

THE CORPORATION OF THE TOWNSHIP OF NORTH STORMONT

BY-LAW NO. 15-2018

Being a By-law to Enter into a Community Benefit Fund Agreement for the Nation Rise Wind Farm Project.

WHEAREAS the Province of Ontario awarded EDP Renewables a contract to construct a 100 MW wind turbine project within the Township of North Stormont;

AND WHEREAS the *Municipal Act* permits municipalities to pass by-laws pertaining to spheres of jurisdictions;

AND WHEREAS the Township of North Stormont finds it expedient to enter into a Community Benefit Fund Agreement during the operational phase of the Nation Rise Wind Farm;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF NORTH STORMONT ENACTS AS FOLLOWS:

1. That the Mayor and CAO/Clerk are hereby authorized to sign the Community Benefit Fund Agreement as approved by Council, which shall come into force and effect on the date the By-law was passed.
2. That the Chief Administrative Officer/Clerk of the Township of North Stormont is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the By-Law, after the passage of this By-Law, where such modifications or corrections do not alter the intent of the by-law.

READ A FIRST, SECOND TIME AND PASSED in open Council, signed and sealed this 27th, day of March 2018.


Dennis Fife
Mayor


March Chénier
Chief Administrative Officer/Clerk

READ A THIRD TIME AND PASSED in open Council, signed and sealed this 10th, day of April 2018.


Dennis Fife
Mayor


March Chénier
Chief Administrative Officer/Clerk

NATION RISE COMMUNITY FUND AGREEMENT

THIS NATION RISE COMMUNITY FUND AGREEMENT (“**Agreement**”) is made and entered into as of the 10th day of April, 2018 (the “**Effective Date**”) by and between The Corporation of the Township of North Stormont (“**North Stormont**”) and Nation Rise Wind Farm Limited Partnership (“**Wind Company**”), a partnership organized under the laws of Ontario. North Stormont and Wind Company are sometimes each referred to herein as a “**Party**” and collectively, as the “**Parties.**”

RECITALS

WHEREAS, North Stormont is a municipal corporation within the meaning of the *Municipal Act, 2001*, S.O. 2001, Chapter 25.

AND WHEREAS, Wind Company is operating a 100 megawatt (“**MW**”) wind power energy facility 40 kilometers southeast of Ottawa, Ontario (the “**Project**”) pursuant to a Large Renewable Procurement I (LRP I) Contract (as amended from time to time, the “**PPA**”) dated March 9, 2016 between the Independent Electricity System Operator (IESO) and the Wind Company;

AND WHEREAS, pursuant to applicable law, Wind Company and North Stormont wish to ensure that the Project delivers benefits to residents of the Municipality;

AND WHEREAS, the Wind Company wishes to further its policy of good corporate citizenship to enhance the economic development and future well-being and quality of life of the citizens of the Municipality; and

AND WHEREAS, in order to further the goal of delivering Project benefits to the Municipality, the Parties have agreed that North Stormont will establish and administer a community benefits fund to which Wind Company will make an annual contribution;

NOW THEREFORE, in consideration of the foregoing, and of the mutual covenants and agreements contained herein, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, North Stormont and Wind Company mutually covenant and agree as follows:

ARTICLE I RECITALS

1.1 Recitals Part of Agreement. The representations and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.1.

ARTICLE II DEFINITIONS

2.1 In this Agreement, the following terms used herein shall have the meanings set forth below.

- (a) “**Agreement Term**” is defined in Section 3.1.

(b) "**Annual Payments**" means Wind Company's annual donations to the Fund, as calculated pursuant to this Agreement;

(c) "**Asset Management Plan**" means that certain Municipal Asset Management Plan approved on March 11, 2014 as mandated by the Province of Ontario attached hereto as Exhibit A and made a part hereof, as amended from time to time ;

(d) "**Commercial Operation Date**" means the date on which the Project becomes commercially operational as evidenced by notice from the Wind Company;

(e) "**Community Grants and Contributions Program**" means that certain Community Grants and Contributions Program effective October 13, 2016 as approved by the Chief Administrative Officer of North Stormont attached hereto as Exhibit B and made a part hereof and as amended from time to time ;

