

ROAD USE AGREEMENT

THIS AGREEMENT effective this ____ day of _____, 2014 (the “**Effective Date**”)

B E T W E E N :

THE CORPORATION OF THE COUNTY OF LAMBTON
(hereinafter referred to as the “**County**”)

OF THE FIRST PART

- and -

JERICHO WIND, INC.
a corporation established under the laws
of the Province of New Brunswick
(hereinafter referred to as “**Jericho**”)

OF THE SECOND PART

WHEREAS:

- A. the County is a municipal corporation with the meaning of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, is governed by Warden and Council and operated by Administration, which is hereby authorized to administer this Agreement in its entirety, including but not limited to decisions with respect to the operation and termination of this Agreement in accordance with its provisions;
- B. the County exercises jurisdiction with respect to approval of certain activities with respect public rights of way, highways, ditches and boulevards within the County of Lambton;
- C. the County owns the roads identified in the Approved Road Use Plans, which is attached hereto as **Schedule “B”** and forms a part of this Agreement;
- D. Jericho is a wind farm owner/operator, has a current registered corporate identity in New Brunswick; has an office and mailing address at 390 Bay Street, Suite 1720, Toronto, ON M5H 2Y2;
- E. Jericho is the owner of the Wind Project, as defined herein;
- F. Jericho is the owner of the Power Purchase Agreement for the Wind Project, all assets of the Wind Project, as provided in the Jericho Asset Document, which is attached hereto as **Schedule “A”**, forms a part of this Agreement but shall be treated as confidential between the parties to extent possible under Applicable Law;

- G. Jericho wishes to make use of certain roads located in the County of Lambton to allow for construction, operation and maintenance of the Wind Project and to deliver components and materials thereto;
- H. pursuant to section 50(3)(d.1) of the *Planning Act*, as amended, the Parties may enter into an agreement that has the effect of granting a use of or right in land directly or by entitlement to renewal for a period of more than twenty-one years;
- I. the County and Jericho enter into this Agreement with respect of the use, installation, construction, maintenance and operation of certain Electrical Infrastructure on, over, under and within the Road Allowances, as defined herein;
- J. subject to Provincial legislation and Ontario Energy Board Approval, and the terms and conditions set forth below with respect to the use of County Road Allowances, the County acknowledges Jericho's right to install, construct, maintain, operate and decommission such Electrical Infrastructure over, along, across or under Road Allowances;
- K. subject to obtaining the necessary approvals from the County for non-electricity transmission related work, Jericho shall have the right to temporarily reconstruct or realign certain portions of the Road Allowances to permit delivery or movement of oversized Wind Project components, including wind turbine blades, tower sections and nacelles;
- L. subject to obtaining an entrance permit from the County, Jericho shall have the right to connect access roads from Wind Project turbines to the Road Allowances to permit ongoing access to the wind turbines during Wind Project operations; and
- M. Jericho warrants that all times throughout the Term of this Agreement, including its option periods, it shall retain assets which have a minimum value of \$5 million dollars.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of the payment of the sum of TWO DOLLARS (\$2.00) from each Party to the other and other good and valuable consideration, including the terms, covenants and provisions herein, the receipt and sufficiency of which is hereby acknowledged and agreed, the Parties covenant and agree as follows:

A. INTERPRETATION

- 1. The above recitals are true and the same are hereby incorporated into this Agreement by reference.
- 2. Each obligation of the Parties hereto contained in this Agreement, even if not specifically expressed as a covenant, shall be considered for all purposes to be a covenant. Each covenant in this Agreement is a separate and independent covenant and a breach of covenant by any Party will not relieve any other Party from its obligation to perform each of its covenants; except as otherwise provided herein.

Definitions

3. In this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:
- (a) **“Agreement”** means this Agreement, including all Schedules, as it may be confirmed, amended, modified, supplemented or restated by written agreement between the Parties.
 - (b) **“Anti-Bribery Laws”** mean any anti-bribery law or international convention, as may apply now or in the future, including the Canadian Corruption of Foreign Public Officials Act, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and the OECD Convention on Combating Bribery of Foreign Public Officials.
 - (c) **“Applicable Law”** means all present or future applicable laws, statutes, regulations, treaties, judgments and decrees and all present or future applicable published directives, rules, policy statements and orders of any Public Authority and all applicable orders and decrees of courts and arbitrators of like application to the extent, in each case, that the same are legally binding on the Parties in the context of this Agreement.
 - (d) **“Appropriate Emergency Service Providers”** means those emergency service providers set out in **Schedule “C”**, which is attached hereto and forms a part of this Agreement;
 - (e) **“Approved Road Use Plans”** means the diagrams attached as **Schedule “B”** hereto depicting the location of and other aspects in relation to Electrical Infrastructure in Road Allowances, as approved by the County Engineer prior to the execution of this Agreement.
 - (f) **“As-Built Plan”** means a Plan following the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure confirming the exact location and specifications of any Electrical Infrastructure installed over, along, across, under or within the Road Allowances.
 - (g) **“Business Day”** means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario, and also excluding any day on which the principal chartered banks located in the County of Lambton are not open for business during normal banking hours.
 - (h) **“Commercial Operation Date”** means the Commercial Operation Date as defined in the Power Purchase Agreement, as defined herein.
 - (i) **“Consulting Engineer”** means an independent qualified professional engineer as appointed by Jericho, from time to time.

- (j) **“County Engineer”** means the individual designated to serve in the position of Manager, Public Works or his/her designate for the Corporation of the County of Lambton duly passed via municipal by-law.
- (k) **“Deliveries”** means the transporting of materials, components and equipment including overweight or over-size cargoes across or along Road Allowances, to provide for the construction, maintenance, repair, replacement, relocation or removal of wind turbines and other infrastructure for the Wind Project.
- (l) **“Distribution Infrastructure”** means infrastructure and systems for the purposes of conveying electricity at voltages of 50 kilovolts or less and includes all structures, equipment or other things used for that purpose including, but not limited to, towers and/or poles, with such wires and/or cables for the distribution of electricity at voltages of 50 kilovolts or less, and all necessary and proper foundations, safety barriers, footings, cross arms and other appliances, facilities and fixtures for use in connection therewith including without limitation, substation facilities and equipment, pads, vaults and junction boxes (whether above or below ground), manholes, handholes, conduits, fiber optics, cables, wires, distribution lines and other conductors of any nature, multiple above or below ground control, communications, data and radio relay systems, and telecommunications equipment, including without limitation, conduits, fiber optics, cables, wires and lines.
- (m) **“Easement Rights”** means the right to place, install, construct, re-construct, inspect, maintain, operate, alter, enlarge, repair, replace, relocate and remove Electrical Infrastructure over, along, across, within or under the Road Allowances provided for this Agreement.
- (n) **“Electrical Infrastructure”** means, collectively, all Distribution Infrastructure and Transmission Infrastructure.
- (o) **“Electrical Infrastructure Work”** means the installing, constructing, operating, inspecting, maintaining, altering, enlarging, repairing, replacing, relocating and removing of Electrical Infrastructure over, along, across, within or under the Road Allowances in connection with the Wind Project.
- (p) **“Entrance(s)”** means one or more points of access across and through the Road Allowances from the travelled portion of the Road Allowances connecting to private lands beyond and certain access roads in and upon adjacent lands used in connection with the Wind Project, which has been approved by the County Engineer
- (q) **“Entrance Work”** means the constructing and maintaining of Entrances to private wind turbine access roads.
- (r) **“Material Change”** has the meaning ascribed to such term in Section 31.

