keeping and reporting of hazardous and non-hazardous wastes generated by or at the Project by licensed, insured, competent and professional operators in a safe manner and in accordance with all Governmental Requirements. Operator shall have the right of approval of Owner's vendors hired to handle hazardous wastes, which approval shall not be unreasonably withheld.

#### 7.7 Operate and Manage

Owner shall be responsible to perform all acts necessary for the proper operation and management of the Project, to the extent that any such acts are not specifically required to be performed by Operator hereunder, including those responsibilities listed in Exhibit F attached hereto. In the event that another operator provides operation and maintenance services for part of the 134 GE turbines, Owner shall guarantee exclusive bandwidth for Operator of 1.5MB per second as specified in the Technical Specifications of the Turbine Supply Agreement, and maintain strict confidentiality of Operator's proprietary data transmitted over this bandwidth. Operator has no obligation to share with other operation and maintenance service providers, the Operator-owned tools that are used for the Services.

#### 7.8 O&M Facilities

Owner, at its expense, shall provide Operator with operations and maintenance buildings or facilities (the "Maintenance Facility") - as described in Exhibit D) suitable as a location for (a) Operator's personnel to conduct administrative services, and (b) storage of spare parts and consumables, which will meet the following requirements and for the exclusive use of Operator:

- (a) Provide protection of spare parts and packaging from moisture and condensing moisture.
- (b) Provide protection against dust and dirt, particularly for electrical and electronic parts.
- (c) Provide an ambient temperature of at least thirty-five degrees Fahrenheit, not to exceed ninety degrees Fahrenheit.
- (d) The building size shall be agreed upon by both Parties.
- (e) Provide for common area furniture, the installation of telephone system (including all wires and infrastructure up to and including the wall jack), built in shelving, utilities, and water for the Maintenance Facility only and shall be responsible for

installation and maintenance of the T-1 Line and 4-wire circuits which shall be jointly used by Owner and Operator:

- (f) Provide office furniture, office and data processing equipment, and shall be responsible for the cost of the use and maintenance of all telephone lines, which shall be jointly used by Owner and Operator.
- (g) Adequate storage for consumables including oil and waste per applicable state and federal law.
- (h) Bathroom facilities.
- (i) Emergency eyewash station
- (j) Building security
- (k) Provide a secure (i.e., lockable) private office for the Operator's exclusive use.

#### 7.9 Additional Responsibilities

Owner shall pay all property taxes and sales taxes payable in connection with the Services. Owner shall pay all amounts payable under the Site Agreements. Owner shall be responsible for the billing and collection of revenues under the Power Agreement and for conducting all of Owner's business relations with utilities, governments, regulators, and contractors. Owner shall obtain and maintain in effect all Permits and licenses applicable to the Project other than Permits and licenses that Operator is required by Governmental Requirements to possess in order to perform its obligations under this Agreement. Owner shall also be responsible for making such business and strategy decisions as may be required from time to time in connection with the operation and maintenance of the Project, provided that such decisions do not increase Operator's obligations hereunder.

### ARTICLE 8 REPRESENTATIONS AND WARRANTIES

Owner and Operator each hereby respectively represent to the other that (a) it is duly organized, validly existing and in good standing under the jurisdiction of its organization, with full power and authority to enter into and perform its obligations under this Agreement; (b) it has validly executed this Agreement; (c) this Agreement constitutes a binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforcement may be limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally; and (d) its entry into this Agreement and the performance of its obligations hereunder will not require the approval of any Government Authority that has not been obtained in the ordinary course of business and will not violate, conflict with, or cause a default under any of its organizational documents, any material contractual covenant or restriction by which such Party is bound, or any applicable law, regulation, rule, ordinance, order, judgment, or decree.

**ARTICLE 9**  
**DEFAULT AND REMEDIES; LIABILITY LIMITATIONS**

**9.1 Events of Default**

The occurrence of any of the following events shall constitute a "Default" by the Party to which the event relates under this Agreement:

**9.1.1 Breach of Agreement.**

The breach by either Party of any of the material provisions of this Agreement.