(f) "**Community Projects**" means the Programs that are intended to be funded in whole or in part by the application of monies paid into the Fund;

(g) "**CPI**" or "**Consumer Price Index**" means the twelve (12) month consumer price index for "All Items" published or established by Statistics Canada (or its successors) in relation to the Province of Ontario;

(h) "**Fund**" means the community benefits fund to be established by pursuant to this Agreement;

(i) "**Fund Data**" is defined in Section 4.3;

(j) "**Fund Report**" is defined in Section 4.2;

(k) "**Municipality**" means The Corporation of The Municipality of North Stormont;

(l) "**PPA**" is defined in the first recital;

(m) "**Programs**" means the Asset Management Plan and the Community Grants and Contributions Program.

(n) "**Project**" is defined in the first recital; and

(o) "**Term**" is defined in the PPA.

2.2 Nothing contained in this Agreement shall abrogate or prejudice any statutory rights held by either Party under any applicable statutes including but not limited to the *Ontario Energy Board Act, 1998*, the *Municipal Act, 2001*, the *Green Energy Act, 2009* or the *Electricity Act, 1998*, as amended.

ARTICLE III TERM AND TERMINATION

3.1 Agreement Term. The "**Agreement Term**" of this Agreement shall be twenty (20) years, commencing upon the Commercial Operation Date. This Agreement Term coincides with the Term (as defined in the PPA). If the Term of the PPA is shortened or the PPA is terminated for any reason whatsoever,

then the Agreement Term shall be shortened to match the remaining Term of the PPA. If the Term of Wind Company's PPA is extended, or Wind Company otherwise continues to operate the Project after the expiration or termination of the PPA, then the Parties may in good faith negotiate an amendment and/or extension of this Agreement.

3.2. Termination. Wind Company may terminate this Agreement by providing written notice to North Stormont upon any breach of this Agreement by North Stormont that has not been cured by North Stormont in accordance with Section 8.1.

ARTICLE IV ESTABLISHMENT AND GOVERNANCE OF THE FUND

4.1 North Stormont shall establish the Fund by opening a separate reserve account in a Canadian Chartered Bank into which Wind Company's Annual Payments shall be deposited and held separate from all other accounts and funds held by North Stormont.

4.2 North Stormont shall provide to Wind Company an annual accounting report on the status of the Fund, including but not limited to a reconciliation of all Annual Payments as against all disbursements and expenditures from the Fund (the "**Fund Report**").

4.3 North Stormont shall, upon the request of Wind Company acting reasonably, provide a full accounting of the Fund, and shall permit Wind Company or its agents to review Fund records and the data used by North Stormont to prepare the Fund Report (the "**Fund Data**").

4.4 In respect of a request made by Wind Company under Section 4.3, the Parties shall adhere to the following protocol:

- (a) Wind Company's request shall be in writing and shall specify the nature of the request within the scope of Section 4.3;
- (b) If a full accounting is requested, North Stormont shall provide same, certified by its Treasurer, on or prior to the date that is thirty (30) days after receipt by North Stormont of the request;
- (c) North Stormont shall promptly respond to any follow up questions from Wind Company regarding the full accounting;
- (d) If a request is made by Wind Company to review Fund Data, North Stormont shall, on or prior to the date that is thirty (30) days after receipt by North Stormont of the request, make such Fund Data available for review, during municipal business hours at North Stormont's offices, by Wind Company and its consultants;
- (e) None of the Fund Data shall be considered confidential or be otherwise withheld from Wind Company or the public; and
- (f) Wind Company may request that all, or some, of the Fund Data be copied and provided by North Stormont to Wind Company, and Wind Company shall reimburse to North Stormont the reasonable cost of providing said copies.

4.5 North Stormont acknowledges and agrees that expenditures from the Fund by North Stormont shall be made only to support the Programs in the percentages set forth in Section 5.1.

4.6 North Stormont shall establish and administer the Fund in accordance with and in compliance with all applicable law and any internal corporate codes of conduct, by-laws or policies applicable to the administration of the Fund and the expenditures of moneys by North Stormont.

