

Ob, Ex. 7 2
Case 54-18-02

WIND PROJECT NEIGHBOR AGREEMENT

This Wind Project Neighbor Agreement (this “**Neighbor Agreement**”) is made, dated and effective as of _____, 2018 (the “**Effective Date**”) by and between _____, husband and wife, as tenants by the entirety, residing at _____ Illinois 61726 and their successors and assignees (“**Owner**”), and Lexington Chenoa Wind Farm LLC, a Delaware limited liability company, with an office at c/o EDP Renewables North America LLC, 808 Travis St, Suite 700, Houston, Texas 77002, and its successors and assignees (“**Grantee**”). Owner and Grantee may hereafter be referred to herein individually as a “**Party**” and together as the “**Parties**.”

RECITALS

A. Owner owns the real property legally described on Exhibit A, attached hereto and made a part hereof (“**Owner’s Property**”).

B. Grantee has been developing an electricity-generating wind power project in one or more phases (the “**Wind Project**”) in McLean County, Illinois (“**Wind Project Property**”). The Wind Project may be built in one or more phases over a period of several years. Grantee expects that some of the wind turbine generators, including associated towers, foundations, and support structures (collectively the “**Generating Units**”) and meteorological towers (“**Met Towers**”) and other improvements, facilities, appliances, machinery and equipment necessary for wind generated electrical power (together with the Generating Units and Met Towers, collectively the “**Wind Power Facilities**”) comprising one or more phases of the Wind Project will be installed on land adjacent to or near Owner’s Property.

C. Although Grantee is taking commercially reasonable measures to minimize the side-effects of the operation and construction of the Generating Units and other related facilities on property near or adjacent to the Wind Project, including Owner’s Property, and Grantee does not expect these side effects to violate or exceed any applicable legal standards or industry standards regarding noise, shadow flicker, television interference, or other impacts, Owner understands and accepts that operation of Generating Units may have some impacts on the Wind Project’s neighbors, including the Owner’s Property.

D. Grantee and Owner believe it is in their mutual best interest to enter into this Neighbor Agreement to document their expectations as to possible side effects of construction and operation of the Wind Project. Also, although no Generating Units or other related facilities of the Wind Project are planned for Owner’s Property, Grantee wishes to obtain Effects, Sound and Shadow Easements from landowners who are neighbors of the Wind Project for the benefit of the Wind Project and as an opportunity to provide Owner with certain economic benefits to accrue from operation of the Wind Project.

E. Grantee further desires to obtain a waiver and consent to variance by Owner of certain setback requirements (“**Setback Requirements**”) as set forth Amendatory Ordinance Amending Chapter 350, Section 350-43(h), of the McLean County Code for the development, installation, operation and maintenance of the Wind Power Facilities on the Wind Project

Property, and Owner is willing (i) to consent to Grantee's petition for such variance, and (ii) to grant Grantee such a waiver on the terms and provisions set forth herein.

AGREEMENT

1. Effects Easement. Subject to the terms and conditions and obligations of Grantee in this Neighbor Agreement, Owner grants to Grantee an easement, right and entitlement on, over, across and under Owner's Property for any audio, visual, view, light, vibration, air turbulence, wake, electromagnetic, ice or other weather created hazards or other effect of any kind whatsoever resulting directly or indirectly from any (a) operations or activities of any Wind Project or (b) the facilities of any Wind Project now or hereafter located on the Wind Project Property. Owner agrees to consult with and obtain Grantee's prior written approval, in Grantee's sole discretion, as to the location of all new structures greater than sixty-five (65) feet in height proposed for Owner's Property.