**9.1.2 Bankruptcy; Insolvency.**

- a) Any filing by either Party of any petition or action under any bankruptcy, reorganization, insolvency or similar law ("Bankruptcy Law");
- b) Any affirmative act of insolvency by either Party (including the consent to the entry of an order for relief in an involuntary case, consent to the appointment of a receiver, any assignment for the benefit of creditors or the admission of its inability to pay its debts as they become due);
- c) The filing of an involuntary petition under any Bankruptcy Law which is not dismissed or stayed within sixty (60) days thereafter; or
- d) The appointment of a receiver or trustee with respect to a Party, which appointment is not dismissed or stayed within sixty (60) days thereafter.

**9.1.3 Seizure of Property.**

The subjection of substantial part of either Party's property to any levy, seizure, assignment, or sale for or by any creditor or governmental agency that affects that Party's ability to perform under this Agreement other than by the Lenders in the exercise of their rights and remedies under the Financing Documents.

**9.2 Remedies for Default.**

**9.2.1 Termination.** Subject to Section 9.2.4, if a Default has occurred and is continuing under Section 9.1, the non-Defaulting Party may terminate this Agreement. Notwithstanding the foregoing, the non-Defaulting Party must provide the Defaulting Party, and any requesting Financing Party, with at least five (5) business days notice of any Defaults hereunder, prior to the non-Defaulting Party exercising any remedies available to it for such Default.

**9.2.2 Suspension.** Operator may suspend its performance under this agreement in the event of Owner's (1) Default in connection with its obligations under Section 5 and a failure to cure such Default within five (5) days; (2) failure to maintain the insurance required of

Owner in Exhibit B herein, (3) failure to comply with Operator's policies provided to Owner on or before the Commercial Operation of first Unit or Governmental Requirements regarding environmental, health, or safety issues; or (4) other continuing Default or breach of this Agreement by Owner and Owner's failure to cure such Default within thirty (30) days after receipt of notice from Operator.

9.2.3 Damages. Subject to Section 9.4, and without limiting the rights of a non-Defaulting Party under Section 9.2.1, the Defaulting Party shall be liable for all damages caused by its Default under Section 9.1.

9.2.4 Cure of Default. The Defaulting Party shall have the right to cure any Default under Section 9.1 (other than a Default by the Owner in connection with its obligations under Section 5, for which there shall be a five (5) business day cure period, or by either Party under Section 9.1.2, for which there shall be no cure period) within thirty (30) days after having been notified in writing of the Default, or within such longer reasonable period of time (not to exceed 120 days) if (a) such Default is not capable of cure within such thirty (30) day period; and (b) if during such thirty (30) day period, the Defaulting Party has promptly commenced corrective action to cure such Default and is diligently pursuing such corrective action.

### 9.3 Effect of Termination or Expiration.

Upon the termination or expiration of this Agreement:

- a) Subject to Section 6.3, Operator shall have no continuing obligations with respect to the maintenance or repair of the Project or any other Services;
- b) Operator shall turn over and provide Owner with all maintenance records, reports and data, two O&M manuals in English relating to the Project, all special tools needed for routine and preventive maintenance purposes (excluding personal safety equipment), and any other items that were furnished by Owner or Operator at Owner's cost; and,
- c) Operator shall provide Owner with the opportunity to purchase the spare parts inventory owned by Operator located at the Project Site.

### 9.4 Limitation of Liability

Notwithstanding any other provision of this Agreement to the contrary, Operator's liability arising out of or relating to this Agreement from any and all causes, whether based on contract, strict liability, tort (including negligence), or any other cause of action, including any liquidated damages payable hereunder, shall in no event exceed a maximum liability equal to three million one hundred thousand US dollars (US\$3,100,000), provided that if Owner reduces the number of Turbines it purchases pursuant to the Turbine Sale Agreement, such limitation of liability shall be equal to (a) US\$3,100,000, multiplied by (b) number of Turbines actually purchased under the Turbine Sale Agreement, divided by (c) 134.