
THIS INSTRUMENT DRAFTED BY AND
WHEN RECORDED RETURN TO:

Lotus Wind, LLC
c/o Apex Clean Energy, Inc.
120 Garrett Street, Suite 700
Charlottesville, VA 22902
Attention: Land Manager

WIND FARM PARTICIPATION AND SUPPORT AGREEMENT

This Wind Farm Participation and Support Agreement (this “**Agreement**”), is dated and effective as of _____, 20____ (“**Effective Date**”), by and between «**Current_Legal_Name**» (“**Owner**”) and **Lotus Wind, LLC**, a Delaware limited liability company (“**Grantee**”).

RECITALS:

A. Owner is the owner of that certain tract of real property located in Macoupin, Illinois, more particularly described on Exhibit A attached hereto and made a part hereof (the “**Property**”);

B. Grantee has acquired, or will acquire, certain easements and other related rights covering real property located adjacent to and/or in the vicinity of the Property (collectively, the “**Wind Farm Property**”) for purposes of the construction, installation, maintenance, use and operation of wind energy conversion turbines (“**Wind Turbines**”), electrical distribution and transmission facilities and related roads and facilities (collectively, the “**Wind Facilities**”);

C. Owner desires to participate in the wind farm project being developed by Grantee on the Wind Farm Property in Macoupin County, Illinois (the “**Wind Farm**”) in accordance with the terms and conditions contained herein; and

D. The Wind Farm may be constructed and put into operation in one or more phases (each a “**Phase**”) that are distinguishable from the remainder of the Wind Farm, as determined by Grantee in its reasonable discretion.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Setbacks.**

(a) Notwithstanding any applicable law, ordinance, regulation or permit establishes, or has established, minimum setbacks from the exterior boundaries of the Property for Wind Facilities constructed on Wind Farm Property, to the extent permitted by applicable law, Owner hereby waives any and all such setback requirements with respect to each and every property line of the Property (the “**Setback Waiver**”). For the avoidance of doubt, this Agreement does not grant to Grantee the right to construct Wind Facilities on the Property.

(b) Grantee will abide by all laws, ordinances, regulations, and permit provisions establishing setbacks from occupied residences on the Property as of the date hereof, and in no event shall Grantee construct a Wind Turbine within One Thousand Three Hundred Twenty Feet (1,320') of any occupied residence located on the Property (as measured from the edge of the base of the Wind Turbine to the exterior of the closest foundation of any occupied residence on the Property as of the date hereof).

(c) The parties recognize that Grantee is developing Wind Facilities on the Wind Farm Property, and this Setback Waiver is for the benefit of Grantee, the owner(s) of adjacent Wind Farm Property, and their respective successors and assigns, and shall run with the land.

2. **Participation in Wind Farm and Dispute Resolution.** Owner agrees to be deemed a participating landowner with respect to the Wind Farm. In the event Owner has concerns or issues with regard to the construction, installation, maintenance, use or operation of Wind Facilities, Owner agrees to have informal discussions with Grantee, including in-person meetings, for a period of thirty (30) days before pursuing other means to resolve the issues or concerns. Owner agrees to and shall execute such estoppel certificates (certifying as to such matters as Grantee may reasonably request) and/or non-disturbance agreements as Grantee or any Lender may reasonably request from time to time.

3. **Term of Agreement.** Subject to the terms and conditions of this Agreement, the term of this Agreement shall commence on the Effective Date and continue for forty-two (42) years (the “**Term**”), unless earlier terminated by Grantee by written notice to Owner or as otherwise provided herein. If the Construction Commencement Date (defined below) has not occurred prior to the seventh (7th) anniversary of the Effective Date, this Agreement shall automatically terminate. The “**Construction Commencement Date**” shall be the date when excavation work for the installation of a foundation for a Wind Turbine constructed by Grantee on any portion of the Wind Farm Property begins or when excavation work for roads by Grantee on the Wind Farm Property related to its commencement of construction of any Wind Facilities. The Grantee Shall have the option to record a notice of the Construction Commencement Date, with reference to this Agreement, provided that Grantee shall deliver a copy of such notice to Owner within thirty (30) days after recordation of such notice.