- (s) **“Municipal Infrastructure”** means structures, services or facilities of any kind owned or operated by or for the benefit of the County or its local municipalities, including drains, water mains and culverts.
- (t) **“Parties”** means the County and Jericho collectively, and **“Party”** means any one of them.
- (u) **“Permits”** means those permits required to be obtained by Jericho from the County for the purposes of performing the Work and for the purposes of use of the Road Allowances, along with all requirements for the issuance of such Permits and all fees associated with such Permits, as set out in the Permits and Fees Document, which is attached hereto as **Schedule “D”** and forms a part of this Agreement.
- (v) **“Plan”** means a detailed plan drawn to scale, which:
 - (i) identifies the location, size and elevation of the Electrical Infrastructure;
 - (ii) demonstrate that the installation of the Electrical Infrastructure will comply with applicable safety, technical and regulatory standards and the requirements of Applicable Law; and
 - (iii) show the Road Allowances where the installation of Electrical Infrastructure is proposed and the location of the proposed Electrical Infrastructure or part thereof together with specifications relating to the proposed Electrical Infrastructure or part thereof.
- (w) **“Plans”** means more than one Plan, as defined herein, referred to collectively.
- (x) **“Power Purchase Agreement”**, (hereinafter **“PPA”**) means the Feed-In Tariff Contract made between Jericho and the Ontario Power Authority, including any amendments or renewals thereof.
- (y) **“Public Authority”** means any governmental, federal, provincial, regional, municipal or local body having authority over the County, Jericho, the Wind Project, the Electrical Infrastructure or the Road Allowances.
- (z) **“Repair Work”** means work involving the maintenance, repair and replacement of the Wind Project, including the maintenance, repair and replacement of installed Electrical Infrastructure and Entrances that does not cause the location, elevation, position, layout or route of the Electrical Infrastructure or Entrances to materially change.
- (aa) **“Road Allowances”** means public rights of way, road allowances, streets, sidewalks, highways, walkways, driveways, ditches and boulevards and the allowances therefor, and includes all existing infrastructure located on or within the Road Allowances, all owned, or managed under the legal jurisdiction of the County as shown in the Approved Road Use Plans (**Schedule “B”**).

- (bb) **“Secured Party”** or **“Secured Parties”** means Jericho’s lenders, from time to time.
- (cc) **“Transmission”** means the conveyance of electricity at voltages in excess of 50 kilovolts.
- (dd) **“Transmission Infrastructure”** means infrastructure conveying electricity at voltages in excess of 50 kilovolts and includes all structures, equipment or other things used for that purpose including, but not limited to, a line or lines of towers and/or poles, with such wires and/or cables for the transmission of electricity at voltages in excess of 50 kilovolts, and all necessary and proper foundations, safety barriers, footings, cross arms and other appliances, facilities and fixtures for use in connection therewith including without limitation, pads, vaults and junction boxes manholes, handholes, conduits, fiber optics, cables, wires, transmission lines and other conductors of any nature, multiple above or below ground control, communications, data and radio relay systems, and telecommunications equipment, including without limitation, conduits, fiber optics, cables, wires and lines.
- (ee) **“Tree Work”** means the cutting, trimming, removing or replacing of trees or bushes growing in or extending into, over or under the Road Allowances.
- (ff) **“Wind Project(s)”** means the 150 megawatt renewable energy generating facility known as Jericho Wind Energy Centre and its appurtenant wind turbines, equipment, buildings and Electrical Infrastructure, a portion of which is to be constructed in the County of Lambton for the purpose of supplying electricity in accordance with the PPA.
- (gg) **“Work”** means all work required to be performed by Jericho pursuant to the terms of this Agreement, including, but not limited to, all Deliveries, Electrical Infrastructure Work, Entrance Work, Tree Work, and Repair Work.

Schedules

4. The following schedules to this Agreement are an integral part of this Agreement:

Schedule “A”

Jericho Asset Document

Shows type and value of all current assets owned by Jericho

Schedule “B”

Approved Road Use Plans

Geographically shows the location of the Wind Project; municipal description and location of County Road Allowances; and particulars with respect of the route of Electrical Infrastructure, including but not limited to location of poles,

engineering details of poles (type, material, size, foundation, construction methods, guying details.), electrical transmission line arrangement (height of cables, vertical clearances, expected cable sag/sway, etc.), and the location of any alteration of the County Road Allowances in relation to the installation of said Electrical Infrastructure (ditch grading and guardrails).

Schedule “C”

Appropriate Emergency Service Providers

Schedule “D”

Permits and Fees

Shows all Permits and fees required to be applied for and obtained by Jericho from the County, including but not limited to Oversize/Overweight Permits, Entrance Permits, Signage Permits.

Schedule “E”

Rights and Remedies afforded to Secured Parties

Statutory Rights

5. The Parties agree that nothing contained in this Agreement shall abrogate or prejudice any statutory rights held by any Party under any applicable statute, including but not limited to the *Municipal Act, 2001*, as amended, the *Ontario Energy Board Act, 1998*, as amended, the *Green Energy and Green Economy Act, 2009*, as amended and the *Electricity Act, 1998*, as amended.

B. GRANT OF PERMISSION

Term

6. The rights provided for in this Agreement shall be for a term which is the greater of: (i) thirty (30) years from the Effective Date plus an option in favour of Jericho to extend the term of this Agreement for two (2) further ten (10) year periods, or (ii) from the Effective Date to the expiry of the term of the PPA and any extensions thereof, together with such additional time (not to exceed nine (9) months) as may be reasonably required to complete the decommissioning of the Wind Project, (hereinafter, the “**Term**”).

