

**When recorded, please return to:**  
Zilkha Renewable Energy, LLC  
1001 McKinney Street, Suite 1740  
Houston, Texas 77002  
Phone (713) 265-0252  
Leslie A. Freiman, Esq.

---

## MEMORANDUM OF WIND FARM NEIGHBOR EASEMENT AGREEMENT

~~\_\_\_\_\_~~ and ~~\_\_\_\_\_~~ and their successors and assigns ("Owner"), and High Trail Wind Farm, LLC, a Delaware limited liability company and its successors and assigns ("Grantee"), have executed a Wind Farm Neighbor Easement Agreement ("Easement Agreement") and have agreed to record this memorandum ("Memorandum") solely to give notice of the existence of the Easement Agreement. This Memorandum does not amend, supplement or supersede the Easement Agreement, which will govern if any provision of this Memorandum conflicts with or is inconsistent with any provision of the Easement Agreement.

**Easements and Other Provisions:** The Easement Agreement includes a grant of Effects, Sound and Shadow Easements in connection with a commercial wind power project ("Wind Farm") affecting Owner's Property, which Property is described on the attached copy of **Exhibit A**. The Easement Agreement also includes provisions regarding construction impacts and television reception.

**Term:** The Easements and other agreements contained in the Easement Agreement run with the land. The term of the Easement Agreement and the Easements ("Term") began on \_\_\_\_\_, 2004 and shall end on the date that is thirty (30) years following the date on which the Wind Farm begins Commercial Operation. "Commercial Operation" for purposes of the Easement Agreement shall mean the date on which Grantee first delivers electrical power for sale from Generating Units located on the Wind Farm Property. Upon termination of the Easements, Grantee shall file a termination of the Easements in the public records.

**Mortgages and Assignments:** Grantee may, upon notice to Owner, but without need to obtain Owner's consent or approval: (i) mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Easement Agreement and the Easements; and (ii) assign or otherwise convey all or part of its interest in this Easement Agreement and the Easements to third parties. Owner may sell, mortgage, assign or convey away all or a part of Owner's interest in Owner's Property without consent of Grantee, but any conveyance shall be subject to the terms of the Easement Agreement.

## WIND FARM NEIGHBOR EASEMENT AGREEMENT

This Wind Farm Neighbor Easement Agreement (this "Easement Agreement") is made, dated and effective as of \_\_\_\_\_, 2004 (the "Effective Date") by and between \_\_\_\_\_ [a husband and wife],[an individual] residing at \_\_\_\_\_ Ellsworth, Illinois 61737 and his/her][their] successors and assigns ("Owner"), and High Trail Wind Farm, LLC, a Delaware limited liability company, with an office at 1001 McKinney, Suite 1740, Houston, Texas 77002, and its successors and assigns ("Grantee"). Owner and Grantee may hereafter be referred to herein individually as a "Party" and together as the "Parties".

### RECITALS

- A. Owner owns the real property legally described on **Exhibit A**, attached hereto and made a part hereof ("Owner's Property").
- B. Zilkha Renewable Energy, LLC, a Delaware limited liability company ("Zilkha"), has been developing (through the Grantee) an electric-generating wind power project in one or more phases ("Wind Farm") in McLean County, Illinois ("Wind Farm Property"). The Wind Farm may be built in one or more phases over a period of several years. Grantee expects that some of the wind turbine generators, including associated towers, foundations, and support structures (collectively the "Generating Units") and meteorological towers ("Met Towers") comprising one or more phases of the Wind Farm will be installed on land adjacent to or near Owner's Property.
- C. Although Grantee is taking commercially reasonable measures to minimize the side-effects of the operation and construction of the Wind Farm's Generating Units and other related facilities on property near or adjacent to the Wind farm, including Owner's Property, and Grantee does not expect these side effects to exceed any industry standards regarding noise, shadow flicker, or television interference, Owner understands and accepts that operation of Generating Units may have some impacts on the Wind Farm's neighbors, including the Owner's Property.
- D. Grantee and Owner believe it is in their mutual best interest to enter into this Easement Agreement to document their expectations as to possible side effects of construction and operation of the Wind Farm. Also, although no Generating Units or other related facilities of the Wind Farm are planned for Owner's Property, Grantee wishes to obtain Effects, Sound and Shadow Easements from landowners who are neighbors of the Wind Farm for the benefit of the Wind Farm and as an opportunity to provide Owner with certain economic benefits to accrue from operation of the Wind Farm.

