Deliverable Number 7

COMMERCIAL AGREEMENTS AND DOCUMENTATION FOR WIND POWER PLANT PROJECTS IN RUSSIA

GEF/IFC -- ACTIVITY 4

General Lease of Land
For Wind Power Use

Contractors

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17 January 2004
This Report forms part of the Medium Size Project for Developing the Legal and Regulatory Framework for Wind Power in Russia under a Grant from the International Finance Corporation (IFC) in its capacity as Implementing Agent for the Global Environment Facility (GEF). The content reflects the views and judgements of the Contractors and does not necessarily represent those of IFC or GEF.
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LAND ACQUISITION

Russia has developed, with the advent of the right of ownership of private property passed as legislation fairly soon after the establishment of the Russian Federation, a clear methodology for purchasing and leasing land. The process was developed in cooperation with the World Bank and the US Agency for International Development and incorporates standard procedures used in international practice, including the establishment of a nation wide system of cadastres. Procedures exist for obtaining cadastres, for identifying existing legal owners, for determine the fair market value of price per hectare (and these prices vary from region to region), for purchasing or for obtaining long-term lease (for at least 30 years and renewable), for official transfer and registration of new ownership. Leasing is more common in Russia than purchasing of land, but the process, by now, is fairly routine. The process depends on the use category or zone of the land that can include:

- Administrative land (villages and settlements)
- Agricultural land
- Industrial land
- Forestry land
- Recreational land
- Environmental land (protected area that should not be considered for projects)
- Reserves

Each zone is in turn subdivided into sub-zones. For instance, the lands of industry may consist of such sub-zones as industrial lands, lands of energy industry, lands for transportation, lands for defence programs, etc. Land of each category has to be used in compliance with these purposes. According to Article 89 of the Land Code, the facilities of the wind power stations can be located only on the lands of energy industry and can not be constructed on the other lands.

The practice of taking an exclusive option on a piece of land for a certain period of time in order to execute a future long-term lease, generally determined by its footprint in the cadastre, is also well established. All the procedures operate on the oblast and local levels.

What does not exist in Russia, in regard to wind power development is a recognized methodology for obtaining an exclusive option for wind or air rights and for exercising this option by leasing the land, not as predetermined by a footprint but for partial use with allowances for compatible use of surrounding land area. Leased areas will include certain parts of the land for erection of wind turbines, power line and infrastructure rights of way, roads, and fencing where needed, but need not require full use of the land and thus allowing such activities as farming or forestry to continue. Land owners would not be allowed to build other wind plants or tall structures that would obstruct access to the full wind resource. Such land usage would not generally come under the price per hectare as marked out by regional authorities. It was assumed as part of the Business Plan that the owners from whom the land was leased would receive royalties from the project. This provides the land owner with a revenue stream that can match or exceed income from other agricultural or forestry business options and is a way of reducing the front-end cost of land acquisition for the project. Royalty payments should not be determined by the going standard of the price of leased land.
On overall comparison of the traditional Russian land use agreement and the land lease developed by the GEF Team for wind power projects is shown in Table 7.1.

**Table 7.1 Comparison of Model Land Agreements**
*(Bold topics are unique to Wind Power Plant Lease Agreements)*

<table>
<thead>
<tr>
<th>Lease Issue and Section Number</th>
<th>Traditional Russian Federal Lease</th>
<th>Model GEF Land Use Agreement</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site Evaluation Period</strong></td>
<td>None – possibly the lease could be renegotiated</td>
<td>2-3 years</td>
<td>Before committing to long-term lease</td>
</tr>
<tr>
<td>Duration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rental &amp; Price</td>
<td>Nothing about small payment for site evaluation; After evaluation period, price could be renegotiated</td>
<td>Nominal payment to land owner for evaluation period.</td>
<td>Price depends on wind resource, terrain and soil characteristics and proximity to power lines and to customers</td>
</tr>
<tr>
<td>Obligations</td>
<td>No obligations following evaluation period</td>
<td></td>
<td>Proceeding can depend on the land, bank financing and many other factors</td>
</tr>
<tr>
<td>Termination</td>
<td>If owners terminate, lessee should be paid damages equal to the value of the project</td>
<td>After expiration – lessee must pay to restore the land</td>
<td>Lease can be sold to other developers</td>
</tr>
<tr>
<td><strong>Long-Term Lease</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agreement Period</td>
<td>Typically 1 year (up to 3 years)</td>
<td>At least 30 years and renewable</td>
<td>Key importance</td>
</tr>
<tr>
<td>Wind Rights (or Air Rights)</td>
<td>None</td>
<td>Allow unobstructed access to the wind</td>
<td>Very important</td>
</tr>
<tr>
<td>Exclusive Access</td>
<td>Possibly covered by current leases, but language is weak</td>
<td>Secures the site for wind project. Keeps other wind companies from out bidding or undercutting the project which could jeopardize substantial investment</td>
<td>Very important</td>
</tr>
<tr>
<td>Compatible use</td>
<td>Only need to use 2-4% of the land area for turbines, support buildings, roads and power lines</td>
<td>Allows unused land to be used for farming, forestry or other compatible uses</td>
<td>Keeps the cost down.</td>
</tr>
<tr>
<td>Royalty payment</td>
<td>None</td>
<td>International practice is to pay the land owner a royalty based on the net revenue</td>
<td>Typically royalties range from 0.25 to 1.0% of net revenues, depending on the land</td>
</tr>
</tbody>
</table>
Procedures for Obtaining Requisite Government Approval for Land Use