Grant of Easement

7. The County hereby grants and transfers to Jericho for the duration of the Term, the non-exclusive right, privilege, interest, benefit and easement to enter upon and use the Road

Allowances as identified in the Approved Road Use Plans (**Schedule “B”**) with such persons, vehicles, equipment and machinery as may be necessary for the purpose of placing, installing, constructing, re-constructing, inspecting, maintaining, operating, altering, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure and the right to perform Work over, along, across, within or under the Road Allowances in connection with the Wind Project, subject to the following conditions:

Prior Approvals

- (a) Jericho, prior to the installation, placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repair, replacement, relocation and/or removal of any Electrical Infrastructure over, along, across, within or under the Road Allowances, shall obtain the approval of any Public Authority required by or have the authority pursuant to Applicable Law in connection with such activity.

Notice

- (b) Jericho shall make its best effort, prior to the installation, placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repair, replacement, relocation and/or removal of any Electrical Infrastructure over, along, across, within or under the Road Allowances, to provide notice to all other existing Road Allowance users of the aforementioned installation, placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repair, replacement, relocation and/or removal of any Electrical Infrastructure over, along, across, within or under the Road Allowances.

Transmission Infrastructure Placement

- (c) All Transmission Infrastructure shall be installed above-grade within the Road Allowances in the location specified in the Approved Road Use Plans (**Schedule “B”**) within a reasonable error range and supported by stand facilities (poles) at an appropriate elevation to avoid incompatibilities and/or conflicts with other existing infrastructure;

Distribution Line Placement

- (d) All Distribution Infrastructure shall be installed below-grade and within but under the Road Allowances at an appropriate depth so as to avoid incompatibilities and/or conflicts with other existing and potential infrastructure, except where Jericho in consultation with the County identifies environmental, topographical or other obstacles that require the installation of poles or other above-grade Distribution Infrastructure to permit the distribution of electricity over, around or across the obstacle;

Distance from Travelled Portion and Property Line

- (e) The Parties agree that Jericho shall, provided it is not materially or commercially unreasonable, install Electrical Infrastructure in the following locations within the Road Allowances:
 - (i) in locations between the outer limit of the travelled portion of the roadway and the property line of the Road Allowance;
 - (ii) at depths and/or elevations within the relevant Road Allowance to avoid incompatibilities and/or conflicts with existing infrastructure and, provided it is not materially or commercially unreasonable, avoid incompatibilities and/or conflicts with currently planned infrastructure; and
 - (iii) in consistent locations within the Road Allowances such that the number of road crossings is minimized.

Permits/Fees

- (f) Jericho will obtain all Permits from the County and pay the appropriate fees associated with obtaining the same, which fees are shown in the Permits and Fees Document (**Schedule “D”**). The County shall issue all such Permits within the timelines set out in the County’s by-laws or in the relevant statutes or regulations or thirty (30) days following receipt from Jericho of its applications and fees, whichever is less, and, without limiting the generality of the foregoing, in respect of grading, guardrails and culverts related to the Electrical Infrastructure, shall issue approval on the basis of standards typically applied in accordance with the MTO Road Safety Manual;

Legal Compliance

- (g) All actions of Jericho and the County shall be in compliance with Applicable Law;

Insurance Coverage

- (h) Jericho agrees that prior to the placing, installing, constructing, re-constructing, inspecting, maintaining, operating, altering, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure over, along, across, within or under the Road Allowances, Jericho shall arrange for and maintain commercial general liability insurance (hereinafter, the “**CGL**”), insuring Jericho and naming the County as an additional insured. The CGL shall provide, at a minimum limits of liability, not less than five million dollars (\$5,000,000.00) per incident and in the aggregate. In addition, the CGL shall contain a cross liability and severability of interest clause and provide for a minimum of ten (10) days’ notice of cancellation of the CGL. Jericho shall upon written request thereof, deliver to the County, from time to time and in any event prior to commencement of the Work,

a copy of a certificate of insurance evidencing that the CGL is in full force and effect. Following the date that is ten (10) years after the Effective Date and every ten (10) years thereafter, the Parties shall, acting reasonably, review the minimum limits of liability of the CGL to determine if appropriate adjustments are required. Jericho may comply with the CGL requirement through any combination of primary and excess/umbrella coverage.

Commencement of Work

- (i) Prior to the commencement of any Work, Jericho shall document, by means of a video recording or other means satisfactory to the County, acting reasonably, the then-existing condition of all Road Allowances or structures that Jericho expects will or may be used for or subject to Work, and both Parties shall receive a complete copy of such video recording or document;
- (j) Jericho agrees to maintain the surface of the Road Allowances for a period of twelve (12) months following the Commercial Operations Date and restore the surface of the Road Allowance to at least the same condition as prior to the commencement of any Work, except in the cases where the alteration to the untraveled portion of the Road Allowance forms part of the Work;
- (k) Jericho agrees the Easement Rights shall be exercised and carried out in a good, safe and workmanlike manner;
- (l) Jericho shall be responsible for any damage caused to the Road Allowances at any time by itself, its agents, employees or contractors and for removing all debris from the work area following the undertaking of any of the Easement Rights contemplated herein;
- (m) Jericho shall, provided it is not materially or commercially unreasonable, protect the integrity and security of all existing equipment, installations, utilities, and other facilities within the Road Allowance or which might otherwise be located in, on, or under the Road Allowances or any adjacent lands;
- (n) Jericho shall make all payments and taking all such steps as may be reasonably necessary to ensure that no construction lien or other lien is registered against the Road Allowances as a result of the undertaking by Jericho of any of the Easement Rights or any other work contemplated in this Agreement and taking such steps as may be required to cause any such registered lien or claim for lien to be discharged or vacated immediately after notice thereof from the County is provided to Jericho.

Non-Exclusive Permission

- 8. The Easement Rights provided for in this Agreement shall constitute a non-exclusive easement. Without limiting the foregoing, the Easement Rights are subject to the rights of the owners of the property adjoining the Road Allowances who are entitled access to and from the Road Allowances from their properties, and subject to the rights and

privileges that the County may grant to other persons on the Road Allowances, all of which rights are expressly reserved; the rights shown on the Approved Road Use Plans and As-Built Plan and specifications only excepted. Jericho hereby acknowledges and agrees that there are other utilities and third parties that do and/or may have similar rights over the Road Allowances and Jericho hereby agree to accommodate the interests of other third parties when exercising the Easement Rights, provided such accommodation is not materially or commercially unreasonable.

9. In respect of and without limiting the foregoing and provided it is not materially or commercially unreasonable, Jericho agrees that when engaging in any Work, it shall ensure there is minimal interference with the traveled portion of any Road Allowances or any pedestrian, vehicular, or other traffic thereon, or any use or operation of any ditch or drain adjacent to such public right-of-way, highway, street, or walkway. Unless otherwise agreed by the County, the Road Allowances shall always be open to pedestrian, vehicular or other traffic and shall be open to the public. Without limiting the generality of the foregoing, Jericho shall be entitled to temporarily close any of the Road Allowances with the prior written consent of the County Engineer, which consent shall not be unreasonably withheld, delayed or conditioned. If Jericho proposes the temporary closure of a Road Allowance, it shall also provide written notice to the Appropriate Emergency Service Providers.

