

187696

PREPARED BY AND
AFTER RECORDING RETURN TO:
Bowman Wind, LLC
c/o Apex Clean Energy, Inc.
Court Square Building
310 4th Street NE, Suite 300
Charlottesville, Virginia 22902
Attention: Katherine Beury, Esq.
(434) 220-7595

**MEMORANDUM OF WIND EASEMENT; SETBACK, SOUND AND SHADOW FLICKER
WAIVER; AND GOOD NEIGHBOR AGREEMENT**

THIS MEMORANDUM OF WIND EASEMENT; SETBACK, SOUND AND SHADOW FLICKER WAIVER; AND GOOD NEIGHBOR AGREEMENT ("**Memorandum**") is made and entered into as of this 8th day of June, 2022, by Jerome A. Schaefer and Lorayne A. Schaefer, husband and wife; Steven L. Hendrickson, a married person; Cara Hendrickson, a single person; and Jamie Leslie, a single person (collectively, "**Owner**"); and Bowman Wind, LLC, a Delaware limited liability company ("**Grantee**"), with reference to the following facts:

RECITALS:

A. Owner and Grantee executed and entered into that certain Wind Easement; Setback, Sound and Shadow Flicker Waiver; and Good Neighbor Agreement of even date herewith ("**Effective Date**") (as the same may be amended, modified or supplemented from time to time, the "**Agreement**"), concerning certain land located in Bowman County, North Dakota, as more particularly described in Exhibit A attached hereto (the "**Property**"). Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Agreement.

B. Grantee is developing a wind farm project on real property located adjacent to and/or in the vicinity of the Property in Bowman County, North Dakota (the "**Wind Farm**").

C. Although no Windpower Facilities are planned to be located on Owner's Property, Grantee wishes to obtain waivers from Owner, as well as from other owners who are participants in, or neighbors of, the Wind Farm, for building setbacks, and potential and actual impacts of sound and shadow flicker on Owner's Property from the operation of the Wind Farm.

D. Owner and Grantee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interest of Grantee in the Property, and of certain easements and rights granted to Grantee in the Property pursuant to the Agreement, as well as the waivers granted by Owner with regard to building setbacks, sound and shadow flicker, and for the purposes more particularly set forth below.

AGREEMENT:

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NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties, intending to be and being legally bound, hereby agree as follows:

1. Owner hereby grants an exclusive easement for the benefit of Grantee to capture, use and convert the free and unobstructed flow of wind currents and wind resources over and across the Property in connection with the Wind Farm (the "**Wind Easement**"). In accordance with the Wind Easement, Owner agrees not to, and not to grant any third parties any right which would, interfere with or obstruct the free flow of wind, wind speed or wind direction over the Wind Farm and/or the Property, including, without limitation, by planting trees or constructing buildings or other structures on the Property which would, at any time reach a height of greater than fifty (50) feet, without prior written approval. Such Wind Easement shall extend throughout the entire Property to and for the benefit of the area existing horizontally three hundred and sixty degrees (360°) from each point on the surface of the Property (each such point referred to as a "**Site**") and for a distance from each Site to the boundaries of the Property, together vertically through all space located above the surface of the Property, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from each point along the exterior boundary of the Property through each Site to each point and on and along such line to the opposite exterior boundary of the Property.

2. To the fullest extent allowed by any law (including, but not limited to, North Dakota Century Code Sections 49-22-05.1(3) and (4)), ordinance (including, but not limited to, the Bowman County Zoning Ordinance), regulation, rule (including, but not limited to, North Dakota Administrative Code Section 69-06-08-01(2)(a)(5)), or permit that establishes minimum setbacks from the exterior boundaries of the Property or any structure or use on the Property owned by Owner, including, but not limited to, any occupied dwelling, commercial building, publicly-used facility, church, cemetery, recreational area, or shooting range, for Windpower Facilities (including Wind Turbines), Owner agrees to waive and hereby does waive any and all such setbacks and setback requirements for the benefit of Grantee, the owner(s) of the real property on which Windpower Facilities are sited, and their respective successors and assigns..

3. To the fullest extent allowed by law, Owner hereby waives any and all potential and actual sound or noise requirements (and variations thereof), whether imposed by applicable law, ordinance (including, but not limited to, the Bowman County Zoning Ordinance), regulation, rule (including, but not limited to, North Dakota Administrative Code Section 69-06-08-01(4)), or by any person or entity, or in any governmental entitlement or permit issued to Grantee or affiliate, for the Wind Farm (including Wind Turbines and appurtenant equipment) installed or constructed or to be installed or constructed on Wind Farm Property adjoining, adjacent to or near the common boundary between the Owner's Property and any of the Wind Farm Property.

4. To the fullest extent allowed by law, Owner hereby waives any and all potential and actual shadow flicker requirements (and variations thereof), whether imposed by applicable law, ordinance (including, but not limited to, the Bowman County Zoning Ordinance), regulation, rule, or by any person or entity, or in any governmental entitlement or permit issued to Grantee or affiliate, for the Wind Farm (including Wind Turbines and appurtenant equipment) installed or constructed or to be installed or constructed on Wind Farm Property adjoining, adjacent to or near the common boundary between the Owner's Property and any of the Wind Farm Property.

5. Owner agrees to participate in and support the Wind Farm to the extent set forth in the Agreement. The term of the Agreement is for a period beginning on the Effective Date and continuing for a period of up to fifty-seven (57) years, unless earlier terminated pursuant to the terms of the Agreement.