Oblast government approval is required for construction of the power station. This process generally includes the following stages: (i) considering the project by municipal authorities of two levels, which normally includes the approval of the project by a city or volost’ administration, the lowest level municipal authority, and reviewing the project by an Inter-department commission of the district or rayon, which is a higher level municipal authority; (ii) selecting and defining the estimate boundaries of the land plot by a Selection commission, appointed by the rayon administration; (iii) considering the project by the Committee for Land Measurement and other concerned authorities and agencies of both levels, the rayon administration, and the Government of the Leningrad Oblast (sanitary, environmental, fire safety, architectural, and other authorities), completion of various assessments, which may involve ecological expertise and other types of assessment; (iv) considering the project by the Committee for Economics and Investment and by the Inter-department Commission of the Leningrad Oblast; and (v) preparing of land measurement file and allocation of land for pre-engineering works by the rayon administration. The entire process can take six or more months.

Having obtained the governmental approvals, the project company can sign with the local authorities a so-called “lease agreement for pre-engineering works” defining the estimate boundaries of the land plot. This agreement does not allow any construction works on the land plot. It will be in effect while rezoning is completed (as described in separate section below), surveys are done (measurement of the land plot) and until the land plot is registered in the Cadastral Register of Russia. This process can take several months or more. Thereafter, a long-term lease agreement for the construction purpose can be signed with local authorities.

One of the issues facing wind power development in Russia is that “lease agreements are non binding” and they do not allow for the installation wind measuring meteorological stations that can cost $50-75 thousand or more. This issue is addressed in the proposed Model Land Lease Agreement.

Rezoning Land
Under Russian law, rezoning depends upon the discretion of the municipal and oblast regional governmental authorities. This process balance industrial, social and environmental needs of the region and can take two or more months. If there are natural resources involved as is the case of forest land, rezoning can only be done where there are important social needs. In these cases, the construction project will be thoroughly examined by the relevant federal and regional authorities before the rezoning is carried out. In a region with growing energy needs, the social need can be demonstrated and consequently zoning should not be a major barrier.

Establishment of Servitude
In a wind plant it is important to insure that land surrounding the turbines is used in ways that will not obstruct the free flow of air. Compatible uses can include agriculture, forestry and some industrial application. These issues are addressed in the land use agreement.
Under Russian law, there are provisions for servitude for adjacent land use, but there are important restrictions. For example if land plots located beneath and immediately adjacent to real estate objects do not have a direct access to public roads, then such access can be provided to the owner of such real estate objects by the neighbouring land owners by means of a private servitude. Nevertheless, under the Russian Civil Code and the Russian Land Code servitude agreement cannot be entered into by lessees for the reason that they do not possess an ownership title to immovable property objects. Therefore, a wind plant developer would not be able to sign a servitude agreement until it constructs and registers its title to the real estate objects (the wind turbines and other equipment) in the power station.

Access to public roads, and possibly power line rights of way, in such a case can be ensured under the provisions of a lease agreement obliging lessor either to provide access to the developer to the facilities (if the lessor is the owner of such land), or to enter into a servitude agreement and to maintain such servitude agreement valid throughout the entire lease term (if lessor is not the owner of the neighboring land). However, in the latter case the wind plant developer will not entirely control the proposed servitude agreement, and will not ultimately be protected if the existing servitude agreement is terminated. Once the facilities of the wind power plant are completed and registered, the developer is entitled to sign and register a servitude agreement with the neighbouring land owners to secure access to these facilities, but the developer could be at risk during the project development phase. The model wind plant lease assures servitude for the developer from the beginning. Thus competitor wind developers can not “steal wind” by building a plant on the up side of a project. Wind rights issues have been a problem only in regions with high density development in limited areas in Europe and in some mountain passes in California. This should not be a major issue in Russia.

**Issues Related to Obtaining Land for the Pilot Project**

The first step in developing the project was to lease a portion of the land required to erect a measurement tower. This was successfully accomplished on three sites during the Feasibility Study, including the site now designated for development. In two cases an existing communication tower was utilized. At the third site local approval was obtained and a 50 m instrumented tower with required aircraft warning lighting was installed.

The next major step is to obtain the legal rights to the land at the selected site, and this proved to be a complicated process. The first step was to identify the legal owners, one of which proved to be the Forest Ministry, a federal agency with clear methodology and pricing for leasing land for logging rights. The pricing established by the federal government and the many steps required for approval, seemed to militate against the use of such lands for purposes other than forestry. However such lands were part of the identified site for the project, and therefore the GEF Team went forward with both identifying and undertaking the steps and processes for obtaining approval for use of forest land for wind power development both in the Leningrad Oblast and in general.

To begin this process, the GEF Team conducted several meetings with the Ministry of Natural Resources, which gave its general approval for the use of the selected land for a wind power plant, but pointed out that two further steps in the approval process were required. One step was to obtain the approval of the government designee within the Leningrad Oblast who oversaw land use. The GEF Team met with this designee, and approval was obtained. The second step was to gain the approval and actual allocation of the site by the Regional Administrator of the area in the Oblast in which the site was located. The challenge was to develop a duel use model for implementation by the Russian government for allocating land.
for forestry and for wind power development. In order to obtain such overall approval, the Russian government needs to issue a Decree allowing the use of forestry land for wind power projects.