Right of Entry

10. The County reserves its right to enter upon and use the Road Allowances without notice to Jericho for its own purposes and to grant and transfer rights to third parties to enter upon and use the Road Allowances to construct, operate, maintain, alter, repair or relate infrastructure, and to modify the Road Allowances, provided such entry, use, grant or transfer by the County does not adversely affect the Electrical Infrastructure, the Work, the Wind Project or the exercise of Jericho's rights under this Agreement.

Title

11. The County represents that:
 - (a) it has legal and beneficial title to the Road Allowances;
 - (b) it has obtained the full and unconditional due authorization for execution and delivery of this Agreement by all required resolutions and other required municipal approvals;
 - (c) it shall defend its title to the Road Allowances against any person or entity claiming any interest adverse to the County in the Road Allowances during the Term of this Agreement, save and except where such adverse interest arises as a result of the gross negligence or willful misconduct of Jericho or any person for which they are responsible at law;
 - (d) the Permits are the only permits, approvals, consents or authority within the jurisdiction of the County required in connection with the Work and the fees as

set forth in attached hereto are the only fees payable by Jericho in connection with the Permits; and

- (e) the execution and delivery of this Agreement by the County will not result in a breach of any other agreement to which the County is a party and no rights, interests or privileges have been granted in respect of the Road Allowances by the County which will or could adversely affect the rights, interests or privileges granted to Jericho hereunder.

Electrical Infrastructure at Expense of Jericho

- 12. Notwithstanding and without limiting any other term hereof, Jericho agrees and undertakes that all Electrical Infrastructure over, along, across, within or under the Road Allowances will be placed, installed, constructed, re-constructed, inspected, maintained, operated, altered, enlarged, repaired, replaced, relocated and removed at its own expense and in accordance with good engineering practices, and in compliance with Approved Road Use Plans, this Agreement and Applicable Law.

C. ADDITIONAL TERMS AND CONDITIONS RE EASEMENT RIGHTS

Road Closure

- 13. The County agrees, in the event of closing of any Road Allowances, to give Jericho reasonable notice of such closing and to provide Jericho with a further easement over that part of the closed Road Allowances, sufficient to allow Jericho to preserve any part of the Electrical Infrastructure in its then existing location, and to enter upon the closed Road Allowances to maintain and repair such part of the Electrical Infrastructure.

Traffic Effects

- 14. Notwithstanding and without limiting any other term hereof, the Parties acknowledge that the Work from time to time may require the temporary modification of traffic patterns or the imposition of temporary restrictions on public access to or use of the Road Allowances ("**Traffic Effects**"). In the event that Jericho determine that Traffic Effects are required, Jericho agrees to:
 - (a) give five (5) days' notice of anticipated Traffic Effects to the County Engineer and affected residents and to coordinate with the County Engineer and the Appropriate Emergency Service Providers to minimize and mitigate any adverse impacts of the Traffic Effects and to ensure public safety; and
 - (b) use reasonable efforts to maintain adequate public access to and use of the Road Allowances while Traffic Effects are in progress and to remove the Traffic Effects as soon as reasonably possible when the Traffic Effects are no longer necessary.

Restoration

15. Jericho further agrees that in the event that it becomes necessary to break, remove, or otherwise pierce the existing surface of any of the Road Allowances or any other municipal lands to undertake any placing, installing, constructing, re-constructing, inspecting, maintaining, operating, altering, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure or to undertake any Work over, along, across, within or under the Road Allowances, Jericho in all cases will repair, reinstate and restore such surface at its own expense to the same or better condition which existed prior to the performing of the Work. Jericho also agrees that, except in those cases where breaking, removing or otherwise piercing the untraveled portion of the Road Allowance forms part of the Work, it shall thereafter, for a period of twelve (12) months following the Commercial Operation Date (the “**Interim Period**”), monitor that portion of such restored Road Allowances, at the sole expense of Jericho, and repair any settling thereof directly caused by the placing, installing, constructing, re-constructing, inspecting, maintaining, operating, altering, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure or any of the Work performed over, along, across, within or under the Road Allowances to the satisfaction of the County Engineer, acting reasonably.

Repairs

16. Jericho shall be liable for any and all Repair Work required to be performed on the Electrical Infrastructure or on the Road Allowances due to the existence of the Electrical Infrastructure. Any Repair Work undertaken shall restore the road surface to at least the same condition it was in immediately prior to the use of the Road Allowances by Jericho. In the event that Repair Work is required, Jericho agrees to provide the County with at least five (5) days’ notice that the Repair Work will occur if such Repair Work:
 - (a) will have or is likely to have Traffic Effects;
 - (b) will involve or is likely to involve Tree Work;
 - (c) could present a danger to public health and safety; or
 - (d) is located in Entrances.
17. Subject to the provisions of this Agreement and provided that Repair Work on Electrical Infrastructure complies with this Agreement, Jericho shall be entitled to conduct Repair Work on Electrical Infrastructure without prior approval of the County Engineer.

Emergency

18. Notwithstanding any other provision of this Agreement, in the event of any emergency involving the Electrical Infrastructure, Jericho shall notify the Appropriate Emergency Service Providers immediately upon becoming aware of the situation and shall do all that is necessary and desirable to control the emergency, including such work in and to the Electrical Infrastructure or the Road Allowances as may be required for the purpose. If after reasonable and unsuccessful efforts to communicate with the County and in the

event the emergency, at Jericho's sole determination, Jericho requires immediate access to Electrical Infrastructure, Jericho may enter upon the subject Road Allowances and/or municipal lands without prior notice to the County in order to gain access to such Electrical Infrastructure in order to address such emergency and, in so doing, shall undertake to rectify the Electrical Infrastructure to the standards and as are otherwise required by the terms of this Agreement and to thereafter provide written notification and details and specification of such Repair Work to the County on the next Business Day and to thereafter file amended Plans and drawings detailing such repairs as is otherwise required by this Agreement. Without limiting the foregoing, subject to resolving to the emergency, Jericho agrees that all work completed under this subsection shall maintain the same location of the Electrical Infrastructure as previously approved by the County.

19. Jericho shall be responsible for all costs associated with such emergencies. The Parties hereby agree to cooperate with each other and with the Appropriate Emergency Service Providers and Hydro One Networks Inc. to develop and adopt protocols applicable in the event of an emergency involving the Electrical Infrastructure.