2. Sound Easement. Grantee will construct the Wind Project to comply with applicable Illinois noise standards. Owner acknowledges, however, that unforeseen events from time to time may cause sound levels on Owner's Property to exceed those standards. Subject to the provisions and conditions of this Section 2, Owner grants Grantee an easement, right and entitlement on, over, across and under Owner's Property for sound levels (audible or otherwise) in excess of applicable Illinois standards. Generating Units shall be considered to be in compliance with the Illinois sound level standards, unless three sound measurements taken not more than fifty (50) feet from the outer wall of any presently existing, occupied residence on Owner's Property within a one-hour period, but separated by at least ten minutes, all exceed the applicable sound level standards. Measurements shall be conducted by an independent professional sound consultant in accordance with applicable Illinois standards and regulations, applying commonly accepted measurement instruments and standards. If sound levels as measured by the independent professional exceed those permitted under this Section 2, Grantee shall, at its expense, be responsible to promptly undertake such maintenance, repairs or other measures as may be reasonably necessary to cause sound levels on Owner's Property to comply with the applicable Illinois standards. Measures to be taken by Grantee may include, in Grantee's sole discretion, installing landscaping, insulation, or other sound barriers at agreed locations on or off Owners' Property; or installing insulation or sound deadening material in the offending Generating Unit. Provided that Grantee undertakes prompt and reasonable measures in good faith to cause sound levels on Owner's Property to comply with the applicable Illinois standards, Owner shall have no other remedy or claim against Grantee with respect to the issue of sound levels except as stated herein.

3. Shadow Easement. Subject to the terms and conditions of this Section 3, Owner grants Grantee an easement, right and entitlement on, over, across and under Owner's Property for any shadows cast by the Generating Units and Met Towers, wherever located, onto Owner's Property. If in Owner's judgment the shadows cast at any presently occupied residence on Owner's Property substantially interfere with the use and enjoyment of the residence, Grantee shall promptly investigate the nature and extent of the problem and the best methods of correcting any problems found to exist. Grantee, at its expense and with agreement of Owner which shall not be unreasonably withheld, will then promptly undertake measures such as tree

planting or installation of awnings, draperies or other window treatments necessary to mitigate the effects of the offending shadow. Provided that Grantee undertakes prompt and reasonable measures in good faith to mitigate such effects, Owner shall have no other remedy or claim against Grantee with respect to the issue of shadow flicker except as stated herein.

4. Television and Other Telecommunications. Subject to the terms and conditions of this Section 4, Owner grants to Grantee the right to test television and other telecommunications signal strength and reception at any residence on Owner's Property before and at reasonable intervals after Grantee builds the Wind Project, and upon reasonable notice to Owner. If the existence or operation of the Wind Project significantly interferes with or degrades television or other telecommunications signal reception at any existing residence on Owner's Property, Grantee shall, at its expense and with the full cooperation of Owner, promptly investigate and within a reasonable time correct any degradation of television or other telecommunications signal reception actually caused by the Wind Project. Correction measures may include, in Grantee's sole discretion, installation of television signal boosters serving the general area of the Wind Project, installation of antenna or signal booster equipment on Owner's Property, installation of and payment for cable, satellite dish TV or similar devices serving Owner's Property, or repair or replacement of television receivers. Provided that Grantee undertakes prompt and reasonable corrective measures in good faith to correct or mitigate any degradation of television or other telecommunications signals, Owner shall have no other remedy or claim against Grantee with respect to the issue of television or telecommunications signals except as stated herein.

5. Owner's Waivers.

5.1 Owner hereby acknowledges that it has reviewed the Setback Requirements in Exhibit D attached hereto and made a part hereof and is aware of the Wind Power Facilities that are a part of the Wind Project. Owner hereby waives any Wind Setback Setback Requirements. Owner consents to setbacks being less than required by any Wind Setback Requirements. Further, if so requested by Grantee or any such affiliate, Owner shall, without demanding additional consideration therefore, (a) execute (and if appropriate cause to be acknowledged) any setback waiver, setback elimination or other document or instrument reasonably requested by Grantee or McLean County in connection therewith and (b) return the same thereto within ten (10) days after such request. In addition, Owner agrees not to remonstrate against any petition for variance of the Wind Setback Requirements filed by Grantee.

