



State of Kansas-Marshall County  
Martha Roesch, Register of Deeds  
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*Martha Roesch*  
*Register of Deeds*  
*Next Era*

NUMBER ✓  
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**MEMORANDUM OF WIND FARM LEASE AND EASEMENT AGREEMENT**

THIS MEMORANDUM OF WIND FARM LEASE AND EASEMENT AGREEMENT ("Memorandum"), is executed this 3rd day of November, 2020 ("Effective Date") by and between Betty Ann Fischer, a single person, whose address for purposes of notices is: 2298 Temple Road, Frankfort, KS 66427; and Eugene Fischer, a single person, whose address for purposes of notices is: 2298 Temple Road, Frankfort, KS 66427; and Edward Fischer, a single person, whose address for purposes of notices is: 2298 Temple Road, Frankfort, KS 66427; and Mary Jane Fischer, a single person, whose address for purposes of notices is: 2298 Temple Road, Frankfort, KS 66427 (collectively "Owner" or "Grantor"), and Irish Creek Wind, LLC, a Delaware limited liability company, whose address for purposes of notices is: 700 Universe Blvd., Attn: Land Services Administration, Juno Beach, FL 33408 ("Operator" or "Grantee"). Each of Owner and Operator shall hereinafter be referred to individually as a "Party" and collectively as the "Parties".

**RECITALS**

WHEREAS, the Parties entered into a Wind Farm Lease and Easement Agreement dated as of the Effective Date ("Agreement"), by which Owner granted to Operator an exclusive option ("Option") for a lease and one or more easements over and across certain real property located in the County of Marshall, State of Kansas, described on the attached Exhibit A as the "Owner's Property" or "Burdened Property".

WHEREAS, the Parties desire to execute, deliver and record this Memorandum for the purpose of putting all persons on notice of Operator's right, title and interest in Owner's Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby state, declare and establish as follows:

1. **Defined Terms.** All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Agreement and the terms, covenants and conditions of the Agreement are incorporated herein by reference with the same force and effect as though fully set forth herein.

2. **Option.** The period during which the Option may be exercised shall begin on the Effective Date, and shall continue for a period of thirty-six (36) months after such date ("**Initial Option Term**"). The Initial Option Term may be extended for one thirty-six (36) month extension period ("**Extended Option Term**"). References herein to the "**Option Term**" shall mean the Initial Option Term and, to the extent exercised by Operator, also the Extended Option Term. Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. Operator shall specify in the Option Notice the commencement date ("**Commencement Date**"). On the Commencement Date, the Lease and Easements in the Agreement shall automatically become effective, and the Parties shall be subject to all of the terms and conditions of the Agreement with respect to such Lease Rights, Easements and all rights and obligations relating thereto.

3. **Lease Rights.** If the Option is exercised, the Agreement allows Operator to construct and maintain turbines, met towers, collection facilities and related improvements for a wind energy project ("**Wind Farm**") at, on, over and under the Owner's Property, ingress and egress over Owner's Property to and from the Improvements, the Construction Property, the Turbine Site Property, the Collection Property, the Overhang Property, and the Met Instrument Site Property and otherwise as set forth in the Agreement, and for the purpose of surveying, testing and installing monitoring devices and the right to permit the rotors of turbines located on adjacent properties to overhang on to Owner's Property, all in accordance with and subject to the terms of the Agreement. The rights granted by Owner to Operator under the Agreement shall inure to the benefit of all the real property that constitutes the Wind Farm (the "**Benefitted Property**"). Owner acknowledges that the boundaries of such Wind Farm are subject to change throughout the term of the Agreement. As such, Operator shall have the unilateral right to add to, subtract from, modify or otherwise amend the description of the Benefitted Property at any time during the term of the Agreement by providing written notice to Owner that the description of the Benefitted Property has been modified.

4. **Term.** If the Option is exercised, the initial term of the Agreement is for a period commencing on the Commencement Date and ending fifty (50) years thereafter. Operator is granted two (2) options to extend the term of the Agreement for additional periods of twenty (20) years each.

5. **Effects Easement.** If the Option is exercised, Owner grants to Operator an easement for audio, visual, view, light, flicker, noise, shadow, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Wind Farm or activity located on the Owner's Property or on adjacent properties over and across the Owner's Property.

