

DECOMMISSIONING AGREEMENT

THIS DECOMMISSIONING AGREEMENT (“Agreement”) is made this _____ day of _____, 2020, between Plymouth Wind Energy, LLC (“PWE”), a Delaware limited liability company with an address at One South Wacker Drive, Suite 1800, Chicago, Illinois 60606 and Plymouth County, Iowa (“County”). PWE and the County are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

WHEREAS, PWE is developing a wind energy project (“Project”) in Plymouth County that will consist of wind turbines with an aggregate nameplate capacity of approximately 200 megawatts as well as a substation, other associated equipment, and collection lines (“Project Facilities”); and

WHEREAS, Plymouth County requires that each wind energy device shall have a decommissioning plan outlining the anticipated means and proposed financing methods adequate to remove such structures if their use is discontinued. This decommissioning agreement is intended to set forth the rights and obligations of the owner/developer with respect to the management and potential removal of the project as well as the rights and remedies of the County if the owner/developer fails to abide by this agreement. This agreement shall bind PWE or its successor or assigns. Further, they are required to negotiate and enter into with the County separate agreements for road use and obtain any building permits, zoning approval, and/or conditional use permits required by the County prior to the erection of any wind turbines.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. As further set forth in greater detail below, PWE shall complete decommissioning of Project Facilities and restoration upon the discontinuance or abandonment of the Project or a portion of the Project. PWE shall provide notice to the County as set forth herein sixty (60) days prior to commencing any decommissioning. The County may require a road use agreement with financial assurances for roads and bridges during decommissioning.
2. The failure by PWE to comply with any zoning requirements, conditions or restrictions imposed on a building permit, or the failure by PWE to comply with the road use agreement shall be deemed a violation of the Plymouth County Wind Energy Ordinance and this agreement.
3. If the Project or any portion of the Project ceases to operate for twelve (12) consecutive months, then the Project or that portion of the Project shall be considered “Abandoned”.
4. A breach of this agreement or any wind turbines that are out-of-service for a continuous one (1) year period will be deemed to have been abandoned and discontinued for use. A breach of this agreement or the road use agreement will be deemed abandonment for purposes of PWE’s duties herein. At such time one or more wind turbines are abandoned, PWE shall remove the wind turbine and engage in a restoration process of the real estate the structure was located upon. If the owner fails to remove the wind turbines, the County

may pursue legal action against the owner of such wind turbines and/or proceed with remedies further set forth in this agreement.

5. As part of the restoration process, PWE hereby agrees to completely remove all Project Facilities added to or installed upon real estate in the County, including (but not limited to) all rotors, nacelles and towers; all collection step-up transformers; all overhead transmission and collection structures; and access roads (unless the relevant landowner requests that such access road remain). PWE shall also completely remove all wind turbine foundations, pads, underground electrical wires and any and all other underground wind energy structures and improvements to a minimum depth of approximately four (4) feet below the surface of the ground. After such removal activities are complete, any affected areas will be regraded and topsoil will be restored and seeded with vegetative cover.
6. This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto, their respective successors, (by merger, consolidation, or otherwise), assignees, legal representatives, lessees, and all other persons or entities acquiring all or any portion of the project, any lot, parcel or any portion thereof within the project, or any interest therein, whether by sale, operation of law, devise, or in any manner whatsoever. PWE shall be responsible to make certain all of its contractors, subcontractors, agents, employees, and representatives comply with all terms of this Agreement.
 - A. Assignment Requiring Consent. This Agreement may not be assigned without the written consent of the other Party and such consent shall not be unreasonably withheld or delayed.
 - B. Permitted Assignment. Notwithstanding subparagraph (i) above, PWE shall be entitled to assign this Agreement, in whole or in part, without the prior written consent of the County to (A) any affiliate of PWE or (B) any person or entity providing financing to PWE or any such affiliate or any collateral agent or security trustee acting on behalf of any such person or (C) to a public utility regulated by the Iowa Utilities Board (each a "Permitted Assignment"). Any such assignment that is a collateral assignment for financing purposes will not relieve PWE of its obligations under this Agreement. In the event of a Permitted Assignment, PWE shall, 30 days prior to such assignment, provide written notice to the County of the name, address, entity type and state of incorporation of the assignee, as well as the name and address of the assignee's registered agent in the State of Iowa.
7. In the case of default by PWE under this Agreement or if the Project or portion of the Project has been Abandoned, the County and its agents shall have access to the Project, pursuant to reasonable prior written notice to PWE, to affect or complete the removal and restoration process for the Project or that portion of the Project that has been Abandoned. Nothing in this Agreement shall be construed to impose upon the County the duty to affect or complete the removal and restoration process contemplated by this Agreement on behalf of any landowner, person or entity.
8. Attached hereto as Exhibit A is PWE's Decommissioning Plan prepared by a registered professional engineer which includes a summary of the estimated cost (net salvage value)