5.2 Owner agrees that Owner shall not make a claim against Grantee or any affiliate, member, shareholder, officer, director or agent of Grantee, or any present or subsequent owner or assignee of this Neighbor Agreement or the Wind Project Property for a violation of any requirements or limitations of any Wind Setback Requirements.

5.3 Notwithstanding the foregoing, no encroachment onto Owner's Property of any Wind Power Facilities, including without limitation, overhanging Generating Unit blades, is permitted.

6. Construction Impact. Grantee recognizes that Owner due to its location next to gravel roads or construction areas may be inconvenienced by construction noise and dust. Additionally, construction traffic in some areas may inconvenience Owner or require Owner to travel by unaccustomed routes to avoid construction traffic. Owner acknowledges Grantee has informed Owner of the potential impacts of construction and agrees the compensation provided in this Neighbor Agreement is adequate for the impacts described.

7. Payments. Grantee shall pay to Owner a signing bonus upon Owner's execution of this Neighbor Agreement as described in Exhibit B, attached hereto and made a part hereof. As consideration for construction impacts and the other rights and Easements granted in this Neighbor Agreement, Grantee shall pay to Owner the annual payments in the amounts and at the times described in Exhibit B.

8. Term. The term of the Easements contained in Sections 1, 2 and 3 and this Neighbor Agreement ("**Initial Term**") shall commence upon the Effective Date and shall end on the date that is thirty (30) years following the date on which the Wind Project begins Commercial Operation, plus two additional periods of ten (10) years each (each, an **Extended Term**") unless otherwise extended as provided herein. "**Commercial Operation**" shall mean the date on which Grantee first delivers electrical power for sale from Generating Units located on the Wind Project Property. Upon termination of the Easements, Grantee shall file a termination of the Easements in the public records. Grantee shall give notice of its exercise of the first Extended Term at any time prior to the expiration of the Initial Term and shall give notice of its exercise of the second Extended Term at any time prior to the expiration of the first Extended Term. Notwithstanding the foregoing, in no event shall the term of this Neighbor Agreement be longer than the longest period permitted by applicable law. The "**Initial Term**" and the "**Extended Term**" may collectively be referred to herein as the "**Term**."

9. Mortgages and Assignment. Grantee may, upon notice to Owner, but without Owner's consent or approval, mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in the Neighbor Agreement and/or the Easements which said security interests in all or a part of the Neighbor Agreement and/or the Easements are collectively referred to herein as "**Mortgages**," and the holders of the Mortgages, their designees and assigns are referred to herein as "**Mortgagees**." Grantee shall also have the right without Owner's consent to sell, convey, lease, or assign all or any portion of the Neighbor Agreement and/or the Easements on either an exclusive or non-exclusive basis, or to apportion, grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated, (collectively, "**Assignments**"), to one or more persons or entities (collectively, "**Assignees**"). Under no circumstances shall any Mortgagee or Assignee have any greater rights of ownership or use of the Easements than the rights granted to Grantee in this Neighbor Agreement. Any member of a Grantee shall have the right without Owner's consent to transfer any membership interest in Grantee to one or more persons or entities.

10. Default. If Grantee fails to perform its obligations hereunder (an "**Event of Default**"), then it shall not be in default hereunder, unless it fails to cure such Event of Default within sixty (60) days after receiving written notice from Owner stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "**Notice of Default**"); provided however, that if the nature or extent of the obligation or obligations is such

that more than sixty (60) days are required, in the exercise of commercially reasonable diligence, for performance of such obligations, then Grantee shall not be in default if it commences such performance within such sixty (60) day period and thereafter pursues the same to completion with commercially reasonable diligence.