More significantly, and beyond the question of dealing with Forestry Ministry lands, is the issue of getting the Model Land Agreement adopted for large-scale wind development in Russia. The path for this is also through the Russian Federation government. The form and contents of such agreements are regulated by the Russian Federation Civil Code. Such a formalized model agreement requires an Executive Decree. In this case, the Decree would probably have to be drafted by both the Ministry of Natural Resources and the Ministry of Industry and Energy. It would then require approval by the President and be issued in his name. This process is likely to be a protracted one involving the steps summarized in Figure 7.1.
Model Land Use Agreement

To facilitate both Goals 1 and 2, the GEF Team developed a Term Sheet and a Model Land Use Agreement (Appendix A) in line with international usage, establishing the concepts of options on air rights, exclusivity, lease of partial use of the land for development of the wind power plant, and royalty payments and concessionary pricing based both on such payments and only partial use of the land.

This Model Land Use Agreement must be codified. An approach to achieve this outcome is described below.
Decree issued on Model land Agreement
The outcome from this effort was a Decree issued by the Federal Agency for Federal Property Management, “On Approval of the Model Form Land Lease Agreement, for Land Owned by the State.” The approved Decree was dated 06.07.2004 № 104-r (Registered with the RF Ministry of Justice 23.07.2004, № 5943), in according to sub-clause (c), clause 1, of the regulation of the RF Government № 576 dated 07.08.2002 “On the Procedure for Formalization of the Rights to Land Owned by the State Before Delimitation of the State Ownership to Land” (Rossiyskaya Gazette No 148, 10.08.2002, No 241 27.11.2003) of the decree of the President of the Russian Federation dated 09.03.2002 № 314 ‘On the system and structure of federal agencies of executive power’ (Rossiyskaya Gazette, No 50, 12.03.2004; Collection of Laws of the Russian Federation, 2004 № 11, Article 945):

1. Approve a model lease agreement for the state-owned land. (Appendix B)

2. Enact that paragraph 8 of the decree of the Ministry of property relations of the Russian Federation dated 2 September 2002 No 3070-r ‘On approval of model forms of decisions to transfer parcels of land under ownership title, permanent (indefinite) use, free use for a definite term, lease and sale/purchase agreements, free use for a definite term and land lease agreements’ shall not be applicable.

Approved by Acting Deputy Principal, D.B. Aratsky, of the Federal Agency for Federal Property Management.

The Decree and Model Lease are an important step forward but the GEF Model Land Lease Agreement for Wind Power Plants is still needed and that is in the approval process.
APPENDIX A

Land Lease Agreement and Term Sheet
LAND LEASE AGREEMENT
For
Evaluation as Potential Wind Power Plant Site
And For
Installation and Operation of a Wind Power Plant

Saint-Petersburg «___» ___________ 20___

TERM SHEET

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. DATE OF THIS LEASE</td>
<td></td>
</tr>
<tr>
<td>2. NATURE OF THIS AGREEMENT</td>
<td>Land Use Agreement</td>
</tr>
<tr>
<td>3. LANDOWNER</td>
<td></td>
</tr>
<tr>
<td>4. LEASEE</td>
<td></td>
</tr>
<tr>
<td>5. SURETY</td>
<td></td>
</tr>
<tr>
<td>6. LAND DESCRIPTION</td>
<td>Plot of land shown for identification only edged red on the Plot plan annexed hereto (&quot;the Plan&quot;) having an area of [ ] as part of a parcel of land at [ &lt;&lt; Legal Description&gt;&gt; ] in the [ ] District of the Leningrad Oblast.</td>
</tr>
<tr>
<td>7. DATE OF COMMENCEMENT OF TERM</td>
<td></td>
</tr>
<tr>
<td>8. TERM OF SITE EVALUATION</td>
<td>[ Typically 2-3 years ] years from Lease date – ALLOWING SITE ACCESS FOR WIND MEASUREMENTS AND PROJECT PLANNING ON AN EXCLUSIVE BASIS</td>
</tr>
<tr>
<td>9. LONG-TERM USE OPTION</td>
<td>[ Exclusive Long-term use option must be</td>
</tr>
</tbody>
</table>
10. LEASE TERM EXPIRATION

[ Typically 30 year renewable Lease ]

exercise by this date }
THIS LEASE is made on the date stated in the Particulars BETWEEN [ ] hereinafter called "the Landowner") of the first part and Leningrad Wind Power Company OOO (hereinafter called "the Lessee") of the second part

NOW WITNESSETH as follows:

1. DEFINITIONS

For the purpose of this Lease the following words shall where the context admits have the meanings set opposite them:

"Applicable Law" Any law, including any statutory instrument and rules and regulations thereunder, whether Oblast or Russian Federation, as may be applicable to the Project

"Conduits" Drains, pipes, wires or cables and other similar conducting media whether electrical or not

"Facility" Wind turbines, meteorological masts, power equipment, buildings constructed or installed by the Lessee and any other equipment/structure necessary to the Lessee’s business operation or to the transmission of power to Lessee’s customers/affiliates on the Premises

