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## DECOMMISSIONING AGREEMENT

THIS DECOMMISSIONING AGREEMENT (“Agreement”), dated as of October 24, 2022 (“Effective Date”), is entered into by and between High Banks Wind, LLC, a Delaware limited liability company (“Developer”) and Republic County, Kansas, a governmental entity in the State of Kansas (“County”). County and Developer may each be referred to herein individually as a “Party”, and collectively as the “Parties”.

### RECITALS

WHEREAS, Developer intends to construct and operate a wind turbine (meaning with three blades) electrical generation facility project commonly referred to as the High Banks Wind Project, with an approximate size of 559 megawatts of installed nameplate capacity in the County, to be located on privately owned rural farmland or public right of way located within the County land area as shown on Exhibit A to the Development Agreement between Developer and County dated the Effective Date (“Development Agreement”), consisting of wind turbine generators, meteorological towers, substations, above-ground transmission lines, collection lines, access roads, temporary construction areas, operation and maintenance facilities, and other infrastructures relating thereto (all such types of infrastructure, plus any other directly ancillary Developer infrastructure located within the land area shown on Exhibit A to the Development Agreement, collectively the “Wind Project”); and

WHEREAS, Developer has or will enter into certain lease agreements, easement agreements, and forms of landowner consent documents (each individually, a “Lease”) with the participating landowners within the Wind Project area (the “Landowners”), which may include provisions governing the decommissioning of Wind Project facilities located on such Landowners’ property; and

WHEREAS, Developer desires to provide financial security to address the cost of decommissioning the Wind Project in the form of a bond, letter of credit, guarantee, or other security; and

WHEREAS, for purposes of this Agreement, “Generating Units” are defined to include the wind turbine tower, nacelle, blades, and generator; “Towers” are defined to include Generating Units, meteorological towers, radar towers, and any other towers exceeding 200 feet above ground level; and “Supporting Facilities” are defined to include any (i) related foundations, transformers, roads, and collector substations (but Supporting Facilities do not include Towers), and (ii) all underground wires, cables, conduits and/or lines (and their associated equipment) related to the transmission of electricity at a voltage of up to 34.5 kV installed related to the Wind Project for the purpose of carrying electrical current and communications within the Wind Project (“Cables”) or other infrastructure, to the extent said Cables and other infrastructure is located within any right of way adjacent to or under any County-owned or County-maintained road in the County (“Right of Ways”).

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth in this Agreement, and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

execution version 10.19.2022

## TERMS AND CONDITIONS

### SECTION I. DECOMMISSIONING AND RESTORATION SECURITY

#### Section 1.1 Agreement to Decommission.

(a) Subject to Section 5.1, Developer shall decommission each Tower and applicable Supporting Facilities as set forth in Sections 1.1(b)-(d) below. Developer's obligation to decommission shall include, subject to Section 5.1, materially returning any land disturbed or changed as a result of the Wind Project to its pre-construction condition or the then-existing condition of the contiguous lands or roads, and completing all Developer obligations pursuant to this Agreement (the "Decommissioning Services"). At a minimum, such Decommissioning Services shall include: (1) soil replacement; (2) revegetation and seeding; (3) noxious weeds removal; (4) dust control; (5) removal of the applicable Towers and Supporting Facilities to a depth of 48"; (6) removal of all applicable Supporting Facilities within any Right of Ways, except County agrees to reasonably determine at that time whether it would be a best practice to abandon in place any underground Cables; and (7) restoring all Right of Ways and affected Roads to at least as good as their required condition prior to commencement of the Decommissioning Services, including grading, drainage, and Road surfaces. County reserves the right at any time, by written notice to Developer, to cancel Developer's decommissioning obligations relating to the Towers and Supporting Facilities. Decommissioning Services include disposal of Wind Project components outside of Republic County and in compliance with all applicable laws, including without limitation applicable environmental laws, and in a manner consistent with then-prudent industry practice for the disposal of such materials.