11. Estoppel Certificates. Owner shall execute estoppel certificates (certifying as to truthful matters including, without limitation, that no default then exists under this Neighbor Agreement, if such be the case) and shall execute consents to such assignment and non-disturbance agreements as Grantee or any Mortgagee may reasonably request at any time and from time to time. Owner and Grantee shall cooperate in (a) amending this Neighbor Agreement from time to time to include any provision that may be reasonably requested by Grantee or Owner or any Mortgagee to implement the provisions contained in the Neighbor Agreement or to preserve a Mortgagee's security interest and (b) executing any documents which may reasonably be required by Grantee or a Mortgagee. Owner shall request any of Owner's lenders to execute an agreement of non-disturbance from any Mortgagee with respect to Grantee's interest in the Owner's Property.

12. Overburdening. Owner hereby agrees that (a) no use of or improvement to Owner's Property permitted by this Neighbor Agreement; and (b) no apportionment, Assignment or granting of a subeasement thereof shall, separately or in the aggregate, constitute an overburdening of the Easements.

13. Covenants Running With the Land. The Parties hereby agree that all of the covenants and agreements contained in this Neighbor Agreement touch and concern the real estate described in this Neighbor Agreement and are expressly intended to, and shall, be covenants running with the land and shall be binding and a burden upon Owner's Property and each Parties' present or future estate or interest therein and upon each of the Parties, their respective heirs, administrators, executors, legal representatives, successors and assignees as holders of an estate or interest in the Owner's Property (including without limitation, any Mortgage, lender or other person acquiring title from any such person upon foreclosure or by deed in lieu of foreclosure), and shall benefit Grantee and its respective heirs, administrators, executors, legal representatives, successors and assignees and the Wind Project Property.

14. Further Acts and Assurances. Each Party hereby agrees that each shall execute such additional documents or instruments, and shall undertake such actions as are necessary and appropriate to effectuate the intent of this Neighbor Agreement, including in the case of Owner, such additional documents as may be reasonably required by any Mortgagees and Assignees.

15. Entire Agreement. This Neighbor Agreement constitutes the entire agreement between Owner and Grantee, and no promises or representations, express or implied, either written or oral, not herein set forth shall be binding upon or inure to the benefit of Owner and Grantee. This Neighbor Agreement shall not be modified by any oral agreement, either express or implied, and all modifications hereof shall be in writing and signed by both Owner and Grantee.

16. Remedies. Except as expressly provided otherwise herein, if Grantee violates the terms or conditions of this Neighbor Agreement, Owner shall be entitled to any remedy available

under applicable law or equity, subject to the default provisions contained herein; provided however, that no such default shall result in a termination of the Easements granted by this Neighbor Agreement. The Easements shall not be terminable by Owner under any circumstances. If Owner violates the terms or conditions of this Neighbor Agreement, Grantee shall be entitled to any remedy available under applicable law or equity. Grantee shall have the right to terminate this Neighbor Agreement at any time, by giving written notice of termination to the Owner.

17. Severability and Parties Bound. The enforceability, invalidity, or illegality of any provisions of this Neighbor Agreement shall not render the other provisions hereof unenforceable, invalid or illegal. This Neighbor Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and the assignees of the respective Parties hereto. Upon transfer of Owner's interest in Owner's Property, or the interest of Grantee in this Neighbor Agreement, the transferring party shall be deemed released from further obligation or liability hereunder as to matters first arising after such transfer.

18. Notices. Any notice to be given hereunder or which either Party wishes to give to the other shall be in writing and may be delivered personally to the other or given by mailing by depositing the same in the U.S. Mail, with all postage and certification charges thereon prepaid, in a sealed envelope and sent by registered or certified mail with return receipt requested, addressed as follows:

If to Owner:

Chenoa, Illinois 61726

If to Grantee: Lexington Chenoa Wind Farm LLC
808 Travis St., Suite 700
Houston, Texas 77002
Attn: General Counsel

With copy to: EDP Renewables North America LLC
808 Travis St. Suite 700
Houston, Texas 77002
Attn: General Counsel

or to such other address as either Party shall hereafter specify by written notice to the other. Any notice shall be deemed delivered three days after deposit in the mail in accordance with the foregoing provision.