"Generation Units" Each wind turbine forming part of the Facility

"Insured Risks" (1) fire, storm, tempest, flood, lightning, explosion, aircraft, and articles dropped there from, riot, civil commotion, malicious person, earthquake, bursting and overflowing of water pipes, tanks and other apparatus and impact by road vehicle, electromagnetic interference with transmission of radio and television signals and such other risks as the Lessee shall from time to time deem necessary to insure against

(2) direct physical loss or damage to third parties (but for the avoidance of doubt) excluding any consequential or purely financial losses

"Landowner" As specified

"Power Purchase Agreement" An agreement for the purchase of electricity from the Wind Power Plant Project by a power off-taker

"Requisite Notice" A notice in writing from the Landowner to the Lessee giving not less than [ period ] notice of any entry to be made on the Property or any part thereof by the Landowner PROVIDED THAT in the case of an
THE TERMS AND CONDITIONS agreed upon by the Parties are as follows:

1. **Grant of Land Lease for the Wind Power Plant.** Landowner hereby grants to the Lessee a lease to occupy and use, subject to all of the terms and conditions of this Agreement, with regard to a wind power plant and associated activities on an exclusive basis, and on surrounding land on a non-exclusive basis otherwise, the real property depicted on the attached Exhibit A (the "Premises"). The Lessee shall have the Right of Way for Conduits for electric power lines and other utilities and to reasonable ingress and egress from the Premises on the route as indicated on the attached Exhibit A.

2. **Use for Purpose of Site Evaluation.** The Premises may be occupied and used by Lessee initially for evaluating the Landowner’s Premises for wind energy potential (which shall include, but shall not be limited to, conducting wind measurements and erecting measuring devices), and for incidental purposes related to such purpose, for no more than two (2) years in total during the period beginning ___ ______ 2004, unless this Agreement is terminated earlier as provided in this Agreement.

3. **Fee for Site Evaluation Land Usage.** Lessee shall pay Landowner for this usage a lump sum fee of FIVE HUNDRED ($500.00) DOLLARS upon execution of this Agreement.

4. **Long-Term Lease Option.** Lessee shall have the Option, on an exclusive basis, to execute a Long-Term Lease on the Premises for purposes of constructing and operating a wind power plant Facility. Term of the Lease for no more than 30 years in total from the period beginning on or before the end of the Site Evaluation period and beginning no later than __ ______ 20_. The Lease shall be renewable at the end of the 30 years initial period.
5. **Fee for Wind Power Plant Land Usage.** Lessee shall pay the Landowner for this usage, a fee paid annually equal ONE PERCENT (1%) of the net value of electricity produced and sold by the wind power plant.

6. **Termination during the Site Evaluation Period.** Either Party may terminate this Agreement at any time during the Site Evaluation and prior to initiation of the Long-Term Lease, by giving written notice to the other party, specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date specified in such notice for the date of termination; provided that the rights herein granted are subject to immediate termination by Landowner for Lessee’s failure to comply with any of the terms and conditions in this Agreement. On any termination of this Agreement, there shall be no apportionment of the fee and the Landowner shall have no liability to Lessee. If Landowner terminates this Agreement before __ ____ 200_, due to no fault of Lessee, however, the full fee shall be repaid to the Lessee by Landowner as Lessee’s sole remedy. Upon termination, the Landowner shall be excluded from using the Premises for any wind energy purposes for a period of FIVE (5) Years from the date of termination. Upon termination or expiration, Lessee shall quit the Premises and leave the Premises in as good condition as it now is, normal wear and tear excepted. After use of the Premises and upon termination or expiration, Lessee shall remove from the Premises all property of Lessee and Lessee shall leave the Premise in a clean, litter free, and sanitary condition. In the event the Premises are not left in the proper condition, Lessee shall reimburse Landowner promptly for any reasonable and documented expense incurred by Landowner in bringing the Premises into compliance. Any termination of this agreement, howsoever caused, shall be entirely without prejudice to the rights of Landowner that have accrued under this agreement prior to the date of such termination.

7. **Termination of the Long-Term Lease.**

Long-Term Lease may be terminated in the following circumstances, but not otherwise:

7.1 **Default**

(i) Subject to subclauses 7.1.2 and 7.1.3 below this lease shall determine and the Landowner shall be entitled to re-enter the Premises occupied by the Lessee where the Lessee:

(a) fails to pay Fees due under this Lease and such Fees remains outstanding 3 months after it becomes due,

(b) the Premises is not used for power generation for 12 months or more, unless the Facility or means of export or import are damaged or destroyed by an Insured Risk,
(c) is otherwise in fundamental breach of the terms of the Lease, except where the terms of subclause 7.1.2 below apply;

(ii) In any event falling within sub-clause (i)(c) above the Landowner shall give a notice in writing specifying in detail the default and the notice shall require the Lessee to remedy within a reasonable timescale and in any event not less than 28 days;

(iii) Notwithstanding anything contained in the above subclauses (i) and (ii) this Lease may be terminated in accordance with clause 7.1.2 hereof.

7.1.2 Convenience

The Lessee shall have the right to terminate this Lease upon [negotiable] days notice to the Landowner where the Power Purchase Agreement is lawfully terminated by the Seller or where the Power Purchase Agreement is otherwise terminated or ceases to be in full force and effect.