(b) In the event that a Generating Unit has failed to produce electricity or has otherwise been out of service for twelve (12) consecutive months (each, an "Inoperable Unit"), the Developer shall promptly provide notice to the County ("Developer Notice"). Further, the County may request Developer provide a response to an inquiry ("County Inquiry") pertaining to any particular Generating Unit if the County believes such Generating Unit is an Inoperable Unit. The Developer shall have sixty (60) days to from the date of the Developer Notice or the date of the County Inquiry (the "Unit Failure Cure Period"), to either return the subject Generating Unit to service or present a plan to the County outlining the steps and schedule for returning the Generating Unit to service within 60 months of the Developer Notice or County Inquiry (as applicable).

(c) The Developer shall decommission each Generating Unit and applicable Supporting Facilities upon the earlier to occur of (i) the expiration of the Term, in which event all Towers also shall be decommissioned, or (ii) the discontinuation of use, which shall be deemed to occur upon the later of (A) expiration of the Unit Failure Cure Period, or (B) the deadline to return the Generating Unit to service pursuant to a plan pursuant to Section 1.1(b) above (which plan deadline will not be extended for any claim of Force Majeure pursuant to Section 1.1(d) below, Excusable Delay, or similar). For purposes of this Agreement, "Excusable Delay" means any casualty to property or persons, inclement weather, epidemic or pandemic, inability to secure materials, strikes or labor disputes, acts of God, acts of the public enemy or hostile or terrorist action, civil commotion, and/or governmental actions, restrictions, regulations or controls, including, without limitation, any failure or refusal of any governmental authority to timely issue

*execution version 10.19.2022*

any required permit or approval for development of the Wind Project or any legal action or proceeding involving any such required permit or approval (whether arising out of any existing laws or changes in laws, including any such laws relating to annexation, zoning, platting, building or other codes or ordinances applicable to development and construction of the Wind Project), or any other cause (other than financial inability, which will never be an Excusable Delay), to the extent in each instance the delay was beyond the reasonable control of that Party; which affects development, construction, maintenance, operation, repair, replacement or decommissioning of the Wind Project (including, without limitation, any of the foregoing which affect a Party's contractors or subcontractors). Excusable Delay is not an available claim by Developer for failure to maintain any insurance or failure of a representation or warranty to be and remain true, correct and complete at all times. The Developer must complete all Decommissioning Services for such Generating Unit and applicable Towers and Supporting Facilities within twelve (12) months from the date triggering the decommissioning obligation, as set forth in this Section.

(d) Once decommissioning commences, Developer will, in a competent manner in accordance with industry standards, diligently, continuously and in good faith continue the decommissioning. If Developer's ability to operate the Wind Project or performance of its obligations to decommission is prevented, delayed, or otherwise impaired at any time due to Force Majeure, then the time for performance shall be appropriately extended by the time of delay actually caused by the Force Majeure. For purposes of this Section 1.1(d), Force Majeure shall mean the acts of God, weather, war, epidemic or pandemic, civil commotion, riots, damage to work in progress by reason of fire or other casualty, strikes, supplies or equipment or labor delay, lock outs or other labor disputes, terrorism, sabotage, or the effect of any law, proclamation, action, demand or requirement of any government agency (other than financial inability, which will never be a Force Majeure), to the extent in each instance the act or delay was beyond the reasonable control of Developer.

(e) Developer shall furnish all supervision, labor, equipment, tools, materials, machinery, vehicles, transportation, subcontracted items, supplies, and personnel necessary to perform under this Agreement. A list of all additional contractors and subcontractors hired by Developer to perform under this Agreement must be provided to County upon the County's written request. Developer shall bind all contractors and subcontractors to the terms and conditions of this Agreement and hereby acknowledges and agrees that, as Developer, it shall be fully responsible to County and/or any third parties for the acts and omissions of its contractors and subcontractors and any other person performing work on behalf of Developer under this Agreement.

(f) The Decommissioning Services to be provided by Developer, including all materials used therefor, shall be subject to oversight, inspection and testing by the Third-Party Engineer selected pursuant to Section 1.2 (the "Inspection"). Developer hereby consents to such Inspection and shall furnish information requested by County or the Third-Party Engineer in order to perform the Inspection. Developer acknowledges and agrees that County may reject or require Developer to remedy any nonconforming work and/or identify additional work required to bring the Decommissioning Services in compliance with this Agreement. Defective work shall be corrected within a reasonable time and to the reasonable satisfaction of the Third-Party Engineer.