ARTICLE V FINANCIAL DONATIONS TO THE FUND

5.1 Wind Company agrees to make financial donations to the Fund in annual lump-sum payments of Three hundred thousand dollars (\$ 300,000CAD) (each, an "**Annual Payment**") for each calendar year during the Agreement Term. The Annual Payment shall be adjusted on January 1 of each year by 20% of the percentage that the CPI for the immediately preceding December exceeds the CPI in effect as at December of the previous year, with the first such adjustment to occur as at January 1, 2018. Further, the Annual Payment shall be allocated to the Programs in the following percentages:

- 90% Asset Management Plan
- 10% Community Grants and Contributions Program

Such allocation to be reviewed by the Parties every five years during the Agreement Term.

5.2 Wind Company shall be responsible for making Annual Payments to the Fund on the basis of the lump sum payment determined in accordance with Section 5.1, and not on the basis of money donated or paid into the Fund or similar funds by the operators of such other projects of any kind as may be located in or operating in the Municipality.

5.3 Wind Company's Annual Payment to the Fund shall be paid annually in a lump sum in respect of each calendar year, with the first Annual Payment being made by Wind Company prior to or on the day that is sixty (60) days after the Commercial Operation Date of this Agreement and all subsequent Annual Payments by February 15th of each year.

ARTICLE VI USE OF THE FUND

6.1 Subject to the legislative discretion of North Stormont's elected Council, as applicable, North Stormont agrees that the Fund shall be used exclusively for the Programs in the percentages set forth in Section 5.1, and for no other purpose. . Accordingly, North Stormont shall demonstrate such compliance to Wind Company on a periodic basis or upon the request of Wind Company. North Stormont covenants that the Funds will be spent efficiently and in full compliance with the law including, without limitation, the obligations set forth in Article XI below.

6.2 On or prior to the day that is 60 days after the execution of this Agreement and upon the prior written consent of Wind Company, the Parties may issue a joint press release announcing this Agreement and the establishment of the Fund. Wind Company may also make and publish announcements from time to time concerning the existence of the Fund and its features, including the projected contributions of Wind Company.

6.3 North Stormont agrees to publically acknowledge the contribution made by Wind Company to any Community Projects, services, programs or activities funded in whole or in part by monies from the

Fund. This shall be done in consultation with Wind Company through appropriate signage or other advertising, branding or promotional opportunities, provided that any costs shall be the responsibility of Wind Company, and further provided that the final form of any public acknowledgement shall be determined by North Stormont in its sole discretion.

ARTICLE VII NOTICES

7.1 Notices. All notices, statements, demands, correspondence or other communications required or permitted by this Agreement shall be:

- (a) in writing,
- (b) deemed given,
 - (i) when personally delivered to the receiving Party;
 - (ii) five (5) days after deposit to the United States mail or Canadian mail, as applicable, certified and postage prepaid by the delivering Party; or
 - (iii) one (1) day after deposit to a reputable overnight courier (provided a receipt is obtained by the delivering Party and all charges are prepaid by the delivering Party); and
- (c) addressed as follows:

If to North Stormont:	The Corporation of the Municipality of North Stormont 15 Rue Union St., P.O. Box 99 Berwick, ON. K0C 1G0
If to Wind Company:	Nation Rise Wind Farm Limited Partnership c/o EDP Renewables Canada Ltd. 219 Dufferin Street, Suite 217C Toronto, Ontario M6K 3J1
With a copy to:	EDP Renewables North America LLC 808 Travis, Suite 700 Houston, Texas 77002 Attention: General Counsel

Any Party may change its address (and the person to whom notice is to be sent) for purposes of this Section by giving written notice of such change to the other Parties in the manner provided in this Section.

ARTICLE VIII REMEDIES

8.1 Remedies and Enforcement. Each Party covenants and agrees that, if a Party (the "**Breaching Party**") fails to comply with or perform its obligations pursuant to this Agreement, the Party seeking to

enforce this Agreement (the "**Non-Breaching Party**") shall provide the Breaching Party with written notice of such failure to perform, which notice shall describe the details of such failure to comply or perform. If the Breaching Party does not cure the breach prior to or on the day that is thirty (30) days after receipt of such notice from the Non-Breaching Party (or if the breach cannot be cured within such thirty (30) day period, if the Breaching Party has not commenced and continued its efforts to cure the breach) then the Breaching Party will be in default. In the event of such default, the Non-Defaulting Party may seek specific performance, injunctive relief, or any other remedy available at law or in equity.