7.1.3 Survival of Rights on Termination

The termination of this Lease shall not affect the rights of the parties hereto which shall have accrued prior to the termination of this agreement.

7.2 Arbitration

The Landowner and Lessee agree that any dispute or difference arising between them as regards the meaning or construction of the obligations of the parties under this Lease shall be referred to and determined by an independent solicitor acting as an expert who has been professionally qualified for not less than 10 years and who is experienced in drafting and negotiating and advising upon agreements similar to this Lease and who shall be agreed between the parties or in the absence of such agreement appointed by the Oblast Energy Commissioner.

7.3 Service of Notices

Any demand or notice requiring to be made given to or served on the Lessee hereunder shall be duly and validly made, given or served if sent by the Landowner or its Agents through the registered post or recorded delivery service by pre-paid letter addressed to the Lessee (and if there shall be more than one of them then any of them) at its registered office or at the Premises. Any notice required to be given to the Landowner shall be duly and validly made, given or served if sent by the Landowner or its Agents through the registered post or recorded delivery service by pre-paid
letter addressed to the Landowner (and if there shall be more than one of them then any of them) at its registered office.

8. **Sale of the Property.** In the event of intention by the Landowner to sell the Premises, the Lessee shall have the Right of First Refusal to purchase the Premises. In the event the Premises is sold to another party, all rights granted hereunder shall flow the new owner without further notice upon an exchange or sale of the Premises by Landowner. In addition, Landowner shall give Lessee at least ninety (90) days prior written notice of any such exchange or sale.

9. **Assumption of Risk and Liability of Lessee.**

9.1. To the best of its knowledge, Landowner has title to the Premises, but Landowner makes no representation as to the present or future condition of the Premises or the character of the use of the Premises, and Lessee assumes all risks of injury or of damage to property in connection with the exercise of the rights hereunder.

9.2. Lessee agrees to indemnify and hold Landowner harmless and, at Lessee's expense, to defend Landowner from and against any claim, legal action, loss, cost, expense, or liability on account of personal injury to or death of any person, including but not limited to employees of Landowner, or damage to or destruction of any property, including but not limited to property of Landowner, or any fire to the extent attributable to the existence of or the Lessee's exercise of the rights herein granted; provided, however, Lessee's undertaking herein contained shall not be construed as covering personal injury to or death of persons or damage to or destruction of property to the extent directly attributable to Landowner.

9.3. At its own expense, Lessee will procure, before entering the Premises and maintain during the term of this Agreement, the following insurance, with its preferred companies, to cover Lessee's property, operations and employees:

   (i). [ Amounts and detail to added in accordance with Russian practice regarding liability, accident and property damage. ]

   (ii). Automobile liability insurance [etc -- added in accordance with Russian practice].

   (iii). Such insurance as will protect Lessee from claims under workers’ compensation acts and other employers’ liability acts, or employee benefit acts, including death to employees which may arise in connection with operations under this Agreement.

   Before entering the Premises, Lessee will provide Landowner with certificates of all such coverage. Such certificates will provide, on their faces, that the policies represented will not be
terminated, reduced, or materially changed without thirty (30) days’ prior written notice to Landowner.

9.4. Lessee shall assume all responsibility and cost for the installation, construction, operation, maintenance, and removal of any temporary Facilities associated with its power plant license for the Premises.

9.5. Lessee shall assume responsibility for payment of all taxes associated with construction and operation of the wind power plant.

9.6. It is understood and agreed that Lessee shall keep the Premises free from liens arising in any manner out of the Lessee’s license of the Premises and shall promptly discharge any such liens that are asserted; provided that Landowner shall have the right to discharge any such lien and require immediate reimbursement from Lessee.

10. Damage to Resources. Unless prior written permission is granted by Landowner, the Lessee shall not damage buildings, improvements, structures, timber, water, soil or any other resource associated with the Premises.

11. Reservation of Rights. Landowner reserves for itself, its contractors, and assigns the right to the Lessee, without cost, to cross and recross the Premises at any place and by any reasonable means and to use the Premises for any other purpose deemed necessary or desirable by Landowner, including, without limitation, the use of the Premises in connection with the protection, administration, management, and utilization of Landowner’s lands. Such usages of the Premises by Landowner, however, shall not abrogate Lessee’s license for the Premises, nor impede or obstruct the Lessee’s access to the wind. Furthermore, Landowner shall not impede Lessee’s license for the Premises and shall cooperate with Lessee regarding the Premises.

(d) Wind Rights. The Landowner, on Retained Land within one (1) kilometer of the Lessee’s Facilities, shall not allow construction of any structures nor planting of trees that could obstruct or impede wind flow in any direction.

(e) Compliance with Law. Lessee shall comply with all laws, regulations, and codes governing or pertaining to its activity on the Premises, including but not limited to fire and county health codes.

14. Nonassignment. Neither this agreement nor the rights of the Lessee hereunder shall be assignable in whole or in part, by operation of law or otherwise, except to Lessee's affiliates, without
prior written consent of Landowner thereto, which shall not be unreasonably withheld. Any attempted assignment without prior written consent of Landowner shall be void.

15. **Successors and Assigns.** The terms "Landowner" and "Lessee" shall include officers, employees, affiliates, agents, independent contractors, administrators, executors, successors, and assigns of the respective parties.