(g) Developer warrants that all work to be provided under this Agreement shall be performed by qualified persons or contractors, the decommissioning will be done in a competent

*execution version 10.19.2022*

manner consistent with industry standards. This warranty shall be in addition to, and not in limitation of, any other warranty or remedy provided by law or by any other agreement by and between Developer and County. Any materials used in or the product of the decommissioning process will be destroyed, stored or dumped in compliance with all applicable laws.

Section 1.2 Third-Party Engineer. Developer will reimburse the County for the reasonable cost of employing a third-party engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms, including any knowledge required specific to Kansas projects, who is acceptable to the County (the "Third-Party Engineer"). The Third-Party Engineer will be responsible for assisting the County with determining the amount of the Restoration Security, evaluating and monitoring the decommissioning process, and certifying that the decommissioning process has been completed consistent with the terms of the Agreement. The initial list of firm candidates for the Third-Party Engineer that the County shall choose from is attached hereto as Exhibit A, but, (A) after calculation of the initial Cost Estimate and Net Removal Cost, County may change the Third-Party Engineer once or more; and (B) the Third-Party Engineer for monitoring and certifying the decommissioning process may be an engineer or other professional permitted to assist with road use matters pursuant to the Road Use Agreement.

Section 1.3 Initial Cost Estimate. Once the Third-Party Engineer has been selected by the County, the Third-Party Engineer will prepare: (A) the cost estimate to perform the Decommissioning Services regarding (i) Supporting Facilities located on, in or under property owned or managed by the County, plus (ii) all Towers proposed to be located within the Wind Project (the "Cost Estimate"); and also will prepare (B) the amount that the Cost Estimate exceeds the estimated salvage value of all (i) Supporting Facilities located on, in or under property owned or managed by the County, plus (ii) Towers (that exceeding amount, the "Net Removal Cost"). The Cost Estimate and Net Removal Cost will be made available to the public.

The amount relied on by the Developer for the Cost Estimate and Net Removal Cost will be determined by the Third-Party Engineer. The Cost Estimate will be equal to one hundred percent (100%) of the estimated amount of the cost to County (which might reasonably include types of costs or amounts of costs more than what it would cost Developer) of securing the County's right to enter all land used in the Wind Project for the purpose of conducting Decommissioning Services, removing the Supporting Facilities located on, in or under property owned or managed by the County or within any Road Right of Ways, and all Towers, and performing all Decommissioning Services; including without limitation: reasonable professional fees related thereto, and any funds so that the County does not encounter any delay to complete Decommissioning Services due to liens, lienholders, third party claims, or timing of County's receipt of salvage proceeds.

Developer shall pay all fees in obtaining the estimates of the Cost Estimate and the Net Removal Cost, and shall keep the Restoration Security in force throughout the remaining Term of this Agreement. The Third-Party Engineer shall re-evaluate (at the cost of the Developer) the amount of the Net Removal Cost upon each subsequent five-year anniversary of COD ("COD" means the first date that the Wind Project has entered commercial operation), until the decommissioning is certified complete by the Third-Party Engineer, and Developer shall adjust the Restoration Security accordingly.

Section 1.4 Financial Assurance.