Upgrades Required

20. In the event that the standard, condition or maintenance of any of the Road Allowances is not sufficient to permit Jericho to carry out its desired operations, Jericho shall be solely responsible for carrying out any work or maintenance required to upgrade the Road Allowances, at its own expense.

Locating Infrastructure:

21. Jericho agrees at its sole expense to:
 - (a) mark the location of Electrical Infrastructure installed by Jericho within the Road Allowances with appropriate markings;
 - (b) participate in the "Ontario One Call" system to facilitate ongoing notice to the public of the location of the Electrical Infrastructure; and
 - (c) upon written request of the County, Jericho shall properly and accurately identify the location of any Electrical Infrastructure within the County, and provide such reports to identify the depth of the relevant portion of the Electrical Infrastructure, such request to be made in writing to Jericho with advance notice of twenty (20) days prior to the County or a third party commencing work that may conflict with the Electrical Infrastructure.

Relocation of Installed Infrastructure

Upon Election of Jericho

22. In the event that Jericho wishes to relocate Electrical Infrastructure which has been previously installed in accordance with this Agreement at 100% its own expense, Jericho shall notify the County of such request, in writing, and such request will thereafter be

considered and administered by the County acting reasonably and with diligence giving due consideration to the scope of the works already undertaken by Jericho on the Road Allowances, provided that, in considering and administering such request the County shall be entitled to take into consideration any specific municipal or engineering interests affected by such relocation including any additional facilities located within the Road Allowances. Jericho shall obtain all Permits and/or approvals from the County which are required for any such relocation. Notwithstanding the foregoing, the County shall not be permitted to unreasonably withhold, delay or condition its approval for such request.

Required by the County

23. In the event that the County, in conjunction with an approved municipal plan, and acting reasonably, deems it necessary for the location of the Electrical Infrastructure or Entrances (hereafter, a “**General Relocation**”) to be taken up, removed, or modified within the Road Allowances, the General Relocation and any related installation work shall be conducted at 100% of the expense of Jericho within a reasonable period of time and subject to Force Majeure. Furthermore, in the event poles situated on private property directly adjacent to the Road Allowances located between the Jericho Collection Substation and Arkona Road along Thompson Line (all as identified on Schedule “B”), are required to be relocated as part of a widening of such Road Allowances by the County, such relocation shall be conducted at 100% of the expense of Jericho within a reasonable period of time and subject to Force Majeure.
24. Without limiting and in addition to Section 23, in the event that Jericho determines that leave to construct or amendment thereto or any other approval is required from a Public Authority, or any successor thereof, with respect to the proposed General Relocation or related installation work, then the County shall provide such reasonable period of time as is necessary for Jericho to obtain such leave to construct, amendment or other approval before closing or disposing of the Road Allowance, if applicable; provided, however, in the event that any Public Authority’s approval is not provided to Jericho, both Jericho and the County shall be bound to comply with the determination of the Public Authority and shall modify or discontinue the relocation of the Electrical Infrastructure or Entrances as necessary.

Required by Legislation or Lawful Order

25. In the event that a General Relocation is required as a result of the County’s compliance with a legislative requirement, Ministerial order or such other law or order of a body which has the ability to force the County to act then the costs of the General Relocation and/or related installation work associated with the installed Electrical Infrastructure shall be performed by Jericho at 100% its cost.

By Third Party

26. Where the General Relocation under Section 24 is required due to the County accommodating a third party (hereinafter “**Third Party Work**”), the required General Relocation or related installation work shall be conducted by Jericho in accordance with

the terms of this Agreement respecting installation, and the full cost of the amendment or General Relocation shall be borne solely by the third party and paid in advance. The County agrees to provide Jericho with ninety (90) days' notice of the need for any such Third Party Work and to require that the relevant third party or parties bear the full cost of such Third Party Work and indemnify Jericho against all claims and liabilities arising from the amendment or General Relocation as a condition precedent to any such amendment or General Relocation.

Temporary Reconstruction or Realignment of Road Allowances

27. Jericho shall, upon reasonable prior notice to the County, have the right to:
- (a) temporarily reconstruct or realign certain portions of the Road Allowances in order to permit the delivery or movement of oversized Wind Project components, including wind turbine blades, tower sections and nacelles; and
 - (b) connect access roads located on private land and running from the Wind Project turbines to the Road Allowances to permit ongoing access to such wind turbines during the period of commercial operation of the Wind Project.

D. TREE WORK/REPLACEMENT

28. Intentionally Deleted.

Tree Work

29. Notwithstanding applicable statutory rights, in the event that Jericho deems it necessary to perform any Tree Work, Jericho shall be entitled to conduct the Tree Work. In the event that trees are removed from within the Road Allowances, Jericho agrees at its sole expense, to remove the tree stump to a level below grade and to restore and remediate the surface of the Road Allowance.

E. IMPLEMENTATION OF PLANS

30. Intentionally Deleted

Revisions Required

31. In the event that physical features of the Road Allowances or other obstacles or circumstances frustrate the ability of Jericho to complete the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlargement, repair, replacement, relocation and removal of Electrical Infrastructure in compliance in all material respects with the Approved Road Use Plans, Jericho agrees to revise the relevant Plans and submit such revised Plans for review and approval by the County Engineer. If revisions to the Plans are required which would impact either (i) the safety or operation of the Road Allowances or (ii) other existing Road Allowance users, in accordance with applicable engineering and industry standards (such revisions being, a “**Material Change**”), subject to Section 64 of this Agreement, the County agrees to

expedite its review of the Plans submitted and agrees not to unreasonably condition, delay or withhold approval of revised Plans.

Adherence to Approved Road Use Plans

32. Jericho further agrees to commence, perform and complete the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure in compliance with the Approved Road Use Plans, provided there is no material impact on (i) the safety or operation of the Road Allowances or (ii) other existing Road Allowance users, in accordance with current engineering and industry standards or unless otherwise approved by the County Engineer, acting reasonably.

Filing of As-Built Plan Following Installation etc.

33. Following the completed placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure and within one hundred eight (180) days after the Commercial Operation Date, Jericho agree to conduct the necessary investigation necessary to produce and file with the County Engineer an As-Built Plan together with a final electronic copy (CD ROM or DVD) prepared in an AUTOCAD, CAD or GIS environment of the As-Built Plan, showing the exact location and specifications of any Electrical Infrastructure installed over, along, across, under or within the Road Allowances and any Entrances. The Parties agree that the County shall not release of any deposits or securities held until the As-Built Plan is filed.