16. **Good Faith.** During this Agreement, Landowner shall:
   a. Not grant any wind plant or associated rights for the Premises to third parties; and
   b. Enter into timely, good faith negotiations with Lessee regarding wind power and/or associated rights for the Premises, upon Lessee’s written request.

Attachment: Exhibit A, Map

**LANDOWNER**

Agreed to and accepted this ___ day of _____ 200_.

________________________________________

By: ___________________________
Title: ___________________________

**LESSEE**

Agreed to and accepted this ___ day of _____ 200-.

________________________________________

By: Alexander Anisimov
Title: General Director, Leningrad Wind Power Company OOO

**EXHIBIT A** [Map or other depiction of Premises and access routes]

**Lessee’S OBLIGATIONS**
SCHEDULE I

THE PREMISES LAND

[ ] acres of Land known as and situated at [     ] in the District of [                    ] in the Oblast of [ registered under title number [                ] [the title of which is attached as annex A] and which is more particularly delineated on the Plan, including for the avoidance of doubt all structures and buildings thereon.

SCHEDULE II

THE FACILITY

The Facility consisting of:

[     ] which shall be situated as shown on the Plan.

The Accommodation Works described in Schedule III;

The wind turbines, buildings, etc;

SCHEDULE III

ACCOMMODATION WORKS

The Accommodation Works shall consist of all works required for the construction and operation of the Facility (other than the Generation Units) including (but without limitation):

SCHEDULE IV

THE LEASE FEES

The Fees in Roubles(                    ) per annum payable [       ] by the Lessee to the Landowner for the use of Land.

SCHEDULE V

RIGHTS GRANTED

THE LANDOWNER HEREBY GRANTS all rights which are reasonably necessary for the development of the Facility which shall include (without limitation):
(d) Wind Rights for unobstructed wind flow in all directions.
(e) Rights of Way for conduits for power lines and other utilities.

SCHEDULE VI

RESERVATIONS

(d) The landowner shall allow free and uninterrupted passage and running of water soil gas electricity and other services to and from the Landowner's Property through and along the Rights of Way for Conduits defined in Exhibit A.

(2) Subject to the overriding provisions of the Landowner’s covenants contained in this Lease the right to build upon or rebuild or alter any adjoining or neighbouring land or buildings in any manner whatsoever and to let the same for any purpose or otherwise deal therewith provided that any other liberty easement right or advantage belonging to the Lessee is thereby not materially diminished or prejudicially affected.

SCHEDULE VII

FACILITIES

1. Construction

(i) The Lessee shall commence the Facilities as soon as reasonably practicable following the satisfaction or waiver by the Lessee of the conditions precedent and provided all necessary Approvals have been obtained to enable the Lessee lawfully to do so and shall carry out and complete them not later than [   ] months from the date of this Lease.

(ii) Subject to all Approvals from time to time necessary being obtained and continuing in force the Lessee shall at its own expense diligently carry out and complete the facility:

(a) in a good and workmanlike manner and with sound materials of their respective kind; and

(b) in accordance with the terms of all Approvals and otherwise in compliance with the requirements of all statutes; and

(c) in accordance with Good Engineering Practice; and

(d) otherwise in accordance with all other provisions of this Lease.

(iii) If on one or more occasions the carrying out of the Facility is delayed due to reasons beyond the reasonable control of the Lessee then on each such occasion the Lessee shall be allowed such extension of time for carrying out the Facility as is reasonable in all the circumstances and the date by which the Lessee is required to have carried out and completed the Works shall be postponed accordingly.

2. Approvals
The Lessee shall supply to the Landowner a copy of every Approval obtained.

3. **Indemnity**

The Lessee shall indemnify the Landowner against all actions costs claims demands and liability whatever in relation to any failure by the Lessee to comply with its obligations under this Schedule VII or with the terms of any Approvals or otherwise in relation to the carrying out of the Facility.

4. **Review of the Facility**

The Lessee shall procure that the Landowner is afforded an opportunity to attend and visit the facility (as an observer only and entirely at his own risk) and enter upon the Premises in order to view the state and progress of the Facility, subject to a requirement that reasonable notice shall be given to the Lessee.

5. **General**

(i) During the progress of the Facilities the Lessee shall at its own expense maintain the Facilities in good order and condition and take all necessary measures and precautions to protect the Facilities from damage by fire and to keep the Premises secure against trespassers.

(ii) The Lessee shall at all times prior to completion of the wind power Facilities:

(a) not use or occupy the Premises or permit it to be used or occupied for any purpose other than the carrying out of the Facilities;

(b) not deposit or permit deposition on the Premises any materials which are not required for the carrying out of the Facilities;

(c) not sell or dispose of any earth, clay, sand, gravel or other material from the Premises or permit the same to be removed except so far as shall be necessary for the carrying out of the Facilities;

(d) notify the Landowner immediately if any articles of value or of historic or prehistoric interest are discovered in the course of carrying out the Facilities and the Landowner shall have the sole property in any such articles and they shall be dealt with as the Landowner shall reasonably direct.

(iii) No representation is made or warranty given by the Landowner that the Premises is suitable for the carrying out of the Facility and no defect which may be found to exist in the Premises in any way lessen or affect the obligations of the Lessee under this Schedule.