execution version 10.19.2022

(a) Restoration Security. Within 30 days of the County's approval of the proposed Restoration Security provider and the documents governing the issuance of the Restoration Security as set forth in Section 1.4(b) below, and again by each Certificate of Continuation due date, Developer shall deliver, or cause to continue to be delivered or continued, to County a performance bond, letter of credit or guarantee issued by a creditworthy business or financial institution, from a party and on terms reasonably acceptable to the County (the "Restoration Security") securing performance of the Decommissioning Services, which performance bond, letter of credit or guarantee shall equal the amount of the Net Removal Cost. Developer shall cause to be maintained the Restoration Security, or a like replacement performance bond, letter of credit or guarantee reasonably acceptable to the County, in force and available to County pursuant to this Agreement continuously throughout the remainder of the term of this Agreement in the amount required pursuant to Section 1.3. The Developer shall pay all fees and premiums associated with establishing and maintaining the Restoration Security. The initial Restoration Security must be in effect before Developer commences construction of any Cables, or of any permanent infrastructure on Wind Project private property. If upon COD the Wind Project infrastructure subject to Decommissioning Services is materially different than said infrastructure reflected in the plans that County Designee determined to be reasonably acceptable pursuant to Development Agreement Section II.F, then based on those differences Developer will cause cost Estimate and Net Removal Cost to be re-calculated by the same Third-Party Engineer, and if the Net Removal Cost is different than from the initial calculation, Developer will cause the Restoration Security amount to be changed to reflect the updated Net Removal Cost amount, such Restoration Security change to occur within one year after COD.

(b) Restoration Security Provider; Restoration Security Beneficiaries. Unless a shorter period has been agreed to by the County, within 30 days after the Cost Estimate and Net Removal Cost have been submitted by the Third-Party Engineer to the County and Developer, and again at least 90 days prior to each Certificate of Continuation due date, Developer shall submit to the County the name of the proposed Restoration Security provider and the documents governing the issuance of the Restoration Security for the County's review and approval including without limitation approval of the security party and all terms of the proposed security, County's approval not to be unreasonably withheld. The Developer represents that it has not granted and shall not grant to the landowners or any other party rights to the Restoration Security senior to the rights of the County to the Restoration Security.

(c) Restoration Security Renewal. Upon each re-evaluation of the Net Removal Cost and subsequent adjustment to the Restoration Security pursuant to Section 1.3, but at least 90 days before the current Restoration Security expires, Developer shall deliver to the County a certificate of continuation documenting the updated estimate of the Net Removal Costs prepared by the Third-Party Engineer and demonstrating that the Restoration Security is equal to or greater than the updated Net Removal Cost and that the Restoration Security will stay in force for at least the next five years ("Certificate of Continuation").

(d) Failure to Provide Certificate of Continuation; Other Default. If the Developer fails to provide the Certificate of Continuation when and as provided for in Section 1.4(c), or if either Party fails to observe or perform any other material condition or provision of this Agreement, and the failure remained 60 days after the other Party provided written notice to the failing Party (the "Cure Period"), then the failing party is in "Default." If the County declares a Default under this

execution version 10.19.2022

Section 1.4, County shall have the right to: (a) seek any equitable or injunctive relief available under applicable law; (b) pay any premium necessary to continue the Restoration Security, in which case Developer shall reimburse County on demand for the amount of such premium; (c) draw on the Restoration Security and deposit the drawn funds in a bank account and, at the County's sole discretion, apply such funds to the decommissioning of the Towers and Supporting Facilities; (d) seek all remedies at law; and (e) if the Default is failure to maintain the required Restoration Security in effect at all times, then County may also immediately require the Developer to cease operations for the entire Wind Project until the required Restoration Security is in effect and the County may seek an immediate injunction to cause the Wind Project to cease operations (including without limitation cessation of Developer's rights pursuant to the Road Use Agreement and invoking County's remedies pursuant to Road Use Agreement Section 10.C.), and the Developer consents to the jurisdiction of Republic County for such action. Notwithstanding the foregoing: (x) the parties intend that this Section 1.4 does not limit or modify County's rights pursuant to Section 2.1 to access or use the Restoration Security before it might expire or cease to be available (including without limitation that no notice or Cure Period or Default declaration terms apply to Section 2.1); (y) termination of this Agreement is a remedy only available to County, not to Developer; (z) any payment not paid when due, accrues interest from the date due at the rate of the lower of the maximum interest rate allowed by applicable law or 15% per annum, with said interest is due at the time the payment is actually made for the payment to be considered paid in full. If either Party hereto commences any action against any other party hereto with respect to the enforcement or interpretation of this Agreement, then the prevailing party in such action shall be entitled to an award of its costs of litigation, including attorney's fees.