4. **Limit on Termination.** Notwithstanding Section 3, except as provided in Section 12 below, or as otherwise provided herein, Grantee shall not terminate or surrender its right, title and interest in this Agreement for any portion of the Property located within one-half (1/2) mile of a Wind Turbine (measured from the center of the Wind Turbine) operated by Grantee as part of the Wind Farm, without the written consent of the Owner, unless there is a title curative issue, permitting issue, or environmental issue affecting the Property, in which case Grantee may terminate this Agreement with respect to that portion of the Property so affected.

5. **Consideration.** As consideration for the rights granted herein, Grantee shall make payments to Owner during the Term as set forth in the Fee Schedule attached hereto (“**Fee Schedule**”). The Fee Schedule shall be omitted from the recorded Agreement as provided in Section 10 below.

6. **Authority.** Owner represents and warrants that it is the sole owner of the Property and has the unrestricted right and authority to execute this Agreement and to grant to Grantee the rights granted hereunder.

7. **Assignment.** Grantee shall have the right at any time, without need for Owner's consent, to assign or convey all or any portion of this Agreement to an assignee or assignees, on an exclusive or nonexclusive basis, or to mortgage or collaterally assign all or any part of its interest in the Agreement and its rights under the Agreement to any entity (a "Lender") without the consent of Owner. Any Lender will have no obligations under this Agreement until such time as it exercises its rights to acquire Grantee's interest subject to the lien of Lender's mortgage by foreclosure or otherwise or assumes the obligations of Grantee under this Agreement. So long as any mortgage with a Lender remains in effect, this Agreement shall not be modified, and Owner shall not accept a surrender of the Property or a termination or release of this Agreement, without the prior consent of all Lenders. Owner, upon providing Grantee any notice of default under this Agreement, shall at the same time provide a copy of such notice to each Lender. Owner shall accept any performance by or at the instigation of any such Lender as if the same had been done by Grantee (but no Lender shall have any obligation to remedy or cause the remedy of any default).

8. **Events of Default.** Each of the following shall constitute an event of default, which shall permit the non-defaulting party, at its discretion, to terminate this Agreement and/or pursue such other remedies as are available to it at law or in equity:

(a) any failure by Grantee to pay any amount owed pursuant to Section 5 above if the failure to pay continues for thirty (30) days after Grantee's receipt of written notice from Owner; and

(b) any other material breach of this Agreement by either party which continues for thirty (30) days after written notice of default from the non-defaulting party or, if the cure will take longer than thirty (30) days, the length of time necessary to effect such cure so long as the defaulting party commences to cure within the thirty (30) day period and continuously and diligently pursues the cure to completion.

9. **Notice.** All notices, requests, demands, waivers, approvals, consents and other communications required or permitted by this Agreement ("Notices") shall be given in writing by personal delivery (confirmed by courier delivery service), or facsimile, receipt confirmed, or first class U.S. mail, postage prepaid, return receipt requested, certified, addressed as follows:

If to Owner:

«Current_Legal_Name»
«Address_1_1»
«City_1», «State_1» «Zip_1»
Telephone: «Home Phone 1»

If to Grantee:

Lotus Wind, LLC
c/o Apex Clean Energy, Inc.
Attention: Land Manager
120 Garrett Street, Suite 700
Charlottesville, VA 22902
Phone: (434) 220-7595
Fax: (434) 220-3712

Grantee shall not be required to make any rent payment to Owner under this Agreement until such time as Owner has returned to Grantee a completed and executed Internal Revenue Service Form W-9 and a payment instruction form signed by each person or entity holding record title to the Property. Any party may change its address for purposes of this paragraph by giving Notice of such change to the other parties in the manner provided in this paragraph. Any Notice provided for herein shall become effective only upon actual receipt by the party to whom it is given, unless such Notice is only mailed by certified mail, return receipt requested, in which case it shall be deemed to be received five (5) business days after the date it is mailed.