### AGREEMENT

1. Effects Easement. Owner grants to Grantee an easement, right and entitlement on, over, across and under Owner's Property for any audio, visual, view, light, vibration, air turbulence,

wake, electromagnetic, ice or other weather created hazards or other effect of any kind whatsoever resulting directly or indirectly from any (a) operations or activities of any Wind Farm or (b) the facilities of any Wind Farm now or hereafter located on the Wind Farm Property. Owner agrees to consult with and obtain Grantee's prior written approval, in Grantee's sole discretion, as to the location of all new structures greater than sixty-five (65) feet in height proposed for Owner's Property.

2. Sound Easement. Owner grants Grantee an easement, right and entitlement on, over, across and under Owner's Property for any sound level (audible or otherwise) in excess of fifty (50) dB(A). As measured at the outer walls of any occupied residence sound shall not exceed the greater of: (i) a contribution from the Generating Units of fifty (50) dB(A), or (ii) a rise of sound level of six (6) dB(A) over ambient sound levels. Generating Units shall be considered to be in compliance with these sound level standards unless three sound measurements taken at the outer wall of any presently existing, occupied residence on Owner's Property within a one hour period, but separated by at least ten minutes, all exceed the above sound level standards. Measurements shall be conducted by an independent professional sound consultant applying commonly accepted measurement instruments and standards. If sound levels as measured by the independent professional exceed those permitted under this paragraph, Grantee shall, at its expense, attempt to reduce the sound level increases caused by the Generating Units at the outer wall of the residence to comply with the sound level standards set forth in this Section 2. Measures to be taken by Grantee may include, in Grantee's sole discretion, installing landscaping, insulation, or other sound barriers at agreed locations on or off Owners' Property; or installing insulation or sound deadening material in the offending generating Unit(s).

3. Shadow Easement. Owner grants Grantee an easement, right and entitlement, on, over, across and under Owner's Property for any shadows cast by the Generating Units and Met Towers, wherever located, onto Owner's Property. If in Owner's judgment the shadows cast at any presently occupied residence on Owner's Property substantially interfere with the use and enjoyment of the residence, Grantee shall promptly investigate the nature and extent of the problem and the best methods of correcting any problems found to exist. Grantee, at its expense and with agreement of Owner which shall not be unreasonably withheld, will then promptly undertake measures such as tree planting or installation of awnings, draperies or other window treatments necessary to mitigate the effects of the offending shadow.

4. Television Reception. Owner grants to Grantee the right to test television signal strength and reception at any residence on Owner's Property before and at reasonable intervals after Grantee builds the Wind Farm. In the unlikely event that the existence or operation of any Wind Farm significantly interferes with or degrades television signal reception at any existing residence on Owner's Property, Grantee shall, at its expense and with the full cooperation of Owner, promptly investigate and within a reasonable time correct any degradation of television signal reception actually caused by such Wind Farm. Correction measures may include, in Grantee's sole discretion, installation of television signal boosters serving the general area of the Wind Farm, installation of antenna or signal booster equipment on Owner's Property, installation of and payment for cable, dish TV or similar devices serving Owner's Property, or repair or replacement of television receivers.

**When recorded, please return to:**  
Zilkha Renewable Energy, LLC  
1001 McKinney Street, Suite 1740  
Houston, Texas 77002  
Phone (713) 265-0252  
Leslie A. Freiman, Esq.

---

## MEMORANDUM OF WIND FARM NEIGHBOR EASEMENT AGREEMENT

~~\_\_\_\_\_~~ and ~~\_\_\_\_\_~~ and their successors and assigns ("Owner"), and High Trail Wind Farm, LLC, a Delaware limited liability company and its successors and assigns ("Grantee"), have executed a Wind Farm Neighbor Easement Agreement ("Easement Agreement") and have agreed to record this memorandum ("Memorandum") solely to give notice of the existence of the Easement Agreement. This Memorandum does not amend, supplement or supersede the Easement Agreement, which will govern if any provision of this Memorandum conflicts with or is inconsistent with any provision of the Easement Agreement.