## **Section II. DISBURSEMENT OF RESTORATION SECURITY**

Section 2.1 Rights of County. In the event Developer, its investors, or its lenders fail to perform Decommissioning Services in accordance with the requirements of this Agreement, the County may undertake the Decommissioning Services and may make a claim on the Restoration Security to pay a third party to complete the decommissioning obligations of Developer. The County's election to decommission all or any portion of the Wind Project shall not create an obligation on the County, landowners, or any other third-party to complete the Decommissioning Services. In the event the County elects to undertake any of the Decommissioning Services, it may make a claim(s) upon the Restoration Security to the Security Provider for the Net Removal Cost subject to the limitations set forth herein. Any claim made by the County upon the Restoration Security shall be limited to such expenses incurred by the County or its agent for the Decommissioning Services according to the standards set forth in this Agreement, including reasonable professional fees. In addition to the County's right to make a claim upon the Restoration Security, if the Developer fails to decommission the Wind Project in accordance with the terms of this Agreement, the County shall also have the right to: (a) seek injunctive relief available under applicable law to effect or complete the decommissioning of the Wind Project; (b) seek reimbursement from Developer, its successors or assigns, for any documented and reasonable costs of decommissioning the Wind Project incurred by the County in excess of the funds available under the Restoration Security; and (c) seek all remedies at law.

Section 2.2 Release of Restoration Security. The Security Provider shall release the Restoration Security when Developer has demonstrated to the reasonable satisfaction of the

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County, or its designee, that the decommissioning obligations have been satisfied. All of Section II shall survive the termination or expiration of this Agreement.

### **Section III. REPRESENTATIONS AND WARRANTIES**

The Developer represents and warrants to the County as follows:

(a) The Developer has full power and authority to execute, deliver and perform this Agreement and to take all actions necessary to carry out the transactions contemplated by this Agreement.

(b) This Agreement has been duly executed and delivered by Developer and constitutes the legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms.

(c) The execution, delivery, and performance of this Agreement by Developer will not violate any applicable law.

(d) Developer hereby releases and agrees to indemnify and hold harmless County and its respective officers, employees and agents (the "County Parties") from: (a) any and all actions, causes of actions, suits, claims, expenses (including reasonable attorney fees) and demands made by third parties against County Parties arising out of or relating to, directly or indirectly, the negligence, or willful or wanton act or omission, of Developer or any of its officers, employees, agents or contractors, related to any of the Definitive Agreements or the Wind Project, including without limitation use of any County roads or Right of Ways, and for any Developer Default of any of the Definitive Agreements; and (b) any and all claims made by a claimant other than County, arising out of or relating to this Agreement, including but not limited to claims relating to the enforceability of any term, claims alleging the County should have imposed additional requirements on Developer, or that the County was not authorized to enter into this Agreement, except for any County Default of any of the Definitive Agreements other than enforceability or County authority.

### **Section IV. ENGINEERING DISPUTES**

Section 4.1 Engineering Disputes. In the event that Developer disputes any recommendation, requirement, action, omission, or decision of the Third-Party Engineer, Developer shall notify the County and the Third Party Engineer within thirty (30) days of such recommendation, requirement, action, omission, or decision, and shall retain at its own expense a third-party engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms (the "Appealing Engineer") to review such recommendation, requirement, action, omission, or decision. The Third Party Engineer and the Appealing Engineer shall meet within thirty (30) days of such notice and shall employ good faith efforts to try to resolve such dispute. If the Third Party Engineer and the Appealing Engineer are unable to resolve such dispute within sixty (60) days of such notice, the Third Party Engineer and the Appealing Engineer shall agree upon a third engineer licensed in the State of Kansas with knowledge of the operation and decommissioning of wind farms (the "Deciding Engineer"), to be paid for by Developer, who shall have a maximum of sixty (60) days to review such recommendation, requirement, action, omission, or decision and render a decision which shall be binding upon the Parties. The Developer

execution version 10.19.2022

will reimburse the County for its reasonable expenses related to the additional expenses incurred by Third-Party Engineer and County. Developer shall then be given sixty (60) days to act upon such final decision. For the avoidance of doubt, neither the Wind Project nor any individual Generating Unit will be required to cease operation due to any disputed condition until the process described in this Section 4.1 has been fully completed, but the Developer agrees to comply with the decision of the Deciding Engineer.