6. **Wind Non-Obstruction Easement.** If the Option is exercised, Owner grants to Operator an easement for the right to use, maintain and capture the free and unobstructed flow of wind currents over and across the Owner's Property for the Wind Farm. In connection with the provisions of Kansas Statute §58-2272, the Parties acknowledge and agree that any obstruction to the free flow of the wind is prohibited throughout the entire area of the Owner's Property (other than as a result of any such obstructions existing as of the Effective Date) which shall exist vertically and horizontally three hundred and sixty degrees (360°) from any point where any Turbine or Met Instrument is located at any time and for a distance from each Turbine and Met Instrument to the boundaries of the Owner's Property. Owner shall not engage in any activity on Owner's Property that might interfere with wind speed or wind direction over any portion of any Turbine or Met Instrument Site Property, whether located on or off the Owner's Property; cause a decrease in the output or efficiency of any Turbine or accuracy of any meteorological equipment; or otherwise interfere with Operator's operation of the Wind Farm or exercise of any rights or the Lease granted in this Agreement.

7. **Exclusive Rights.** Owner agrees not to grant, convey, assign or provide any easement, license, permit, lease or other right for access across the Owner's Property for generation or transmission of power on or across Owner's Property to any third party in connection with the construction or operation of electrical generating or transmission facilities. This covenant shall not be interpreted to deny Owner the right to grant telecommunications providers appropriate rights to construct and maintain telecommunications facilities on or under the Owner's Property so long as the rights are granted in compliance with the requirements of the Agreement and do not interfere with Operator's operations.

8. **Hunting and Firearms Restrictions.** If Owner hunts and/or discharges firearms on and near the Operator Property, Owner shall take such precautions as are reasonable to ensure the safety of Operator's site personnel and the protection of Improvements on or near the Owner Property during and after construction of the Wind Farm.

9. **Rights Reserved.** The Agreement reserves to Owner, or Owner's tenant rights to farm and use areas of Owner's Property, to the extent limited in the Agreement. Operator waives any interest, claim or lien in crops grown on Owner's Property. Operator agrees that Operator's use of the Property is purely for commercial purposes and that Operator shall not conduct farming activities on the Property.

10. **Notices.** All notices or other communications required or permitted by the Agreement shall be deemed given or made when personally delivered; five (5) days after deposit in the United States mail, first class, postage prepaid, certified; or, one (1) business day after dispatch by Federal Express or other overnight delivery service of national scope to the addresses set forth in the preamble. Any party giving notice by electronic mail sent to a party at the electronic mail address furnished above must on request furnish proof that the notice was actually received. Any party may change its address for purposes of this paragraph by giving written notice of the change to the other parties in the manner provided in this paragraph.

11. **Memorandum Interpretation.** This Memorandum is not a complete summary of the Agreement and the statements contained in this Memorandum shall not be used in interpreting the actual provisions of the Agreement. In the event of conflict between this Memorandum and the Agreement, the terms and provisions of the Agreement shall control.

[Signatures on Next Pages]

EXECUTED on the date set forth below.

Owner:

Betty Ann Fischer  
Betty Ann Fischer

**ACKNOWLEDGEMENT**

STATE OF KANSAS            )  
  )  
COUNTY OF MARSHALL    )

On this 20<sup>th</sup> day of October, 2020, before me, the undersigned notary public, personally appeared Betty Ann Fischer, personally known to me to be the person who subscribed to the foregoing instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(notary seal)

Melody Tommer  
NOTARY PUBLIC, STATE OF KANSAS

My commission expires: 11.27.2024



EXECUTED on the date set forth below.

Owner:

Eugene Fischer  
Eugene Fischer

**ACKNOWLEDGEMENT**

STATE OF KANSAS )  
  )  
COUNTY OF MARSHALL )

On this 20<sup>th</sup> day of October, 2020, before me, the undersigned notary public, personally appeared Eugene Fischer, personally known to me to be the person who subscribed to the foregoing instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(notary seal)

Melody Tommer  
NOTARY PUBLIC, STATE OF KANSAS



My commission expires: 11-27-2024









**EXHIBIT A**

**Legal Description of Owner's Property**

**Parcel 1**

Block 61 South of road in Section 16, Township 4, Range 9, Marshall County, Kansas, less and except 3.21 acres for levee

And

Block 80 in Section 16, Township 4, Range 9, Marshall County, Kansas containing 4.16 acres more or less,

And

Block 81 in Section 16, Township 4, Range 9, Marshall County, Kansas containing 4.16 acres more or less,

And

Block 82 in Section 16, Township 4, Range 9, Marshall County, Kansas containing 2.07 acres more or less, less and except 1.84 acres for levee

**Parcel 2**

10 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and 3 acres in the South Half of the Northeast Quarter of the Southwest Quarter (S $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) all in Section 13, Township 4, Range 9, Marshall County, Kansas

**Parcel 3**

East Half of the Northeast Quarter (E $\frac{1}{2}$  NE $\frac{1}{4}$ ) of Section 15, Township 4, Range 9, Marshall County, Kansas

QLA ID: 9040