**Easements and Other Provisions:** The Easement Agreement includes a grant of Effects, Sound and Shadow Easements in connection with a commercial wind power project ("Wind Farm") affecting Owner's Property, which Property is described on the attached copy of **Exhibit A**. The Easement Agreement also includes provisions regarding construction impacts and television reception.

**Term:** The Easements and other agreements contained in the Easement Agreement run with the land. The term of the Easement Agreement and the Easements ("Term") began on \_\_\_\_\_, 2004 and shall end on the date that is thirty (30) years following the date on which the Wind Farm begins Commercial Operation. "Commercial Operation" for purposes of the Easement Agreement shall mean the date on which Grantee first delivers electrical power for sale from Generating Units located on the Wind Farm Property. Upon termination of the Easements, Grantee shall file a termination of the Easements in the public records.

**Mortgages and Assignments:** Grantee may, upon notice to Owner, but without need to obtain Owner's consent or approval: (i) mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Easement Agreement and the Easements; and (ii) assign or otherwise convey all or part of its interest in this Easement Agreement and the Easements to third parties. Owner may sell, mortgage, assign or convey away all or a part of Owner's interest in Owner's Property without consent of Grantee, but any conveyance shall be subject to the terms of the Easement Agreement.

if such be the case), consents to assignment and non-disturbance agreements as Grantee or any Mortgagee may reasonably request at any time and from time to time. Owner and Grantee shall cooperate in (i) amending this Easement Agreement from time to time to include any provision that may be reasonably requested by Grantee or Owner or any Mortgagee to implement the provisions contained in the Easement Agreement or to preserve a Mortgagee's security interest and (ii) executing any documents which may reasonably be required by Grantee or a Mortgagee. Owner shall request any of Owner's lenders to execute an agreement of non-disturbance from any Mortgagee with respect to Grantee's interest in the Owner's Property.

11. Overburdening. Owner hereby agree that (i) no use of or improvement to Owner's Property permitted by this Easement Agreement and (ii) no apportionment, Assignment or granting of a subeasement thereof shall, separately or in the aggregate, constitute an overburdening of the Easements.

12. Covenants Running With the Land. The Parties hereby agree that all of the covenants and agreements contained in this Easement Agreement touch and concern the real estate described in this Easement Agreement and are expressly intended to, and shall, be covenants running with the land and shall be binding and a burden upon Owner's Property and each Parties' present or future estate or interest therein and upon each of the Parties, their respective heirs, administrators, executors, legal representatives, successors and assigns as holders of an estate or interest in the Owner's Property (including without limitation, any Mortgage, lender or other person acquiring title from any such person upon foreclosure or by deed in lieu of foreclosure), and shall benefit Grantee and its respective heirs, administrators, executors, legal representatives, successors and assigns and the Wind Project Property.

13. Further Acts and Assurances. Each Party hereby agrees that each shall execute such additional documents or instruments, and shall undertake such actions as are necessary and appropriate to effectuate the intent of this Easement Agreement, including in the case of Owner, such additional documents as may be reasonably required by any Mortgagees and Assignees.

14. Entire Agreement. This Easement Agreement constitutes the entire agreement between Owner and Grantee and no promises or representations, express or implied, either written or oral, not herein set forth shall be binding upon or inure to the benefit of Owner and Grantee. This Easement Agreement shall not be modified by any oral agreement, either express or implied, and all modifications hereof shall be in writing and signed by both Owner and Grantee.

15. Remedies. If Grantee violates the terms or conditions of this Easement Agreement, Owner shall be entitled to any remedy available under applicable law or equity, subject to the default provisions contained herein; provided, however, that no such default shall result in a termination of the Easements granted by this Easement Agreement. The Easements shall not be terminable by Owner under any circumstances. If Owner violates the terms or conditions of this Easement Agreement, Grantee shall be entitled to any remedy available under applicable law or equity. Grantee shall have the right to terminate this Easement Agreement at any time, by giving written notice of termination to the Owner.

16. Severability and Parties Bound. The enforceability, invalidity, or illegality of any provisions of this Easement Agreement shall not render the other provisions hereof unenforceable, invalid or illegal. This Easement Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and the assigns of the respective Parties hereto. Upon transfer of Owner's interest in Owner's Property, or the interest of Grantee in this Easement Agreement, the transferring party shall be deemed released from further obligation or liability hereunder as to matters first arising after such transfer.

