

Pages 6 Doc Tax \$ _____ EX # _____
Fee Amt \$ 40.00 Ck Pd \$ 40.00
Cash PD \$ _____ Refund \$ _____
Paid by #326 TITLE _____ Ck # 67466
_____ Ck # _____

2015-3413

7-6-6

CUSTOMER CHG CODE _____
RETURN TO #326 TITLECORE _____
1640 NORMANDY CT STE C
LINCOLN, NE 68512

State of Nebraska Gage County ss. Entered in
Numerical Index and filed for record the
25TH day of NOV., 2015
at 8:30 o'clock A. M., and recorded as
INSTRUMENT NO

2015-3413

Register of Deeds

By _____ Deputy

TRACT INDEX ✓
COMPUTER _____
COMPARED _____
INDEXED _____

After Recording Return To:
Volkswind USA Inc.
205 SE Spokane Street, Suite 300
Portland, OR 97202
(503) 236 4900

MEMORANDUM OF NEIGHBORING PROPERTY EASEMENT AGREEMENT

This Memorandum of Neighboring Property Easement Agreement ("Memorandum") is made and entered into as of the 12th day of November, 2015 (the "Effective Date"), by and between LYNN ERB AND GLORIA ERB, husband and wife, as joint tenants with right of survivorship, (collectively, "Owner" whether one or more), whose address is 5596 W Ash Road, Clatonia, NE 68328, and VOLKSWIND NEBRASKA LAND HOLDINGS LLC, a Nebraska limited liability company ("Grantee"), whose address is 205 SE Spokane Street, Suite 300, Portland, Oregon 97202. Each of Owner and Grantee is sometimes referred to herein as a "Party" and collectively as the "Parties."

RECITALS:

- A. Owner is the fee-simple owner of real estate located in Gage County, Nebraska as legally described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"). The Property is located near certain real estate (the "Project Property") upon which Grantee has or may construct a wind energy project (the "Project"), which is expected to consist of wind turbines, meteorological towers, substations, service roads, power collection and transmission facilities, and other fixtures, equipment and improvements (the "Project Facilities").
- B. On the Effective Date, Owner and Grantee entered into a Neighboring Property Easement Agreement (the "Agreement"), pursuant to which Owner has granted to Grantee certain easements and rights with respect to the Property.
- C. Owner and Grantee enter into this Memorandum, which is an abstract of the Agreement and will be recorded in Gage County, Nebraska, so that third parties have notice of the Agreement.

2015-3413

NOW THEREFORE, in consideration of the payments and the covenants provided in the Agreement to be paid and performed by the Parties, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Nature of Interest Created. In accordance with the Agreement, Owner has granted to Grantee certain easements and rights with respect to the Property, including, but not limited to, the following:

1.1. Construction and Operation Easement. Owner grants to Grantee a perpetual easement for the dust, sound, light and shadows, visual, view, light, vibration, air turbulence, wake, electromagnetic, ice or other weather created hazards or other effect of any kind whatsoever affecting the Property and created, whether directly or indirectly, by Grantee's construction and operation of the Project.

1.2. Wind Easement. Owner hereby grants to Grantee an exclusive easement for the free and unobstructed flow of wind over and across the Property ("the "Wind Easement"). Any obstruction to the free flow of wind by Owner or persons other than Grantee, its successors or assigns, or persons claiming by, through or under Grantee, its successors or assigns, is prohibited throughout the entire area of the Property, which shall consist horizontally from any point where any Project Facilities are or may be located at any time or from time to time to the boundaries of the Property, together vertically through all space above the surface of the Property to a height of six hundred (600) feet. Notwithstanding the foregoing, Owner may construct structures or other improvements on the Property as follows: (i) fences and gates that do not exceed a height of eight feet (8') ("Permitted Fences"); and (ii) any structure, tree or other improvement that does not exceed a height of seventy-five feet (75'), so long as such structure, tree, or improvement is located at least one thousand feet (1000') from the base of any wind turbine or meteorological tower installed or proposed to be installed by Grantee on the Project Property. No structure, improvement, other than Permitted Fences, may be located within one thousand feet (1000') of any wind turbine installed or proposed to be installed by Grantee on the Project Property; provided, however, that Grantee does not have the right to limit the height of any tree existing on the Property as of the Effective Date. Upon thirty (30) days' prior written notice to Owner, Grantee shall have the right to remove any structure, improvement or tree that exceeds seventy-five feet (75') in height that is installed, constructed, or planted after the Operations Date within one thousand feet (1000') of any wind turbine owned by Grantee. Notwithstanding the foregoing, Grantee shall not remove any tree, structure, or improvement that is located on the Property as of the Effective Date.