for decommissioning the Plymouth Wind Energy Project. PWE shall provide Financial Assurance to Plymouth County in the amount of twenty-five thousand dollars (\$25,000.00) per each turbine and seventy-five thousand dollars (\$75,000.00) for each electrical substation included in the project owned by PWE as of the **date that the first turbine begins generating electricity**. If the Decommissioning Plan provided indicates an amount greater than twenty-five thousand dollars (\$25,000.00) per each turbine and/or greater than seventy-five thousand (\$75,000.00) for each electrical substation, then the financial assurance shall be increased to the amount indicated in said Decommissioning Plan.

- A. The Decommissioning Plan shall be updated every five (5) years from the date the first wind turbine begins generating electricity onto the transmission grid until the fifteenth (15th) anniversary of the date the first wind turbine began generating electricity onto the transmission grid. A copy of the updated Decommissioning Plan shall be promptly provided to the County.
 - B. The Decommissioning Plan shall be updated annually after the fifteenth (15th) anniversary of the date the first wind turbine began generating electricity onto the transmission grid and the financial assurances shall be adjusted according to the updated decommissioning plan but to a minimum of thirty-five thousand dollars (\$35,000.00) per each wind turbine and one hundred thousand dollars (\$100,000.00) per each electrical substation.
 - C. A copy of the Decommissioning Plan or updated Decommissioning Plan shall be promptly provided to the County. The County may object to the Plan and shall provide notice of any such objection to PWE. In the event of the objection, a separate registered professional engineer agreed to by the parties shall prepare another Decommissioning Plan and cost estimate. The costs of the additional engineering plan and cost estimate shall be born equally by the parties.
 - D. If the cost of the restoration of the project exceeds salvage value and the financial assurance amount, PWE shall be responsible for any difference.
 - E. If any financial security required hereunder either lapses or PWE otherwise fails to post the same, PWE shall be obligated to do so within twenty (20) days of written notice from Plymouth County to do the same or otherwise shall be considered in default hereunder.
 - F. Such financial security shall be released after project has been decommissioned or removed and a certificate of completion has been provided by the County.
9. PWE hereby makes the following financial assurances to the County:
- A. Financial Assurance may be in the form of cash deposited with the County, a performance bond, surety bond, letter of credit or corporate guarantee, as long as the form of Financial Assurance is mutually agreeable between the County and PWE and

security is equal to or greater than the net amount set forth in the Decommissioning Plan or provided for by this agreement.

- B. Such Financial Assurance shall be adjusted corresponding to the Decommissioning Plan updates and the minimum amounts provided for in this agreement.
 - C. If the cost of the restoration of the Project exceeds the salvage value and financial assurance amounts, the PWE shall be responsible for any difference.
 - D. If any Financial Assurance required hereunder either lapses or PWE otherwise fails to post the same, PWE shall be obligated to do so within twenty (20) days of written notice from the County to do the same or otherwise shall be considered in default hereunder.
 - E. Such Financial Assurance shall be released after the Project has been decommissioned or removed and a certificate of completion has been provided and accepted by the County.
10. This Agreement shall be governed by and be construed in accordance with the laws of the State of Iowa. Nothing in this Agreement shall, in any way, limit the legal remedies that the County may pursue against PWE or its successors or assignees in the event of a breach of this Agreement or a failure to fully reimburse and compensate the County for any costs it incurs to restore any real estate affected by the Project. Any dispute arising under this agreement shall be commenced and adjudicated in the Iowa District Court for Plymouth County.
11. Notices.
- A. Any notice, demand, or other communication (“Notice”) given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested) or by overnight mail by a national carrier such as FedEx or UPS. A courtesy copy of the Notice may be sent by facsimile transmission or email transmittal.
 - B. Notices shall be given to the Parties at their addresses set forth below:

Plymouth County Board of Supervisors
215 4th Ave SE
Le Mars, Iowa, 51031

Plymouth Wind Energy
One South Wacker Drive, Suite 1800
Chicago, Illinois 60606
 - C. By Notice to the other Party, any Party may at any time designate a different address or person to which Notice, demand, or other communication under this Agreement shall be given.

D. Unless otherwise provided in this Agreement, Notice by hand delivery shall be effective upon receipt.

12. Default and Remedies.

A. Notice. Unless otherwise provided for in this Agreement, if PWE fails to perform one or more of its material obligations under this Agreement, the County shall provide PWE formal notice of the default and PWE shall have thirty (30) days to cure the default. Notice by the County shall be sufficient if personally delivered or sent by registered or certified U.S. mail or by overnight mail by a national carrier such as FedEx or UPS to the name and address provided for in this Agreement.