END
APPENDIX B

Decree of the Federal Agency for Federal Property Management dated 06.07.2004 № 104-r (Registered with the RF Ministry of Justice 23.07.2004, № 5943)

‘On Approval of the Model Form Land Lease Agreement, which is owned by the state’

According to sub-clause ‘c’ clause 1 of the regulation of the RF Government No 576 dated 07.08.2002 ‘On the Procedure for Formalization of the Rights to Land owned by the state before delimitation of the state ownership to land’ (Rossiyskaya Gazetta No 148, 10.08.2002, No 241 27.11.2003) of the decree of the President of the Russian Federation dated 09.03.2002 № 314 ‘On the system and structure of federal agencies of executive power’ (Rossiyskaya Gazetta, No 50, 12.03.2004; Collection of Laws of the Russian Federation, 2004 № 11, Article 945):

1. Approve the attached model form of lease agreement for the state-owned land.
2. Enact that paragraph 8 of the decree of the Ministry of property relations of the Russian Federation dated 2 September 2002 No 3070-r ‘On approval of model forms of decisions to transfer parcels of land under ownership title, permanent (indefinite) use, free use for a definite term, lease and sale/purchase agreements, free use for a definite term and land lease agreements ’ shall not be applicable.

Acting Deputy Principal

D.B. Aratsky

Approved by Decree
dated 06.07.2004 No 104-r issued by
the Federal Agency
For Federal Property Management dated

Model Form of the Lease Agreement for a State-owned Land

__________________________________________

(place where this agreement was executed)

“___” ___________ 2004

Under authority of _____________________________________________________________

(details of the decision taken by a land authority)

__________________________________________

(authority authorized to enter into agreements)

acting pursuant to _____________________________________________________________

hereinafter referred to as the «Landlord»,

__________________________________________

(national or corporation)

represented by ___________________________________________________________________

acting pursuant to _________________________________________________________________
hereinafter referred to as the «Tenant», and jointly referred to hereinafter as the «Parties» have entered into this Agreement (hereinafter the Agreement) as follows:

1. Subject-matter of the Agreement

1.1. The Landlord shall lease, and the Tenant accepts for lease parcels of land from the lands of

________________________________________

/category of lands/

under cadastre № ______________________

located at (available reference points):

________________________________________

________________________________________

(subject of the Russian Federation, city, locality, village, etc., street, house, building and other reference points)

(hereinafter the Land)

to be used for

________________________________________

(authorized use)

within the boundaries specified in the cadastre map (layout) of the Land attached hereto and making its integral part, total area __________________ sq. m.

1.2. There is on the Land ____________________

(property and its description)

2. Agreement Period

2.1. Lease period shall make from ___________ 200__ to ___________ 200__.

2.2. The Agreement, which has been executed for at least one year, comes into force after its state registration with the institution of justice registering rights to real estate and transactions thereof.

The Agreement, which is signed for a term less than one year [up to 3 years] shall become effective upon signing between the Parties.¹ [Must add exclusive access following the period of site evaluation]

3. Rental and Settlements

3.1. The rental for the Land shall make

______________________________

(amount in figures)

rubles

per ____________________________.

(amount in words)

(year, quarter, month)

¹ The Land Lease Agreement signed for a term less than one year is not subject to state registration.
3.2. The rental shall be paid by the Tenant__________________________
(conditions and deadline for making rental payments by the Tenant)
to the account of
________________________________________________________________
(banking details)

3.3. The rental shall be charged immediately after the Parties have signed the Land Delivery/Acceptance Deed, which makes an integral part thereto. The performance of the rental payment obligation shall be
__________________________________________.

The rental calculations are given in the Schedule to the Agreement and make its integral part.

3.4. The rental shall be changed annually based on the inflation index for a current financial year in accordance with the federal act on federal budget for the appropriate year and not more often than ____ in years provided that the base rate of rental has changed. In such case, calculation and payment of rental by the Tenant shall be made under addenda to the Agreement.
3.5. The rental shall be reviewed if another category of lands is assigned to the Land or if an authorized use of the Land is changed in accordance with the laws of the Russian Federation.
3.6. If the Land is subleased, the rental under such sublease agreement period will be determined in accordance with laws of the Russian Federation.

4. Rights and Obligations of the Parties

4.1. The Landlord has the right to:
4.1.1. Request a premature termination of the Agreement, should a parcel of land be used not for purposes it is intended for, and also if it is used in the manner resulting in its damage, if there is a delay in rental payment for more than 6 months after the deadline, if the Tenant fails to sign addenda to this Agreement in accordance with clause 3.4 and a breach of other provisions of the Agreement.
4.1.2. Free access to the area of the parcel in question for inspection purposes and in order to establish whether the provisions of the Agreement are met.
4.1.3. Compensation for damages caused by worsening the quality of the land and environmental situation as a result of commercial activities of the Tenant, and also by other reasons provided for under laws of the Russian Federation.
4.2. The Landlord shall undertake to:
4.2.1. Meet all provisions of this Agreement in full.
4.2.2. Deliver the land to the Tenant under the Delivery/Acceptance Deed within ______.
4.2.3. Notify the Tenant in writing within ten days on changes in the account details for transfer of rentals specified in clause 3.2.
4.2.4. In a three-day term upon state registration of the Agreement submit a copy of the Agreement with the territorial authority of the Federal Agency for Federal Property Management.2
4.2.5. Readjust the rentals in a timely manner and notify the Tenant thereabout in a timely manner.