6. Except for any competing developers of wind energy projects, Grantee shall accommodate the reasonable development of essential services on the Property, including any electric transmission and

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distribution lines and associated facilities, telecommunications facilities, and rural water systems, provided that such services do not interfere with the Windpower Facilities.

7. All of the terms, conditions, provisions, and covenants of the Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail.

8. The Agreement, evidenced by this Memorandum, shall be memorialized by the execution and recording by Grantee, or its successors, or assigns of this Memorandum in the Official Records of Real Property of Bowman County, whereupon all the easements and rights that are the subject of the Agreement shall immediately become effective and binding upon the Property and Owner, all successive owners of the Property, and the successors and assigns of Owner, all for the benefit of Grantee and its successors and assigns. This Memorandum may be executed in two or more counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

[signatures on following pages]

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IN WITNESS WHEREOF, the undersigned have executed this Memorandum as of the date first set forth above.


GRANTEE:

BOWMAN WIND, LLC,
a Delaware limited liability company

By: Apex Clean Energy Finance, LLC,
a Delaware limited liability company,
its Sole Member

By: Apex GBR, LLC,
a Delaware limited liability company,
its Sole Member


By: Apex Clean Energy Holdings, LLC,
a Delaware limited liability company,
its Manager

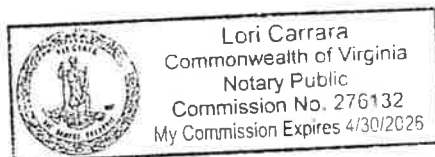
By: 
Name: Jeanine G. Wolanski
Title: Senior Vice President of Land Management

COMMONWEALTH OF VIRGINIA

CITY OF CHARLOTTESVILLE

The foregoing instrument was acknowledged before me this 10 day of June, 2022 by Jeanine G. Wolanski as the Senior Vice President of Land Management for Apex Clean Energy Holdings, LLC, a Delaware limited liability company, the Manager of Apex GBR, LLC, a Delaware limited liability company, the Sole Member of Apex Clean Energy Finance, LLC, a Delaware limited liability company, the Sole Member of Bowman Wind, LLC, a Delaware limited liability company, on behalf of the company.


Notary Public



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OWNER:

By: Lorayne A. Schaefer
Name: Lorayne A. Schaefer

STATE OF S. Dakota)
) ss.
COUNTY OF Meade)

On this 29 day of May, 2022, before me, the undersigned officer, personally appeared Lorayne A. Schaefer, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.

Pamela Buhler
Notary Public South Dakota
(State)

My commission expires: Feb 05, 2025



By: Jerome A. Schaefer
Name: Jerome A. Schaefer

STATE OF S Dakota)
) ss.
COUNTY OF Meade)

On this 29 day of May, 2022, before me, the undersigned officer, personally appeared Jerome A. Schaefer, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.

Pamela Buhler
Notary Public South Dakota
(State)

My commission expires: Feb 05, 2025



OWNER:

By: *Steven L. Hendrickson*

Name: Steven L. Hendrickson

STATE OF South Dakota)

) ss.

COUNTY OF Pennington)

On this 8th day of June, 2022, before me, the undersigned officer, personally appeared Steven L. Hendrickson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.

Bobbie Jo Nelson

Notary Public South Dakota

(State)

My commission expires: July 7, 2024

The undersigned spouse is joining this Agreement to acknowledge and accept its contents and to ratify the Agreement as applicable to his/her interest in the Property.

By: *Sara Hendrickson*

Name: Sara Hendrickson

STATE OF South Dakota)

) ss.

COUNTY OF Pennington)

On this 8th day of June, 2022, before me, the undersigned officer, personally appeared Sara Hendrickson, spouse of Steven L. Hendrickson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.

Bobbie Jo Nelson

Notary Public South Dakota

(State)

My commission expires: July 7, 2024

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OWNER:

By:

Name: Cara Hendrickson

STATE OF

Minnesota

)

) ss.

COUNTY OF

Hennepin

)

On this 7 day of June, 2022, before me, the undersigned officer, personally appeared Cara Hendrickson, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.

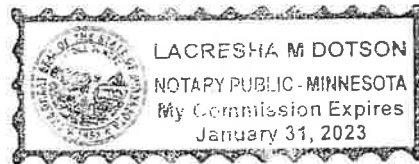
Notary Public

Minnesota

(State)

My commission expires:

1-31-2023



OWNER:

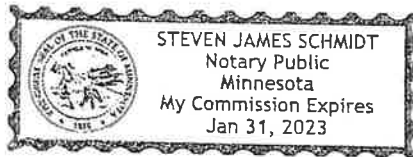
By: [Signature]
Name: Jamie Leslie

STATE OF MN
COUNTY OF Carver

)
) ss.
)

On this 03 day of June, 2022, before me, the undersigned officer, personally appeared Jamie Leslie, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purpose therein contained.

Witness my hand and official seal.



[Signature]
Notary Public Minnesota
(State)
My commission expires: 01/31/2023

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EXHIBIT A

PROPERTY DESCRIPTION

All that real property located in Bowman County, North Dakota, described as follows:

Tract 1:

SE¼ of Section 29, Township 131 North, Range 104 West of the 5th P.M., Bowman County, North Dakota. Subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations and mineral conveyances of record

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187696 Fee: \$65.00
BOWMAN COUNTY, NORTH DAKOTA
Recorded 6/16/2022 at 8:57 AM
Jan Werre, County Recorder
By *Jan Werre*
Return To: APEX CLEAN ENERGY..
120 GARRETT STREET, STE. 700 CHARLOTTESVILLE VA 22902