10. **Recording.** Owner and Grantee agree that this Agreement (without the Fee Schedule) shall be recorded in the real property records of the county in which the Property is located.

11. **Confidentiality.** Owner shall maintain in confidence all information pertaining to the financial terms of or payments under this Agreement, whether disclosed by Grantee or discovered by Owner, unless such information is in the public domain by reason of prior publication through no act or omission of Owner or its employees or agents. Owner shall not publish or otherwise disclose such information to others except to accountants, lawyers, or other professionals who receive such information under an obligation of confidentiality; buyers of the Property; lenders that have a security interest in the Property; or family members who agree to keep such information confidential. The provisions of this **Section 11** shall survive the termination or expiration of this Agreement.

12. **Wind Energy Lease Agreement.** In the event that Owner and Grantee enter into a Wind Energy Lease Agreement or other similar instrument whereby Owner grants Grantee the exclusive right to install Wind Turbines and/or Wind Facilities on the Property, then this Agreement shall be superseded by such instrument and this Agreement and all payment obligations hereunder shall terminate as of the effective date of such instrument. The foregoing shall not obligate either party to enter into any Wind Energy Lease Agreement or other similar instrument unless it determines in its own best interest to do so. For the avoidance of doubt, this Agreement does not grant Grantee the right to install Wind Turbines and/or Wind Facilities on the Property.

13. **Legal Fees.** In the event of any controversy, claim or dispute arising out of or relating to this Agreement or the enforcement or breach hereof, the prevailing party shall be entitled to recover from the losing party the prevailing party's reasonable costs, expenses and attorneys' fees (including but not limited to those incurred at trial, on appeal and on petition for review).

14. **Binding Effect; Governing Law.** All the terms, conditions, covenants and other provisions contained in this Agreement, including benefits and burdens, shall be binding upon and shall run with the land and shall inure to the benefit of and be enforceable by Owner and Grantee, and their respective heirs, successors and assigns. The provisions hereof shall be governed by and construed in accordance with the laws of the State of Illinois, excluding the choice of law provisions thereof.

[signature pages follow]

GRANTEE:

LOTUS 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 ____ day of _____, 20____, by Jeanine G. Wolanski, the Senior Vice President of Land Management of Apex Clean Energy Holdings, LLC, a Delaware limited liability company, Manager of Apex GBR, LLC, a Delaware limited liability company, Sole Member of Apex Clean Energy Finance, LLC, a Delaware limited liability company, Sole Member of Lotus Wind, LLC, a Delaware limited liability company, on behalf of the company.

Notary Public, Commonwealth of Virginia

(SEAL)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that real property located in County, Illinois, more fully described as follows:

Tax Parcel References: «Parcel_ID_1» («Verified_Acres_1» acres)
 «Agreement_Number» («Agreement_Number» acres)
 «Agreement_Number» («Agreement_Number» acres)

CONFIDENTIAL – DO NOT RECORD

FEE SCHEDULE

Grantee shall make the following payments to Owner during the Term: (i) within thirty (30) days of the Effective Date of this Agreement, a one-time payment of [REDACTED] and No/100 Dollars (\$[REDACTED].00) and (ii) upon the Commercial Operations Date, an annual payment equal to [REDACTED] and No/100 Dollars (\$[REDACTED].00). This annual payment shall be paid by Grantee within thirty (30) days after the Commercial Operations Date and then annually within thirty (30) days after each anniversary of the initial annual payment. Following the Commercial Operations Date, the dollar amount used to calculate the annual payment described above shall be increased annually by [REDACTED]%, with the first such increase effective upon the first anniversary of the Commercial Operations Date.