1.3. Noise Easement. Owner grants to Grantee a noise easement for the right and privilege to generate and maintain audible noise levels in excess of fifty-five (55) db(A) on and above the Property up to but not including the outer wall of each residence on the Property that is occupied as of the Effective Date, at any and all times of the day or night. In the event that noise levels from any wind turbine owned by Grantee exceeds fifty-five (55) db(A) at the outer wall of any residence located on the Property and occupied as of the Effective Date for more than five percent (5%) of the hours in any calendar month, as measured by an independent professional using commonly accepted noise measurement instruments and standards, then Grantee shall take commercially reasonable actions to reduce noise levels at any such outer wall to fifty-five (55) db(A), which measures may include, in Grantee's sole

discretion, installing landscaping, insulation, or sound barriers at agreed locations on the Property or adjacent properties.

1.4. Shadow Easement. Owner grants Grantee an easement on, over, and across the Property to cast shadows from any Project Facilities, including but not limited to wind turbine towers and rotor blades, onto and across the Property. Without in any way limiting or restricting the foregoing grant of easement, Grantee shall consult with Owner regarding the location of all Project Facilities to minimize any adverse effects on the Property and occupied residences located on the Property to the extent commercially reasonable.

2. Term. The term of the Agreement shall commence on the Effective Date and shall continue for the longer of the following: (i) ten (10) years; or (ii) forty (40) years if construction of the Project is begun within ten (10) years after the Effective Date.

3. Incorporation of Agreement. 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 document. The Agreement contains the entire agreement of the Parties, and any prior or contemporaneous agreements, discussions or understandings, written or oral are superseded by the Agreement and shall be and hereby are released, revoked and terminated and shall be of no further force or effect for any purpose whatsoever.

4. Interpretation. This Memorandum is not intended and may not be construed to modify or alter in any way the terms and conditions of the Agreement. In the event of a conflict or inconsistency between the provisions of this Memorandum and the terms and conditions of the Agreement, the Agreement shall control.

5. Binding Effect. All provisions contained in this Memorandum shall be binding upon, inure to the benefit of, and be enforceable by, Owner, Grantee and their respective successors and assigns.

[SIGNATURE PAGE FOLLOWS]

STATE OF OREGON, MULTNOMAH COUNTY, ss.

This instrument was acknowledged before me on this 12th day of November, 2015, by Jeffrey Wagner, as the President of Volkswind USA Inc., a Delaware corporation, as the Managing Member of Volkswind Nebraska Land Holdings LLC, a Nebraska limited liability company, and was signed on behalf of said company by authority of its managers and Jeffrey Wagner acknowledged the execution of this instrument to be the voluntary act and deed of the company by it voluntarily executed.



NOTARY PUBLIC



EXHIBIT "A"**Legal Description of the Property**

A tract of land located in the Southwest Quarter of Section 7, Township 6 North, Range 6 East of the 6th Principal Meridian, Gage County, Nebraska; more particularly described as:

Commencing at the Southwest corner of said Southwest Quarter;

Thence South 90 degrees 00 minutes 00 seconds East on the South line of said Southwest Quarter, a distance of 654.00 feet to the POINT OF BEGINNING;

Thence North 00 degrees 00 minutes 00 seconds East, a distance of 564.00 feet;

Thence North 88 degrees 45 minutes 17 seconds West, a distance of 176.00 feet;

Thence North 07 degrees 38 minutes 56 seconds West, a distance of 242.00 feet;

Thence North 00 degrees 15 minutes 30 seconds East, a distance of 176.00 feet;

Thence North 67 degrees 43 minutes 09 seconds East, a distance of 210.00 feet;

Thence North 88 degrees 48 minutes 33 seconds East, a distance of 210.00 feet;

Thence South 00 degrees 00 minutes 00 seconds West, a distance of 470.00 feet;

Thence South 78 degrees 21 minutes 53 seconds West, a distance of 152.00 feet;

Thence South 00 degrees 00 minutes 00 seconds West, a distance of 567.00 feet to the South line of said Southwest Quarter;

Thence North 90 degrees 00 minutes 00 seconds West on said South line, a distance of 48.00 feet to the POINT OF BEGINNING.