

## AGREEMENT FOR USE AND RESTORATION OF HAUL ROADS

**THIS AGREEMENT FOR USE AND RESTORATION OF HAUL ROADS** (this "Agreement") is made and entered into as of July 16, 2019 (the "Effective Date") by and between the **HIDEWOOD TOWNSHIP, SOUTH DAKOTA** ("Township"), and **TATANKA RIDGE WIND, LLC**, a Delaware limited liability company ("Tatanka").

### RECITALS

WHEREAS, Tatanka is constructing a wind power project in Deuel County, South Dakota and finds it necessary or desirable to utilize a portion of public roads in Hidewood Township as further set forth on the attached and incorporated Exhibit A ("Haul Route") for the conveyance of construction equipment and project materials; and

WHEREAS, Tatanka intends to restore all roads used for Tatanka's construction purposes to their preconstruction condition; and

WHEREAS, Township consents to Tatanka's planned use of the Haul Route to convey construction equipment and project materials subject to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual and independent covenants and any and all other requirements, agreements and covenants, all as set forth above and below, the parties hereto agree to the foregoing Recitals and as follows:

1. Purpose. This Agreement is intended to address the traffic and the potential for the expected accelerated deterioration and/or damage to Township Roads caused by Tatanka's vehicles and equipment on specific roads. The parties understand Tatanka will utilize a Contractor to perform the transportation of materials, restoration and other associated work.

2. Definitions.

A. Maintenance/Maintain. "Maintenance" and "Maintain" means subgrade repair, grading, graveling, reshaping of cross section, and other general repair on Haul Roads as part of Tatanka's use of Township Roads.

B. Township Road. "Township Road" means a street, road, or other public way, including shoulders and right-of-way designated for the purpose of vehicular traffic and under the jurisdiction of the Township.

C. Haul Road. "Haul Road" means a Township Road which is a part of the Haul Route.

D. Improvements. "Improvements" mean changes to Haul Roads consisting of, but not limited to, roadway widening, changes in longitudinal profile, changes to ditches, changes to drainage or drainage structures, changes in access to private property or other roadway improvements deemed material by Township because of Tatanka's use of the Haul Route. Improvements may be made by Tatanka before use, during use or after use of the Haul Roads to

provide a safely maintained road for the mutual benefit of Tatanka's contractor and the traveling public.

3. Term. The term of this Agreement and the rights granted and obligations incurred herein begin as of the effective date and end on December 1, 2019, unless extended by a mutual written agreement.

4. Pre-construction Inspection. Within thirty (30) days after the Effective Date, authorized representatives of Tatanka and Township will inspect the Haul Roads to determine and record the existing condition of the Haul Roads, including the width of sub grade, type, thickness and width of surfacing material in place and type, size location and condition of drainage structures as well as other roadway appurtenance prior to start of construction. After making said inspection and recording the existing condition of the Haul Roads, the parties shall sign the inspection report, agreeing to the conditions stated therein. The record of this inspection shall be set forth on Appendix E –Hidewood Township Haul Route Inspection Report, and the form will document the signatures.

5. Road Construction and Maintenance. After both parties have signed Appendix E – Hidewood Township Haul Route Inspection Report and no earlier than thirty (30) days after Tatanka's pre-construction inspection, Tatanka will promptly begin construction on the Haul Route to upgrade and widen the roads as needed for Tatanka's purposes and use. Tatanka will construct and maintain the Haul Route in good condition and repair during the term of this Agreement so the Haul Route is passable in all weather conditions (with the exception of heavy rain events).

6. Restoration of Roads. After Tatanka has finished using the Haul Route, Tatanka will restore the Haul Roads to the same condition, or better, as that set forth on Appendix E – Hidewood Township Haul Route Inspection Report. Restoration includes, but is not limited to, subgrade condition, thickness and gradation of gravel, roadway profile, shoulders, culverts, bridges, ditches, and other structures affected as a result of the use of a Township Road as a Haul Road. So long as Tatanka receives written notice from Township by September 1, 2019 of any of Tatanka's changes to the Haul Route that Township wants left intact (for example, if a Township Road was widened by Tatanka and Township wants the road to be kept in its widened state past November 1, 2019), Tatanka will honor Township's request. Township will send any such notice to Tatanka at: Jebby Varughese, Manager – Project Engineering, Two Radnor Corporate Center, Suite 200, 100 Matsonford Rd, Radnor, PA 19087.