Post-Installation Report and Required Repairs

34. Following the County Engineer's receipt of notice from Jericho confirming that installation of the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure over, along, across, within or under the Road Allowances is complete (the "**Completion Notice**"), the Consulting Engineer shall conduct a further inspection and provide a post-installation report (the "**Post-Installation Report**"), which includes the following:
 - (a) identification of the Road Allowances which in the opinion of the Consulting Engineer, have been damaged or destroyed by Jericho and its employees, agents or contractors during the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repairing, replacing, relocating and removing Electrical Infrastructure over, along, across, within or under the Road Allowances, hauling, or establishing of Entrances; and
 - (b) identification of the repairs, replacements or remedial work necessary to repair the damaged Road Allowances.

The Consulting Engineer's inspection, for the purposes of producing the Post-Installation Report shall be completed no later than ten (10) business days following receipt by the

County of the Completion Notice. Jericho agree to repair any and all damage to the Road Allowances directly caused by the Work in accordance with the Post-Installation Report (hereinafter referred to as the “**Required Repairs**”). In the event Jericho fails to complete the Required Repairs in a manner and within a timeframe acceptable to the County Engineer acting reasonably, the County may do so at the sole expense of Jericho.

Final Condition Report and Final Repairs

35. Following the expiry of the Interim Period, the County’s Engineer shall forthwith conduct an inspection of the Road Allowances to either (i) confirm its satisfaction that all restoration work has been completed and that the Road Allowances are in the same or better condition which existed prior to the performing of the Work; or (ii) identify those Road Allowances which are not in the same or better condition which existed prior to the performing of the Work and identify the repair, replacement or remedial work required to repair the Road Allowances to the same condition which existed prior to the performing of the Work (the “**Final Condition Report**”). The County Engineer’s inspection, for the purposes of producing the Final Condition Report shall be completed no later than ten (10) Business Days following the expiry of the Interim Period and the Final Condition Report shall be delivered to Jericho not later than ten (10) Business Days following the date of inspection aforesaid. Jericho agrees to repair any damage to the Road Allowances identified in the Final Condition Report (the “**Final Repairs**”) within a reasonable period of time. In the event Jericho fails to complete the Final Repairs in a manner and within a timeframe acceptable to the County Engineer acting reasonably, the County may do so at the sole expense of Jericho.

F. COMPENSATION

For Use of Road Allowances

36. To offset the administrative expenses incurred by the County as a result of the use of its Road Allowances and to further secure covenants of Jericho as set out in this Agreement, Jericho agrees to pay to the County:
- (a) An initial payment of Fifteen Thousand Dollars (\$15,000.00) within thirty (30) days of the Effective Date of this Agreement, which shall *inter alia*, fully compensate the County for all reasonable out of pocket costs incurred in connection with the preparation and implementation of this Agreement including reasonable legal, engineering and inspection costs;
 - (b) An annual fee in the amount of four thousand dollars (\$4,000.00) per kilometer of overhead transmission lines located on County Road Allowances per year, payable by March 31 of every year during the Term of this Agreement. The Parties estimate that Jericho will have approximately three (3) kilometres of overhead transmission lines located within County Road Allowances;
 - (c) A fee (the “**Distribution Fee**”) in the amount of:

- (i) one thousand dollars (\$1,000.00) per road crossing of Distribution Infrastructure; plus
- (ii) one thousand five hundred dollars (\$1,500.00) per kilometer of Distribution Infrastructure buried on County Road Allowances.

The Distribution Fee shall be payable within thirty (30) days following the Effective Date and thereafter once every five (5) years, on the fifth (5th) anniversary of the Effective Date. The Distribution Fee may be amended by the County, from time to time, in accordance with amendments to County by-laws, provided the Distribution Fee charged to Jericho shall be consistent, in all respects, with other such fees charged by the County to similar Road Allowance users. For the purposes of this Agreement, the Parties estimate that Jericho will have approximately twenty-five (25) Distribution Infrastructure road crossings located within County Road Allowances and approximately twenty-six (26) kilometers of Distribution Infrastructure buried on County Road Allowances; and

- (d) The appropriate permit fees, which fees are shown in the Permits and Fees Document (**Schedule "D"**) with respect to those permits Jericho requires in order to engage in desired actions while using the rights identified in this Agreement.

37. All overdue payments payable by Jericho to the County under the terms of this Agreement shall bear interest at the rate of ten (10%) per cent per annum.

First Security Deposit

38. Prior to the commencement of the Work, Jericho shall deposit with the County an irrevocable letter of credit or surety bond in a form satisfactory to the County and from a financial institution satisfactory to the County, acting reasonably (the "**First LC**") in the amount of Five Hundred Thousand Dollars (\$500,000.00), which shall secure the obligations of Jericho pursuant to this Agreement during the initial placement, installation and construction of the Electrical Infrastructure over, along, across, within or under the Road Allowances. Jericho acknowledges and agrees that the County shall be entitled to draw on and use the proceeds from the First LC to complete the Required Repairs if Jericho fails to do so in accordance with Section 34 of this Agreement.

Second Security Deposit

39. Following the completion of any Required Repairs to the satisfaction of the County acting reasonably, the County shall forthwith return the First LC to Jericho and Jericho shall, within five (5) business days of the receipt of the First LC, provide a second irrevocable letter of credit or surety bond in a form satisfactory to the County and from a financial institution satisfactory to the County, acting reasonably (the "**Second LC**") in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00), which shall secure the obligations of Jericho with respect to Section 35. Jericho acknowledges and agrees that the County shall be entitled to draw on and use the proceeds of the Second LC to complete the Final Repairs in the event Jericho fails to do so within a reasonable period of time, in accordance with Section 35 of this Agreement. The County shall return

the Second LC to Jericho within five (5) business days following the earlier of, (i) the date on which Jericho notifies the County that the Final Repairs required to be performed by Jericho pursuant to Section 35 have been satisfactorily completed in the opinion of the County, acting reasonably; and (ii) the date which is ninety (90) days following the date of the Final Condition Report.

G. LIABILITY

Risk with Jericho

40. Jericho hereby acknowledges that the placement, installation, construction, re-construction, inspection, maintenance, operation, alteration, enlarging, repair, replacement, relocation and/or removal of any Electrical Infrastructure by Jericho in accordance with the Easement Rights granted hereunder is performed entirely at the risk of Jericho and that the County shall in no way or under any circumstances will be responsible or liable to Jericho or its contractors, agents, or customers for any damage or losses in consequence thereof, unless due to the negligent or intentional acts of the County or those for whom it is at law responsible.

Indemnification

41. Jericho will indemnify and hold harmless the County, its Warden, Councilors, officers, employees, legal counsel, agents and contractors from and against any and all claims, suits, demands, liabilities, losses, costs, damages, and other expenses of every kind that the County may incur or suffer as a direct consequence of the Easement Rights granted hereunder, except where such claims, suits, demands, liabilities, losses, costs, damages, and other expenses result from the negligence or intentional acts of the County, its Warden, Councilors, officers, employees, legal counsel, agents or contractors.