19. Attorneys' Fees. In any event or dispute arising out of or relating to this Neighbor Agreement and resulting in litigation or arbitration between or affecting the Parties hereto, the prevailing Party shall be entitled to reasonable attorneys' fees and costs.

20. Waiver. The waiver of any covenant, condition, or agreement contained herein shall not vitiate this Neighbor Agreement or any of the Easements, terms, covenants, conditions or provisions herein. The waiver of the time for performing any act shall not constitute a waiver of the time for performing any other act or any identical act required to be performed at a later time.

21. Governing Law. This Neighbor Agreement shall be governed by the law of the State of Illinois.

22. Counterparts. This Neighbor Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

23. Confidentiality. Owner shall not disclose to others (except Owner's family, legal counsel, prospective Mortgagees and Assignees, and financial advisors who recognize and agree to preserve and maintain the confidentiality of such information) the terms of this Neighbor Agreement.

24. Memorandum. The Parties agree Grantee may record the memorandum of this Neighbor Agreement attached as Exhibit C in the official land records of McLean County and that this Neighbor Agreement shall not be recorded.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Owner and Grantee have caused this Neighbor Agreement to be executed and delivered as of the Effective Date.

OWNER

GRANTEE

Lexington Chenoa Wind Farm LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF OWNER'S PROPERTY

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF MCLEAN, STATE OF ILLINOIS:

Tract No. 1:

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Tract No. 2:

PIN: 04-19-200-006

EXHIBIT B

PAYMENT SCHEDULE

Signing Bonus

A one-time signing bonus in the amount of Six Thousand Dollars (\$6,000.00) due and payable within forty-five (45) days after the Effective Date.

Construction Impact Payment

A one-time payment payable at the Commencement of Construction in the amount of Two Thousand Dollars (\$2,000.00). “*Commencement of Construction*” means the commencement, on an unlimited basis, of construction of the Generating Units on properties within the defined boundary of the phase as identified by Grantee and shall not include preliminary inspections, tests or surveys needed to evaluate the feasibility of installing the Generating Units.

Payment for Easements and Other Agreements

Grantee shall make an annual payment to Owner as follows (“*Neighbor Payment*”):

Two Thousand Dollars (\$2,000.00) each calendar year, beginning in the calendar year (January 1st through December 31st) in which the date of Commercial Operation occurs and continuing until the earlier to occur of (a) the expiration of the Term, (b) termination by Owner as described in the Neighbor Agreement, or (c) the date the Wind Project ceases operations.

Such annual payment for each calendar year shall be paid on a quarterly basis in arrears commencing at the end of the calendar quarter in which the date Commercial Operation occurs. Neighbor Payments payable for less than a full calendar year shall be prorated on the basis of a 365-day year. The amount of the Neighbor Payment shall increase annually by two percent (2%).

EXHIBIT C

FORM OF MEMORANDUM OF WIND PROJECT NEIGHBOR AGREEMENT

When recorded, please return to:

Lexington Chenoa Wind Farm LLC
808 Travis St. Suite 700
Houston, Texas 77002
Phone (713) 265-0252
Attn: General Counsel

MEMORANDUM OF WIND PROJECT NEIGHBOR AGREEMENT

_____ [his][her][its][their] successors and assignees ("Owner"), and Lexington Chenoa Wind Farm, LLC, a Delaware limited liability company and its successors and assignees ("Grantee"), have executed a Wind Project Neighbor Agreement ("Neighbor Agreement") and have agreed to record this memorandum ("Memorandum") solely to give notice of the existence of the Neighbor Agreement. This Memorandum does not amend, supplement or supersede the Neighbor Agreement, which will govern if any provision of this Memorandum conflicts with or is inconsistent with any provision of the Neighbor Agreement.

Easements and Other Provisions: Owner owns the real property legally described on Exhibit A, attached hereto and made a part hereof ("**Owner's Property**"). The Neighbor Agreement includes a grant of Effects, Sound and Shadow Easements in connection with a commercial wind power project ("**Wind Project**") affecting Owner's Property and certain waivers and consents by Owner of certain Wind Setback Requirements (as defined in the Neighbor Agreement). The Neighbor Agreement also includes provisions regarding construction impacts and television reception.