7. Additional Provisions. Tatanka hereby agrees to utilize the roads as set forth in Exhibit A to this Agreement as the designated and approved Haul Route pursuant to the terms and conditions set forth herein.

No deviation from the Township Roads designated and approved is authorized without prior written approval of Township. Failure to comply is a basis for revocation of Township's authorization for use of the Township Roads. New or expanded hauling operations requiring an extension of time or new haul roads must be approved in writing by Township prior to any use by Tatanka.



Tatanka must not make improvements to approved Haul Roads without the prior approval of Township. Improvements which promote public safety of the travelling public and are deemed reasonable by Township will be permitted. Township reserves the right to require Tatanka to remove improvements at the end of this agreement if Township determines the improvements may compromise public safety or do not fit with future plans of Township.

During Haul Road use, Tatanka agrees to maintain the approved Haul Route in a condition necessary to provide safe travel and in at least the same condition which existed prior to Tatanka's use of the roads. Maintenance shall be done on a continual basis. Soft subgrades, gravelling, reshaping, etc., shall be performed within seventy-two (72) hours after the need for the same is discovered or brought to the attention of Tatanka.

Tatanka shall provide dust suppression for the Haul Route, as deemed reasonably necessary by Tatanka or its contractor. At a minimum, Tatanka shall provide a water truck for the purposes of dust suppression during all times Tatanka is using the Haul Roads. The required water application rate shall be adequate to keep dust down but shall not be such that muddy conditions and/or ruts form. Tatanka may use other dust suppression chemicals instead of water on a schedule commensurate with the chemical used.

Township reserves the right to also perform maintenance on any Township Road, including Haul Roads, as part of Township's regular maintenance, including maintenance that may impact Tatanka's use as Haul Roads. Township will give Tatanka reasonable advance notice prior to performing maintenance on any Haul Roads during the term of this Agreement.

Township roads, subject to maintenance pursuant to this Agreement shall be maintained in accordance with best practices, applicable SDDOT standards of gravel road maintenance, and the "Gravel Roads Construction & Maintenance Guide" published by the South Dakota Local Transportation Assistance Program (LTAP).

Recycled or reclaimed materials may not be used to maintain, improve or restore Haul Roads.

Tatanka shall be responsible for obtaining any other permits or licenses which Township or any other governmental entity may require to operate or move its equipment or vehicles on Township roads.

This Agreement shall not serve to relieve Tatanka's Contractor from complying with applicable speed limits.

Any improvements to Township Roads, including but not limited to modifications of all repairs and restoration, shall be completed within thirty (30) calendar days after the end of use of the Haul Route, or after the end date specified above, whichever occurs first. Adverse weather conditions shall be considered an appropriate cause for an extension of this requirement.

In the event the repairs are not made as required by this Agreement, then in that event Township shall obtain a bid to complete the work necessary to restore the road(s) to their previous condition, and Tatanka shall be responsible for the cost of said repairs. Township shall contact Tatanka at the telephone numbers and email addresses listed below hereinafter. Tatanka shall have seven (7) days, exclusive of weekends, to complete any repairs required by this

Agreement unless the necessary repairs cannot be reasonably completed in such time period, in which case the repairs will be completed as quickly as practicable. In the event the repair work is not done, Township has the right to authorize the work to be done at the expense of Tatanka. Upon completion of the repair work, Tatanka shall be billed the direct costs of the repair and the invoice shall be paid in full within thirty (30) days of receipt of the bill. In the event the bill is not paid, interest shall commence at the rate of ten (10%) percent per annum.

If Tatanka fails to perform any provision in this Agreement, Township reserves the right to revoke this Agreement at any time, after giving Tatanka written notice of non-compliance and upon the expiration of seven (7) days thereafter for Tatanka to remedy the alleged noncompliance.

8. County and Sherman Township Roads Not Subject to this Agreement. This Agreement does not govern the use or restoration of Deuel County roads and highways and Sherman Township roads, which are addressed in separate agreements.