No Joint Venture, Partnership or Co-ownership

42. The Parties hereby acknowledge and agree that this Agreement is solely a road use agreement and that no relationship is formed between the Parties in the nature of a joint venture, partnership co-ownership arrangement or other similar relationship.

H. ABANDONMENT AND DECOMMISSIONING OF ELECTRICAL INFRASTRUCTURE

Notice of Abandonment

43. During the Term of this Agreement, Jericho may elect to permanently discontinue the use of (hereinafter, “**Abandon**”) any part of the Electrical Infrastructure in which event Jericho shall provide written notice specifying the part of the Electrical Infrastructure to be abandoned and the date when the abandonment will occur.

Removal

44. If Jericho Abandons any part or all of the Electrical Infrastructure, it shall decommission and remove in accordance with the Wind Project's decommissioning plan and the Ministry of Environment ("MOE") requirements in Jericho's Renewable Energy Approval ("REA"). Should Jericho fail to decommission and remove the infrastructure as set out above, the County may, to the extent permitted by Applicable Law, retain necessary personnel to remove the infrastructure and Jericho shall compensate the County for 100% of its cost to decommission and remove the infrastructure. This provision shall survive the termination of this Agreement.

I. DEFAULT

Breach

45. Subject to the rights granted to any Secured Parties hereunder or by the County, in the event that a Party commits a material breach of or omits to comply with any of the provisions of this Agreement (the "**Defaulting Party**") which continues for at least sixty (60) days after written notification of such default is provided to the Defaulting Party, the other Party (the "**Complainant**") shall have the right to terminate this Agreement. However, if the Defaulting Party shall have remedied the breach or shall have commenced to remedy the breach and has diligently pursued the remedying thereof within the sixty (60) days after the initial written notification of default, the Defaulting Party shall be allowed not less than one hundred and fifty (150) days after the expiry of the original notice period to remedy the breach, or such longer period of time as is reasonable in the circumstances. In the event of default by Jericho and without such default being rectified within the time period referred to in this section, the County shall have the right to terminate this Agreement.

46. Intentionally Deleted.

Force Majeure

47. Whenever, and to the extent that a Party will be unable to fulfill or will be delayed or restricted in the fulfillment of any obligations under any provision of this Agreement by reason of:
- (a) strikes;
 - (b) lock-outs;
 - (c) war acts of military authority;
 - (d) rebellion or civil unrest;
 - (e) material or labour shortage not within the control of the affected Party;
 - (f) fire or explosion;

- (g) inclement weather, flood, wind, water, earthquake, or other casualty;
- (h) changes in Applicable Law not wholly or mainly within the control of the affected Party, including the revocation by any Public Authority of any permit, privilege, right, approval, license or similar permission granted to Jericho or the Wind Project;
- (i) any event or matter not wholly or mainly within the control of the affected Party (other than lack of funds or any financial condition of the parties hereto); or,
- (j) acts of God,

(in each case a “**Force Majeure**”) not caused by the default or act of or omission by that Party and not avoidable by the exercise or reasonable effort or foresight by it, then, so long as any such impediment exists, that Party will be relieved from the fulfillment of such obligation and the other Party will not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned. The Party relying on Force Majeure will be required and is entitled to perform such obligation within a period of time immediately following the discontinuance of such impediment that is equal to the period of time that such impediment existed. A Party shall promptly notify the other Party of the occurrence of any Force Majeure, which might prevent or delay, that doing or performance of acts or things required to be done or performed.

J. MISCELLANEOUS

Assignment

- 48. Subject to the provisions in other paragraphs of this Agreement, Jericho shall not assign this Agreement without the written consent of the County, which shall not be unreasonably withheld, delayed or conditioned, except that no consent shall be required for Jericho to assign this Agreement to an affiliated or successor entity, or for purposes of securing indebtedness or other obligations respecting the Electrical Infrastructure or the Wind Project. The County acknowledges that a change in control of Jericho shall not be considered an assignment by Jericho of this Agreement or of any of Jericho's rights and obligations under this Agreement.
- 49. Jericho shall be entitled to assign this Agreement and all of its rights thereunder without the consent of the County to the Secured Parties as security for Jericho's obligations to such Secured Parties which shall be further entitled to assign this Agreement and Jericho's rights thereunder in connection with an enforcement of their security. The County hereby grants to any Secured Party the rights and remedies set forth in this Agreement, including those rights and remedies set forth in **Schedule “E”**. In addition, the County will, from time to time, at the request of the Secured Party, promptly execute and deliver in favour of any Secured Party such consents and acknowledgements granting and confirming the rights and remedies in this Agreement, including those rights and remedies set forth in **Schedule “E”**. The County shall enter into any other reasonable agreements with the Secured Party, as may reasonably be required by Jericho in order to obtain financing from the Secured Party.

50. Jericho shall be entitled, with the written consent of the County, which may not be unreasonably conditioned, delayed, or withheld, to assign this Agreement to a transferee of the Wind Project other than an affiliated or successor company, and Jericho shall thereupon be released from any and all obligations under this Agreement from and after the date of such assignment, provided that such assignee has agreed in writing with the County, in a form acceptable to the assignee and the County, both acting reasonably, to be bound by the provisions of this Agreement from and after the date of the assignment.
51. In the event Jericho applies to the County for consent to a transfer, the County shall have a period of thirty (30) days following receipt of sufficient information to make a determination as to whether the County shall provide or refuse to provide its consent to the proposed transfer. The County's failure to respond within that thirty (30) day period shall be construed as consent by the County.
52. Any documents relating to a transfer or the County's consent will be prepared by the County or its solicitors or their retained agents and all of the legal costs borne as a result by the County together with a reasonable administrative charge of One Thousand Dollars (\$1,000) shall be reimbursed to the County by Jericho on demand.

Dispute Resolution

53. In the event that either Party provides the other Party with written notice of dispute regarding the interpretation or implementation of this Agreement (a "**Dispute**") then both Parties shall use their best efforts to settle the Dispute by consulting and negotiating with each other in good faith to reach a solution satisfactory to both Parties. However, if the Parties do not resolve the Dispute within thirty (30) days following receipt of such notice, then either Party may provide written notice to the other Party (the "**Arbitration Notice**") requiring resolution by arbitration or thereafter the Dispute shall be referred to arbitration in accordance with the provisions of the *Arbitration Act, 1991*.
54. The Parties agree to the following with respect to any arbitration between the Parties:
 - (a) the arbitration tribunal shall consist of an arbitrator appointed by mutual agreement of the Parties or, if the Parties fail to agree on an arbitrator within ten (10) days after receipt of the Arbitration Notice then either Party may apply to a judge of the Ontario Superior Court of Justice to appoint an arbitrator;
 - (b) The arbitrator shall be qualified by education and training to be able to decide upon the matter to be decided;
 - (c) The arbitration shall be conducted in English;
 - (d) The arbitration shall take place in the geographic boundary of the County of Lambton or another place mutually agreed upon by the Parties;
 - (e) The arbitration award shall be given in writing and shall address the question of costs of the arbitration and all related matters;

- (f) The arbitration award shall be final and binding on the Parties as to all questions of fact and shall be subject to appeal only with respect to matters of law or jurisdiction.
55. The Parties agree that except to the extent that a matter is specifically the subject of a Dispute, both Parties shall continue to observe and perform the terms and conditions of this Agreement pending the resolution of a Dispute.

