

Recorded: 4/10/2024 at 1:05:02.0 PM  
County Recording Fee: \$22.00  
Iowa E-Filing Fee: \$3.00  
Combined Fee: \$25.00  
Revenue Tax: \$0.00  
Delaware County, Iowa  
Daneen Schindler RECORDER  
BK: 2024 PG: 770

Prepared by/Return to: Kelli J. Orton, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309, 515.242.2400  
Previously Recorded Instrument: Book 2011, Page 552; Book 2011, Page 3663; Book 2023, Page 2859; Book 2015, Page 2893

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### NONDISTURBANCE AND ATTORNMENT AGREEMENT

**THIS NONDISTURBANCE AND ATTORNMENT AGREEMENT** (this “**Agreement**”), is made and entered into as of this 15 day of MARCH 2024, (the “**Effective Date**”), by and between Kevin Perrinjaquet (“**Producer**”), and Elk Wind Energy, LLC, an Iowa limited liability company (“**Elk Wind**”). Producer and Elk Wind are collectively referred to herein as the “**Parties**”.

A. James F. Funke and the Michael J. Funke Revocable Trust (collectively, “**Owner**”), are the owners of fee simple title to the real property located in Delaware County, Iowa, legally described in the attached Exhibit A, attached hereto and incorporated herein by this reference (the “**Property**”).

B. Owner (as successor in interest to Kathleen E. Funke) and Elk Wind are the parties to that certain Wind Farm Easement Agreement, dated as of December 22, 2010, as evidenced by a certain Memorandum of Wind Farm Easement Agreement recorded in the Office of the Recorder of Delaware County, Iowa (the “**Recorder’s Office**”), on February 10, 2011 at Book 2011, Page 552, and as amended by a certain Supplemental Exhibit recorded in the Recorder’s Office on November 15, 2011 at Book 2011, Page 3663 (collectively, the “**Agreement**”), and as further amended by (i) the First Amendment to Wind Farm Easement Agreement dated September 16, 2022 and (ii) the Second Amendment to Wind Farm Easement Agreement dated October 25, 2023 (the “**Second Amendment**”), as evidenced by a certain Second Amendment to Wind Farm Easement Agreement recorded in the Recorder’s Office on November 13, 2023, at Book 2023, Page 2859 (collectively, the “**Easement**”).

C. Owner granted a Manure Application Agreement to Producer against the Property (the “**Manure Agreement**”), which was recorded in the Recorder’s Office on October 22, 2015, at Book 2015, Page 2893.

D. The Parties desire to enter into this Nondisturbance and Attornment Agreement (this “**Agreement**”) to address Elk Wind’s rights under the Second Amendment, which was entered into and recorded after the date of the Manure Agreement.

## AGREEMENT

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

1. **Subordination.** Whatever right, title, lien, estate and interest Producer now has or may hereafter acquire in the Property by virtue of the Manure Agreement shall be junior, inferior and subordinate to the rights of Elk Wind, its successors and assigns, under the Second Amendment.

2. **Non-Disturbance.** So long as the Easement and Second Amendment are in full force and effect, Producer shall not disturb Elk Wind's use and possession of the Easement Properties, nor shall Baumler disturb any other rights in the Property granted Elk Wind in the Easement Agreement or Second Amendment, or do anything that would materially interfere with the construction, operation and maintenance of the Wind Farm.

3. **Recitals Adopted and Incorporated.** The Parties hereby adopt and incorporate into this Agreement fully, the Recitals set forth above.

4. **Successors and Assigns.** This Agreement shall run with the land and shall be binding upon and inure to the benefit of the Parties and the respective heirs, administrators, executors, legal representatives, successors and assigns of the Parties.

5. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

6. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument.

7. **Entire Agreement Between the Parties.** This Agreement shall be the whole, entire and only agreement between the Parties with regard to the attainment of the Mortgage and non-disturbance of the Easement. This Agreement shall not be further amended, supplemented or revised only in writing, signed by the Parties.

[Signature pages follow]

**EXHIBIT A**  
**[Legal Description]**

Lot 3 in the Northwest Quarter of the Northwest Quarter (NW 1/4 NW 1/4) of Section Seven (7), Township Ninety (90) North, Range Four (4) West of the 5<sup>th</sup> P.M., in Delaware County, Iowa, as shown on the Plat of Survey recorded June 7, 1988, in Book 6 of Plat Records, page 9, Excepting therefrom the following described parcel of land; Parcel B as shown on the Plat of Survey recorded June 12, 2002, in Book 2002, page 2185.

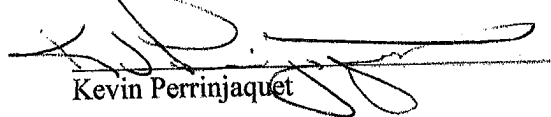
AND

The North One-half of the Southwest Quarter (N 1/2 SW 1/4) and the South One-half of the Northwest Quarter (S 1/2 NW 1/4), of Section Seven (7), Township Ninety (90) North, Range Four (4) West of the 5<sup>th</sup> P.M., in Delaware County, Iowa; Excepting therefrom the following described parcel of land: Parcel C, as shown on the Plat of Survey recorded June 12, 2002, in Book 2002, page 2185.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Producer:

KEVIN PERRINJAQUET

  
Kevin Perrinjaquet

STATE OF Florida )  
COUNTY OF Delaware ) SS:

This record was acknowledged before me on March 15, 2024 by \_\_\_\_\_,  
Kevin Perrinjaquet.



  
NOTARY PUBLIC IN AND FOR SAID STATE