Term: The Easements and other agreements contained in the Neighbor Agreement run with the land. The term of the Neighbor Agreement and the Easements ("**Initial Term**") began on _____, 20__ and shall end on the date that is thirty (30) years following the date on which the Wind Project begins Commercial Operation, provided Grantee has the right to extend the term of the Neighbor Agreement for two periods of ten (10) years each (each, an "**Extended Term**") as set forth in the Neighbor Agreement. "Commercial Operation" for purposes of the Neighbor Agreement shall mean the date on which Grantee first delivers electrical power for sale from Generating Units located on the Wind Project Property.

Setback Waiver. The Neighbor Agreement includes a waiver and consent to variance by Owner of certain setback requirements ("**Setback Requirements**") as set forth in Amending Ordinance Amending Chapter 350, Section 350-43(h), of the McLean County Code ("**Zoning Law**"), for the development, installation, operation and maintenance of the Wind Farm Facilities on the Wind Farm Property.

Mortgages and Assignments: Grantee may, upon notice to Owner, but without need to obtain Owner's consent or approval: (a) mortgage, collaterally assign, or otherwise encumber and grant

security interests in all or any part of its interest in this Neighbor Agreement and the Easements; and (b) assign or otherwise convey all or part of its interest in this Neighbor Agreement and the Easements to third parties. Owner may sell, mortgage, assign or convey away all or a part of Owner's interest in Owner's Property without consent of Grantee, but any conveyance shall be subject to the terms of the Neighbor Agreement.

Addresses of Parties: The addresses of the parties are as follows:

Owner:

Grantee:

Lexington Chenoa Wind Farm LLC
808 Travis St. Suite 700
Houston, TX 77002
Facsimile: (713) 265-0365
Attn: General Counsel

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date.

OWNER

GRANTEE

Name

Lexington Chenoa Wind Farm LLC
a Delaware limited liability company

Name

By: _____
Name: _____
Title: _____

[ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

**ACKNOWLEDGEMENTS
OF OWNER**

State of Illinois)
) ss:
County of _____)

I, the undersigned, a notary public in and for said County, do hereby certify that _____
_____, personally known to me to be the same person whose name is
subscribed to the foregoing instrument, appeared before me this day in person and acknowledged
that they signed, sealed and delivered the said instrument as their free and voluntary act for the
uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 20__.

Notary Public

State of _____)
County of _____) ss:

Given under my hand and notarial seal this ____ day of _____, 20__.

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EXHIBIT A

LEGAL DESCRIPTION OF OWNER'S PROPERTY

THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF MCLEAN, STATE OF ILLINOIS:

PIN:

EXHIBIT D

SETBACK REQUIREMENTS

Amendatory Ordinance Amending Chapter 350, Section 350-43(h), of the McLean County Code

(h) Setbacks.

1. WECS towers and substations shall not be located within 2,000 feet of a boundary line of an R-1 or R-2 district.
2. All WECS towers shall be set back three times the height of the tower or 1,500 feet, whichever is greater, from any occupied residence. The distance for the above setback shall be measured from the point of the occupied residence foundation closest to the WECS tower to the center of the WECS tower foundation. The Owner of the occupied residence may waive this setback requirement; but in no case shall a WECS tower be located closer to an occupied residence than 1.10 times the WECS tower height.
3. All WECS towers shall be set back a distance of at least 1.10 times the WECS tower height from public roads, third party transmission lines, and communication towers.
4. All WECS towers shall be set back a distance of at least 1.10 times the WECS tower height from adjacent property lines, as measured from the center of the tower foundation. The affected adjacent property owner may waive this setback requirement.
5. An incorporated village or municipality must approve of the location of any WECS tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
6. No part of a WECS tower or foundation shall encroach on a public or private sewage disposal (septic) system.