Termination by Jericho

56. Jericho may upon six (6) months' notice in writing, terminate this Agreement. Once the notice has been provided, Jericho shall be liable to the County for the provisions of this Agreement to the date of termination. Following the termination date, Jericho will only be liable for those obligations contained in Sections 15, 16, 34, 35, 38, 39, 40, 41 and 44, all of which shall survive such termination.

Further Assurances

57. Each of the Parties covenant and agrees with the other that it will at all times hereafter execute and deliver, at the request of the other, all such further documents, agreements, deeds and instruments, and will do and perform all such acts as may be necessary to give full effect to the intent and meaning of this Agreement.

Notices

58. The parties hereto agree as follows:

Any written notice provided for and contemplated by this Agreement will be delivered to the parties by hand or registered mail at the following addresses:

To the County: The Corporation of the County of Lambton
Attention: County Clerk
789 Broadway Street, Box 3000
Wyoming, ON N0N 1T0

To Jericho: Jericho Wind, Inc.
Attention: Business Management
390 Bay Street, Suite 1720
Toronto, ON, M5H 2Y2, Canada

Phone: (416) 364-9714

With a copy to: Jericho Wind, Inc.
Attention: General Counsel
700 Universe Blvd. LAW/JB
Juno Beach, Florida 33408
Phone: (561) 691-2359

Every such notice shall be deemed to have been received if personally delivered at the time of such delivery and if sent by prepaid registered mail, at the end of five (5) business days after the mailing thereof.

Governing Law

59. This Agreement shall be governed by, and be construed and interpreted in accordance with, the laws of Ontario and the laws of Canada applicable in Ontario.

Counterparts

60. This Agreement may be executed by facsimile or PDF transmission and in one or more counterparts, all of which shall be considered one and the same Agreement.

Binding Covenant

61. This Agreement and the rights granted hereunder are and shall be of the same force and effect, to all intents and purposes, as a covenant running with the Road Allowances. The provisions of this Agreement, including all of the covenants and conditions herein shall extend, be binding upon and enure to the benefit of the County, Jericho and their respective successors and permitted assigns as the case may be.

Severability

62. The invalidity or unenforceability of any provision of covenant contained in this Agreement shall affect the validity or enforceability of such provision or covenant only and any such invalid provision or covenant shall be deemed to be severable from the balance of this Agreement, which shall be enforced to the greatest extent permitted by law.

Amendments to the Agreement

63. No supplement, modification, amendment, or waiver of this Agreement shall be binding unless executed in writing by the Parties.

Amendments to the Approved Road Use Plans

64. Any Material Change to the Approved Road Use Plans will be submitted to the County Engineer for his approval, who will not unreasonably withhold such approval. The Parties agree that once approved, the amended Approved Road Use Plans shall substitute for, and replace the attached **Schedule "B"** as part of this Agreement.

Waiver

65. No supplement, modification, amendment, or waiver of this Agreement shall be binding unless executed in writing by the Parties.

Foreign Corrupt Practices Act and Anti-Bribery Indemnity

66. Notwithstanding anything to the contrary herein, the County, in its administration of this Agreement, shall refrain from offering, giving or promising, directly or indirectly, money or anything of value to a Canadian or foreign governmental official to influence the official in his or her official capacity, induce the official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person. For the purposes of this Section, **“anything of value”** includes, but is not limited to, cash or a cash equivalent, discounts, gifts, use of materials, facilities or equipment, entertainment, drinks, meals, transportation, lodging, insurance benefits, or promise of future employment. **“governmental official”** shall mean any person holding any level of legislative, administrative, or judicial office of the Canadian or a foreign government or any of its departments or agencies or divisions; any person acting on behalf of the Canadian or a foreign government, including a local or provincial agency, enterprise, or organization; any official or agent of a Canadian or a foreign public administration or publicly funded organization; any official of a Canadian or a foreign political party; any officer or agent of a public international organization (e.g., World Bank, International Monetary Fund, World Health Organization, United Nations, World Trade Organization); or any relatives or close family/household members of any of those listed above. The County shall indemnify and hold harmless Jericho from all claims brought against Jericho as a result of the County or its representatives’ failure to comply with Anti-Bribery Law. The County shall immediately report any breach of Anti-Bribery Law by the County or its representatives. The County shall indemnify and hold harmless Jericho from all claims brought against Jericho as a result of the County or its representatives’ failure to comply with Anti-Bribery Law. The County shall immediately report any breach of Anti-Bribery Law by the County or its representatives. Jericho shall have the right to audit the County’s books and records with respect to payments made on behalf of Jericho in the event that Jericho believes that the County has violated this Section 66. Jericho shall have the right to immediately terminate all payments to the County under this Agreement if the County fails to comply with this Section 66.

IN WITNESS WHEREOF the parties hereto affix their hands and seal or corporate seals, attested to by the hand of their authorized officers, as the case may be, at _____, Ontario, this ____ day of _____, 2014 to be effective as of the date first written above.

SIGNED, SEALED AND DELIVERED
in the presence of

**THE CORPORATION OF THE
COUNTY OF LAMBTON**

Warden

Clerk

We have the authority to bind the Corporation

SIGNED, SEALED AND DELIVERED
in the presence of

JERICO WIND INC.

Per:

Title:

I have the authority to bind the Corporation

SCHEDULE "A"

Jericho Asset Document

Jericho Wind, Inc. ("Jericho") is the project entity for the Jericho Wind Energy Centre ("Jericho Project") located in Middlesex County, Ontario. Jericho is the owner of a Feed-In-Tariff Contract with reference number F-002172-WIN-130-601 (FIT Contract).

The Jericho Project will generate up to 150 megawatts, and Jericho is the owner of wind farm leases and easement agreements to support the infrastructure and facilities for the Jericho Project.

Jericho will own all the turbines and infrastructure for the Jericho Project. Jericho will also have an interest in portions of the transmission lines and facilities supporting the Jericho Project. The estimated value of the assets of the Jericho Project, as of the commercial operation date, will be not less than \$XXXXXXXXXX.

CONFIDENTIAL