2 This clause is included if the Land is leased out to the federal state unitary enterprise, or if immovable property owned by federal authorities or which was owned by federal authorities before privatization is on such Land or if the federal budget gets the rental for the Land or a part thereof.
if the Land is leased out to the state unitary enterprise, or if immovable property owned by the subject of the Russian Federation or which was owned by the subject of the Russian Federation before privatization is on such Land or if the budget of the subject of the Russian Federation gets the rental for the Land or a part thereof.
4.3. The Tenant has the right to:
4.3.1. Use the Land on the terms defined under this Agreement.
4.3.2. Upon consent of the Landowner and the Federal Agency for Federal Property Management (its territorial authority), sub-lease the Land, and also assign its rights and obligations hereunder to third parties.
4.3.3. Upon expiry renew the lease agreement under the right of first option before third parties on a new period under terms agreed between the parties by a written notice given to the Landlord not later than three (3) months before expiry of this Agreement.

4.4. The Tenant shall undertake to:
4.4.1. Meet in full all the terms of the Agreement.
4.4.2. Use the Land in accordance with the purpose it is intended for and authorized use.
4.4.3. Pay the rental in the amount and on the terms as is established under the Agreement.
4.4.4. Ensure access to the parcel of land to the Landlord (its authorized representatives), representatives of state land control authorities, upon requests of the same.
4.4.5. After the Agreement and changes therein have been signed, register it with the Justice Institution, which registers the rights to real estate and transactions thereof;3
4.4.6. Notify the Tenant in writing at least three (3) months before about scheduled vacation of the Land both associated with expiry of the Agreement and its premature vacation.
4.4.7. Eliminate actions causing worsening of environmental situation on the Land leased and adjacent areas thereto, and also carry out landscaping and improvements on the area.
4.4.8. Notify, within ten days, the Landlord about changes in its details.
4.5. The Landlord and the Tenant have other rights and assume other obligations prescribed by laws of the Russian Federation.

5. Liability of the Parties
5.1. The Parties shall bear liability for a failure to meet the provisions of the Agreement provided for under laws of the Russian Federation.
5.2. Should the Tenant fail to meet the deadline for rental payments, the Tenant shall pay a penalty at the rate of ____ % of the amount of late rental payment for each calendar day of such delay. Such penalties shall be paid in the manner prescribed by clause 3.2 of the Agreement.
5.3. The laws of the Russian Federation shall govern the liability of the Parties for a failure to meet the obligations under the Agreement caused by force-majeure.

6. Amendments, Termination and Cancellation of the Agreement
6.1. All changes and/or amendments thereto shall be executed by the Parties in writing.
6.2. The Agreement may be terminated upon request of the Landlord, judgement of court on the grounds of and in the manner prescribed by civil laws, and also in the instances specified by clause 4.1.1.
6.3. Should the Agreement be terminated, the Tenant shall re-deliver the Land to the Landlord in a proper condition.

7. Disputes Settlement
7.1. All disputes between the Parties arising out of or in connection with this Agreement shall be settled in accordance with effective laws of the Russian Federation.

8. Special Provisions of the Agreement
8.1. The Land Sublease Agreement, and also the Agreement under which the Tenant assigns its rights and obligations under this Agreement shall be subject to state registration with the justice institution registering rights to real estate and transactions thereof shall be submitted

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3 If the Land Lease Agreement is signed for more than one year.
to the Landowner and a territorial authority of the Federal Agency for Federal Property Management for takings records.\textsuperscript{4}

8.2 The sublease agreement period can be more than the lease agreement period.

8.3. If this Land Lease Agreement is terminated prematurely, the land sublease agreement is terminated.

8.4. Expenses for state registration of the Agreement, including amendments and changes therein shall be borne by the Tenant.

8.5. This Agreement is executed in four (4) copies, each has equal legal force, one copy for each Party, one copy is deposited with the justice institution for state registration of the rights to real estate and transactions thereof, one copy is sent to the authority specified under clause 4.2.4.

9. Details of the Parties

The Landlord: _____________________

The Tenant: _______________________

10. Signatures of the Parties

The Landlord: ___________________  ________________

(Full Name.)    (signature)

“___” ______________ 200___

The Tenant: ______________________  _________________

(signature)    (Full Name)

“___”___________ 200__

Approved\textsuperscript{5}
Territorial Authority
Of the Federal Agency for
Federal Property Management

“___” ______________ 200___

Approved\textsuperscript{6}
Authorized body
Of State authority
Of the subject of the Russian Federation
(territorial agency)

“___” ______________ 200___

\textsuperscript{4} If the Land Sublease Agreement is signed for more than one year.

\textsuperscript{5} if the Land is leased out to the federal state unitary enterprise, or if immovable property owned by federal authorities or which was owned by federal authorities before privatization is on such Land or if the federal budget gets the rental for the Land or a part thereof.

\textsuperscript{6} if the Land is leased out to the state unitary enterprise, or if immovable property owned by the subject of the Russian Federation or which was owned by the subject of the Russian Federation before privatization is on such Land or if the budget of the subject of the Russian Federation gets the rental for the Land or a part thereof.
Schedules to the Agreement:

1. Cadastre map (plan) of the Land.
2. Rental Calculation.
3. Documents evidencing powers of the signatories to this Agreement for the Landowner and the Tenant.

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