9. Liability. In consideration of Township consenting to and allowing the roads described herein to be used as the Haul Route during the time specified herein, Tatanka hereby covenants and agrees to hold harmless and indemnify Township, its officials, officers, employees and agents from any and all losses, expenses, damages, demands and claims in connection with or arising out of any injury or alleged injury to any person(s) including death, and damage or alleged damages to personal or real property, sustained or alleged to have been sustained in connection with, or arising out of Tatanka's negligent use of the Township roads herein designated as Township Roads in the Haul Route. Tatanka agrees to defend any suit or action brought against Township, its officials, officers, employees and agents, or any of them, based upon such alleged injury or damage to pay any and all damages, costs or expenses, including Township's attorney's fees in connection with or resulting therefrom.

10. Post-Construction Survey. Before October 21, 2019, the parties will perform a post-construction survey and identify any damage done to the Haul Route that is the responsibility of Tatanka to repair. Tatanka shall complete all repairs to such damage by December 1, 2019, unless this date is extended by mutual agreement.

11. Final Inspection. A final inspection will be held by representatives of Tatanka and Township in June, 2020 to determine that no further restoration is required due to settling or other factors, and if further restoration is required, Tatanka will complete the additional restoration within sixty (60) days.

12. General Terms.

A. Compliance with Laws and Regulations: Tatanka shall comply with all Federal, State, and local laws and regulations.

B. Severability: If any portion of this Agreement is held to be invalid it shall have no effect upon the validity of the remaining portions of this Agreement.

C. Scope and Construction of Terms: The definitions in this Agreement shall control the meaning of the term used herein. Where no definition is expressly stated herein, a term shall



have that meaning clearly indicated by, or reasonably implied from, the context in which such term is used.

D. Notification: All notices and oral or written communications relating to this Agreement, unless stated otherwise in this Agreement, shall be sent to:

Tatanka Ridge Wind, LLC  
930 Pleasant Lane  
North Liberty, IA 52317  
(319) 626-2512  
Email: jbermel@avangrid.com  
Attn: Jesse Bermel

Tatanka Ridge Wind, LLC  
Attn: Contracts Administration  
1125 NW Couch, Suite 700  
Portland, OR 97209  
(503) 241-3222  
Email: contract.admin@avangrid.com

Hidewood Township  
~~160 Zeff Ave.~~ 47142 188<sup>th</sup> Street  
~~Hidewood, SD 57030~~ Estelling, SD 57234  
Aaron Dahl  
Attn: Clerk

E. Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Dakota.

F. Counterparts: This Agreement may be executed by different parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall constitute one and the same instrument.

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Township and Tatanka have caused this Agreement to be executed and delivered by their duly authorize representatives.

HIDEWOOD TOWNSHIP, SOUTH DAKOTA

Vince Parker  
By: Vince Parker  
Its: Chairman

STATE OF SOUTH DAKOTA     )  
  ): ss  
COUNTY OF DEUEL         )

On this the 26<sup>th</sup> day of March, 2019, before me, the undersigned officer personally appeared Vince Parker, who acknowledged himself herself to be the Chairman of Hidewood Township, South Dakota, a political subdivision of the State of South Dakota, and that he/she, as such representative being so authorized to do, executed the foregoing instrument by signing the name of Hidewood Township, South Dakota by himself/herself as Chairman thereof.

In witness whereof I hereunto set my hand and official seal.



Scott T. Pulse  
Notary Public, South Dakota  
My commission expires: May 31, 2019



IN WITNESS WHEREOF, Township and Tatanka have caused this Agreement to be executed and delivered by their duly authorize representatives.

TATANKA RIDGE WIND, LLC,  
a Delaware limited liability company

LEGAL  
*[Signature]*

*[Signature]*  
Name: **Jesse Gronner**  
Title: Authorized Representative

*[Signature]*  
Name: **Jeremy Aird**  
Title: Authorized Representative

STATE OF OREGON                     )  
  ): ss  
COUNTY OF MULTNOMAH        )

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Jesse Gronner and Jeremy Aird as the Authorized Representatives of Tatanka Ridge Wind, LLC, a Delaware limited liability company.

In witness whereof I hereunto set my hand and official seal.