17. Notices. Any notice to be given hereunder or which either Party wishes to give to the other shall be in writing and may be delivered personally to the other or given by mailing by depositing the same in the U.S. Mail, with all postage and certification charges thereon prepaid, in a sealed envelope and sent by registered or certified mail with return receipt requested, addressed as follows:

If to Owner: [REDACTED] and [REDACTED]  
[REDACTED]  
Ellsworth, Illinois 61737

If to Grantee: High Trail Wind Farm, LLC  
c/o Zilkha Renewable Energy, LLC  
1001 McKinney Street  
Suite 1740  
Houston, Texas 77002  
Attn: Bob Crowell  
Telephone: 713-265-0249  
Facsimile: 713-571-6659

With copy to: Zilkha Renewable Energy, LLC  
1001 McKinney Street  
Suite 1740  
Houston, Texas 77002  
Attn: Leslie Freiman, Esq.  
Telephone: 713-265-0265  
Facsimile: 713-571-6659

or to such other address as either Party shall hereafter specify by written notice to the other. Any notice shall be deemed delivered three days after deposit in the mail in accordance with the foregoing provision.

18. Attorneys' Fees. If any event or dispute arising out of or relating to this Easement Agreement and resulting in litigation or arbitration between or affecting the Parties hereto, the prevailing Party shall be entitled to reasonable attorneys' fees and costs.

19. Waiver. The waiver of any covenant, condition, or agreement contained here shall not vitiate this Easement Agreement or any of the Easements, terms, covenants, or provisions herein. The waiver of the time for performing any act shall not constitute the time for performing any other act or any identical act required to be performed a

20. Governing Law. This Easement Agreement shall be governed by the law of Illinois.

21. Counterparts. This Easement Agreement may be executed in counterparts, and each shall be deemed an original and all of which when taken together shall constitute the same document.

22. Confidentiality. Owner shall not disclose to others (except Owner's counsel, prospective Mortgagees and Assignees, and financial advisors who recognize and agree to preserve and maintain the confidentiality of such information) the terms of this Agreement.

23. Memorandum. The Parties agree Grantee may record the memorandum of this Agreement attached as **Exhibit C** in the official land records of McLean County. This Easement Agreement shall not be recorded.

**SIGNATURES TO FOLLOW ON NEXT PAGE**

IN WITNESS WHEREOF, Owner and Grantee have caused this Easement to be executed and delivered as of the Effective Date.

**OWNER(S)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**GRANTEE**

HIGH TRAIL WIND F.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Social Security Number(s)**

\_\_\_\_-\_\_\_\_-\_\_\_\_

\_\_\_\_-\_\_\_\_-\_\_\_\_



**EXHIBIT B**  
**PAYMENT SCHEDULE**

**Construction Impact Payments**

Total Amount equal to Five Hundred Dollars (\$500) payable in two installments as follows:

- \$250 upon signing this Easement Agreement.
- \$250 at the Commencement of Construction of the Wind Farm. For purposes of this payment, "Commencement of Construction" shall mean the date on which commencement of excavation, installation or construction of the Wind Farm begins and shall not include the date on which preliminary inspections, tests or surveys needed to evaluate the feasibility of any Wind Farm are conducted.

**Payment for Easements and Other Agreements**

Annual payments of \$1,000.00 in arrears on or before December 31 of each calendar year (prorated for partial years) beginning at the end of the calendar year in which the date of Commercial Operation of the Wind Farm occurs and continuing until the earlier to occur of (i) the expiration of the Term, (ii) termination by Owner as described in the Easement Agreement, or (iii) the date the Wind Farm ceases operations. The Date of Commercial Operation shall mean the date on which Grantee first delivers electrical power for sale from Generating Units located on the Wind Farm Property. Easement payments will escalate annually with the United States Consumer Price Index each year to adjust for inflation with a minimum increase of 2% each year.

Notwithstanding anything herein to the contrary, Grantee shall not be required to make any payments hereunder unless and until a wind turbine generator is constructed within twenty-five hundred (2,500) feet of any occupied residential structure on Owner's Property existing on the Effective Date, such distance as measured from the center of the wind turbine generator foundation to the nearest outer wall of such structure.