B. Remedies. If PWE fails in any way to perform or observe any material covenant, condition, or obligation contained in this Agreement and such failure continues for a period of twenty (20) days after PWE is notified by the County of such failure; or if PWE voluntarily commences bankruptcy, insolvency, reorganization, stay, moratorium, or similar debtor-relief proceedings; or if insolvency, receivership, reorganization, bankruptcy, or a similar proceeding has been commenced against PWE and such proceeding remains undismissed or unstayed for a period of ninety (90) days, PWE agrees that the County may do any, all, or any combination of the following:

1. Halt any and all operation of the wind turbines, substation, or other related infrastructure.
2. Immediately suspend PWE's authority under this Agreement.
3. Complete any work to be done under this Agreement. The County shall invoice PWE for the reasonable cost of such work and PWE shall pay such invoice within thirty (30) days of receipt of such invoice.
4. Seek injunctive relief.
5. Take any other action at law or in equity which may be available to the County.

C. Failure to Cure Default. If PWE does not cure the default within the required period or, provided PWE pursues the cure with reasonable diligence, such longer period as may be agreed to by both parties if the default may not reasonably be cured within the required period, then the County may avail itself of any remedy afforded it by law and any of the above cumulative, nonexclusive remedies. Provided, however, that if PWE fails to comply with any obligation of the Agreement and the County reasonably determines that such failure has caused or is causing an immediate danger to public health and safety, the County may, in its reasonable discretion, immediately and without further notice PWE avail itself of any remedy afforded it by law and any of the above cumulative non-exclusive remedies. The County shall make reasonable efforts to notify PWE prior to drawing on a letter of credit or other security, but failure to provide such Notice shall not invalidate the County's actions. In any legal proceeding to enforce this Agreement, the County shall be entitled to recover its reasonable attorney fees and suit costs as determined by the adjudicator.

E. No Waiver Implied. If any condition, obligation, or agreement contained in this Agreement is breached by either Party and thereafter waived in writing by the opposite

Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breaches hereunder. All waivers must be in writing to be effective.

- F. No Remedy Exclusive. No Remedy herein conferred upon or reserved to the County shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall either impair any such right of power or be construed as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
13. Indemnification. Anything to the contrary herein notwithstanding, the County and its elected and appointed officials, officers, agents, employees, representatives, and volunteers shall not be liable or responsible in any manner to PWE, its contractors or subcontractors, material men, laborers, or to any other person or persons whomsoever, for any claims, demands, damages, actions or causes of action of any kind or character whatsoever arising out of, any and all work which is PWE's obligation to perform pursuant to this agreement; the failure of PWE to observe or perform any covenant, condition, or obligation or agreement on its part to be observed or performed under this agreement; the failure by PWE to pay contractors, subcontractors, laborers, or material men; the failure by PWE to pay for material or; the failure by PWE to obtain necessary permits authorization to construct or perform work to the extent that such claims, demands, damages, actions or causes of action were not contributed to or caused by the County or its elected or appointed officials, officers, engineers, agents, employees, representatives, or volunteers. PWE agrees to indemnify, defend, and hold the County, its elected or appointed officials, officers, engineers, agents, employees, representatives, or volunteers harmless from (a) all such claims, demands, damages, actions or causes of action , and all costs, disbursements, and expenses resulting from such claims, including reasonable attorneys' fees, to the extent that such claims, demands, damages, actions or causes of action were not contributed to or caused by the County or any of its elected or appointed officials, officers, engineers, agents, employees, representatives, or volunteers; and, (b) all third party claims, demands, damages, actions, or causes of action, and all costs, disbursements, and expenses resulting from such claims, including reasonable attorneys' fees, arising out of PWE's duties and obligations under this agreement.
14. Binding Effect. This agreement shall be binding upon, and inure to the benefit of PWE and the County and their respective successors-in-interest, assignees, legal representatives, lessees, and all other persons or entities acquiring all or any portion of the Project, any lot, parcel, or any portion thereof within the Project, or any interest therein, whether by sale, operation of law, devise, or in any other manner whatsoever. The Developer shall be responsible to make certain all of its contractors, subcontractors, agents, employees, and representatives comply with all terms of this Agreement.
15. This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which shall constitute one agreement.

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first written above and executed by their respective and duly authorized officers or agents:

PLYMOUTH COUNTY, IOWA:

By: Don Koss

Name: Don Koss

Title: Chairman Board of Supervisors

PLYMOUTH WIND ENERGY LLC:

By: _____

Name: _____

Title: _____