## Section V. MISCELLANEOUS

Section 5.1 Preemption. Where a particular agreement with a landowner provides decommissioning requirements on private property covered by such agreement, the decommissioning terms and requirements of such agreement shall pre-empt the terms of this Agreement except as to any terms of this Agreement that apply to removal of a Tower. For the avoidance of doubt, decommissioning terms and requirements of an agreement shall pre-empt the terms of this Agreement with regard to Supporting Facilities on private property. Under no circumstance may another agreement allow for a deviation from this Agreement as it relates to Towers and the removal thereof, or as it relates to Wind Project improvements and the removal thereof that are located on, in or under property owned or managed by the County, or Right of Ways.

Section 5.2 No Waiver. The failure of either Party to insist in any one or more instances on the performance of any of the obligations required by the other under this Agreement shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

Section 5.3 Remedies; Cumulative. Developer shall pay to County the County's reasonable attorney and professional fees and other costs with respect to the County's pursuit and implementation of any and all enforcement, interpretation and remedies. If either Party hereto commences any action against any other party hereto with respect to the enforcement or interpretation of this Agreement, then the prevailing party in such action shall be entitled to an award of its costs of litigation, including reasonable attorney's fees. The rights and remedies of the Parties under this Agreement are cumulative and shall not exclude any other rights or remedies that the Party may have in law or in equity, except Developer does not have the right to terminate this Agreement, and County has a reasonable time under the circumstances to cure any default claimed by Developer.

Section 5.4 Notices. All notices, requests and other communications provided for herein (including any modifications, or waivers or consents under this Agreement) shall be given or made in writing via the methods allowed by the notice party below (including by telecopy) delivered to the intended recipient at the address set forth below or, as to any party, at such other address as shall be designated by such party in a notice to the other party. Except as otherwise provided herein, all notices and communications shall be deemed to have been duly given when transmitted by electronic mail with confirmation of receipt received, personally delivered, or in the case of a mailed notice, upon receipt, in each case given or addressed as provided herein. Notice is accomplished when as provided to a Party by this Section 5.4, a copy provided to a Party's legal counsel is merely a courtesy copy.



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To Developer:

Business Manager  
High Banks Wind, LLC  
700 Universe Boulevard, FEW-JB  
Juno Beach, FL 33408

Courtesy copy to:

Alan Claus Anderson  
Polsinelli PC, 900 W 48th Place, Suite 900  
Kansas City, MO 64112  
Phone Number: (816) 572-4761  
Email: aanderson@polsinelli.com

To County:

County Clerk  
Republic County, Kansas  
1815 M Street  
Belleville, KS 66935

Courtesy copy to:

County Counselor  
Republic County, Kansas  
1815 M Street  
Belleville, KS 66935

Section 5.5 Amendments. This Agreement may not be modified or amended or waived on behalf of a Party, except by an instrument in writing referring specifically to this Agreement executed by all of the parties to this Agreement as of the time of the modification or amendment. Any oral or verbal agreements between the Parties different from or in conflict with the provisions of this Agreement shall be null and void and of no force or effect where they are in conflict with the written provisions of this document.

Section 5.6 Successors and Assigns. This Agreement may be assigned by Developer upon written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed; except Developer may assign this Agreement without written consent to an affiliate, or mortgage, charge, pledge, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement. But, Developer may only assign this Agreement if the assignee: (A) assumes, agrees and acknowledges in writing that such assignee shall be bound by all terms and Developer obligations of and pursuant to all the Definitive Agreements, and (B) delivers to County replacement insurance evidence and financial security, and updated notice information; with copies of the proposed assignment, insurance evidence and financial security provided to County for review at least 30 days prior to the assignment effectiveness; the replacement insurance evidence and financial security delivered to County by the effective date of the assignment; and a copy of the assignment within 10 days of its effectiveness. Upon such assignment all of Developer's rights and obligations shall inure to the benefit of and shall be binding upon the Developer's assignee and its respective successors, assignees and legal representative.

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Section 5.7 Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the instrument. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be as effective as delivery of an originally signed counterpart to this Agreement.