SEAL



*[Signature]*  
Notary Public for the State of Oregon  
My commission expires:

**Exhibit A**  
**List of Roads and Visual Depiction of Haul Route**

Tatanka Ridge Wind, LLC will be using the following haul roads in Deuel County, South Dakota:

Streets

189<sup>th</sup> Street from 472<sup>nd</sup> Ave to 471<sup>st</sup> Ave (OK)

472 Ave. 189 St. 188 St.

Avenues

471<sup>st</sup> Ave from 189<sup>th</sup> Street to 188<sup>th</sup> Street

472 187.5 188

County

471<sup>st</sup> Ave from 189<sup>th</sup> Street to 188<sup>th</sup> Street (OK)

**HAUL ROUTE INSPECTION REPORT**

NO. \_\_\_\_\_

PROJECT NO. \_\_\_\_\_



An inspection of the highway to be used for a haul route as set forth in the Agreement No. \_\_\_\_\_, Dated \_\_\_\_\_, was conducted on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by duly authorized representatives of the parties thereto and was found in the condition detailed as follows:

RECORD WIDTH OF SUBGRADE AND TYPE, THICKNESS AND WIDTH OF SURFACING IN PLACE AT APPROXIMATELY UNIFORM INTERVALS ALONG THE ROUTE. CONDITION OF BRIDGES, BOX CULVERTS, PIPE CULVERTS, CATTLE GUARDS AND OTHER ROADWAY APPURTENANCES SHOULD BE RECORDED IF PERTINENT.

CONTRACTOR \_\_\_\_\_

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

HIDEWOOD TOWNSHIP, SOUTH DAKOTA

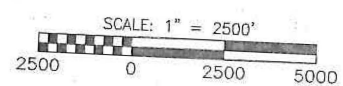
By: \_\_\_\_\_ Title: \_\_\_\_\_

#### Appendix E



ROAD USE	
ROADS	LENGTH (FT.)
STATE ROADS	46,610
COUNTY ROADS	4,960
TOWNSHIP ROADS	182,530

- LEGEND:**
- NON-PARTICIPATING PROPERTY
  - TOWNSHIP BOUNDARY
  - PROPERTY BOUNDARY
  - PROPOSED MET TOWER ROAD CENTERLINE
  - PROPOSED TURBINE ROAD CENTERLINE
  - PROPOSED ALTERNATE TURBINE ROAD CENTERLINE
  - PROPOSED CRANE WALK
  - PROPOSED TURBINE LOCATION
  - PROPOSED MET TOWER LOCATION
  - PROPOSED DIRECTION OF WIND TURBINE COMPONENT TRAVEL
  - PROPOSED PROJECT BOUNDARY



**30% DRAFT**

DRAWN BY:	CHECKED BY:	APPROVED BY:
MURGIUM	SHIELF	BAZANEJ
DWG TYPE:	SCALE:	ISSUE DATE:
CIVIL	AS SHOWN	03/08/2019
GAI DRAWING NUMBER:		
TRW-C-510-06		
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**DRAWING TITLE**  
TRANSPORTATION (DELIVERY FLOW) PLAN

**CLIENT**  
AVANGRID RENEWABLES

**PROJECT**  
EPC BID CIVIL PLANS  
TATANKA WIND PROJECT  
DEUEL COUNTY, SOUTH DAKOTA

**ISSUING OFFICE:** Pittsburgh | 385 E. Waterfront Drive, Homestead, PA 15120  
This drawing was prepared with computer aided drafting technology and is supported by electronic plotting. Do not make any changes to this drawing without written permission.  
Form/CAI/Production DWG: C:\70068-03-000-00-C-02-510-006.dwg PLOTTED BY: Idrissa Nouri PLOT FILE: 04/08

REVISION		REVISION RECORD		GAI FILE NUMBER	
NO.	DATE	CHK.	APV.	SHEET NO.	6 OF 38
2	03-08-2019	DMH	JFS	TRW-C-510-06-R00	C170068-03-000-00-C-02-510-006
1	3-19-2019	DMH	JFS		
DESCRIPTION:		REVISED LOCATION OF TURBINES AND MET TOWER REMOVED PM1, NEW Q&M FACILITY LOCATION, FLOW TO IS			