Section 5.8 Severability. If any provision hereof is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by applicable law: (a) the other provisions hereof shall remain in full force and effect in such jurisdiction in order to carry out the intentions of the Parties as nearly as may be possible; and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction; and (c) the Parties will promptly and continuously work reasonably and in good faith to amend the Definitive Agreements to implement the invalid or unenforceable provision as closely as possible to carry out the intentions of the Parties regarding the Definitive Agreements.

Section 5.9 Headings; Terms. Headings appearing herein are used solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 5.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas without regard to conflicts of laws provisions. Venue is only proper in Kansas state district court located in Republic County, Kansas, or federal district court located in Wichita, Kansas.

Section 5.11 Entire Agreements. The initial effectiveness of this Agreement is contingent upon both Parties fully and concurrently executing and delivering this Agreement, plus a Road Use Agreement, Development Agreement, and Contribution Agreement (collectively, the “Definitive Agreements”), which together collectively constitute the entire agreement between the Parties regarding the Wind Project, and supersede all offers, negotiations and other agreements. There are no representations or undertakings of any kind not set forth in the Definitive Agreements.

Section 5.12 Interpretation. This Agreement was prepared with substantial input from both Parties and their respective legal counsel; no phrase, sentence, clause, provision or section of this Agreement shall be construed against a Party as a result of such Party’s legal counsel having acted as the primary drafter thereof

Section 5.13 Time is of the Essence. Time is of the essence of this Agreement, and of each and every provision hereof, and the Parties shall make every reasonable effort to expedite the subject matters hereof and to perform their respective obligations.

Section 5.14 Recitals. The recitals set forth above constitute a material part of this Agreement, and are incorporated herein. The Parties confirm the accuracy, truth and validity of said recitals.

Section 5.15 Term. The term of this Agreement (the “Term”) shall commence on the Effective Date and shall continue until such time as the Decommissioning Services are completed pursuant to the terms of this Agreement.

*execution version 10.19.2022*

Section 5.16 Due Authorization. Developer hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Developer. The County hereby represents and warrants that the current County Commission and Commissioners signing this Agreement (i) have not taken any action on behalf of the County, and (ii) do not have actual knowledge (without any duty to investigate or inquire) that a prior County Commission took any action on behalf of the County, to restrict the signing Commissioners' authority to execute and deliver this Agreement on behalf of the County. Except for the express terms of the immediately preceding sentence: Developer agrees to rely solely on its own interpretation, with the assistance of legal counsel, regarding whether this Agreement is valid and enforceable under Kansas and applicable law. Additionally, Developer agrees to not challenge the validity or enforceability of any term of this Agreement.


**[REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK; SIGNATURE  
PAGES FOLLOW.]**

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IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement to be effective as of the Effective Date.

**DEVELOPER:**

HIGH BANKS WIND, LLC,  
a Delaware limited liability company

By:  \_\_\_\_\_  
Anthony Pedroni, Vice President

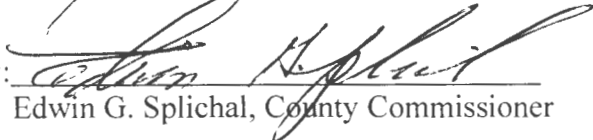
**[SIGNATURE PAGE OF DEVELOPER TO DECOMMISSIONING AGREEMENT.]**

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement to be effective as of the Effective Date.

**THE COUNTY:**


THE BOARD OF COUNTY COMMISSIONERS OF REPUBLIC COUNTY, KANSAS

By:   
Doug Garman, County Commissioner -- Chairman

By:   
Edwin G. Splichal, County Commissioner

By:   
Melvin Jeardoe, County Commissioner

ATTEST:

By:   
Kathleen Marsicek, County Clerk

*Reviewed and approved by:*

  
Justin Ferrell, County Counselor

**[SIGNATURE PAGE OF COUNTY TO DECOMMISSIONING AGREEMENT.]**



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**EXHIBIT A**

**Approved Engineering Firms**

Kirkham Michael  
Black & Veatch  
Burns & McDonnell  
BG Consultants