ARTICLE IX REPRESENTATIONS AND WARRANTIES

9.1 Due Authorization. Each Party represents and warrants as to itself: (i) each person or entity signing this Agreement on behalf of such Party is authorized to do so, (ii) each Party has the unrestricted right, power and authority to enter into and perform its obligations under this Agreement and to grant the rights granted hereunder and (iii) no other person is required to execute this Agreement in order for it to be fully enforceable.

9.2 REA Non-Interference. Subject to the legislative discretion of its elected Council, North Stormont represents, warrants and covenants that it shall not interfere or otherwise inhibit any Renewable Energy Approval proceeding, appeal or legal action involving the Wind Company.

ARTICLE X RELEASE AND INDEMNIFICATION

10.1 Compliance with Laws. Each Party shall comply with all applicable laws of Canada and of Ontario and the applicable by-laws of North Stormont.

10.2 Indemnity. The Wind Company covenants and agrees to indemnify, defend, release and save harmless North Stormont and its directors, officers, employees, agents, elected officials, contractors and assigns from and against all losses, claims and demands, including charges, damages and expenses (together being "**Claims**") which they may at any time or times bear, sustain or suffer by reason, or on account of the breach of this agreement by the Wind Company and the Wind Company will, upon demand by North Stormont, at its sole risk and expense, defend any and all suits, actions or other legal proceedings which may be brought or instituted by third parties against North Stormont on any such Claims, and will pay and satisfy any judgment or decree which may be rendered against North Stormont in any such suit, action or legal proceeding, and will reimburse North Stormont for any and all reasonable legal expenses on a solicitor-client basis incurred in connection with such Claims. The Wind Company's obligation to indemnify, defend and save harmless North Stormont shall not be applicable to the extent that such Claims arise from the negligence or willful misconduct of North Stormont or its directors, officers, employees, agents, elected officials, contractors and assigns.

ARTICLE XI ANTI-CORRUPTION COMPLIANCE

11.1 Foreign Government Official. For purposes of this provision, the term "**Foreign Government Official**" is broadly construed and includes: (i) any official or employee of any government or government agency, including officials and employees who are appointed, elected or hired at any level within the legislative, administrative, executive, judicial or regulatory bodies of a national, regional or local government (such as military personnel, police, judges, inspectors, licensing officers, customs agents, and

low-level employees of government agencies, such as office workers); (ii) any director, officer or employee at any level of any company, legal entity or other instrumentality owned or controlled, either partially or wholly, by a government (such as national oil companies); (iii) any person acting in an official capacity for a government, government agency, or enterprise owned or controlled by a government (such as someone acting under a delegation of authority to carry out official responsibilities); (iv) any director, officer or employee at any level of certain public international organizations (such as the United Nations, the World Bank or the International Monetary Fund); and (v) any political party, any officials or employees of a political party or trade union, any candidate for political office, and any member of a royal, ruling or governing family.

11.2 Anti-Corruption Compliance. North Stormont and Wind Company each hereby represent and warrant that neither they nor any person acting on their respective behalf, including but not limited to any employee, officer, or director has given, offered or promised to give, or in the future will give, offer or promise to give, money or anything of value to any Foreign Government Official or to an intermediary for payment to any Foreign Government Official in a corrupt or improper effort to obtain or retain business or any commercial advantage, such as a permit or license to do business, in connection with performing under this Agreement. The Parties further represent and warrant that all persons acting on their respective behalf, including but not limited to any employees, officers, directors, have complied with and will continue to comply with all applicable anti-corruption laws in performing this Agreement, including but not limited to the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1 et seq. (the "FCPA"), the laws implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the "OECD Convention"), the Corruption of Foreign Public Officials Act ("CFPOA") and any other local laws prohibiting bribery, kickbacks, or other unlawful or improper means of obtaining business or commercial advantages, regardless of these laws' jurisdictional limits.

11.3 Termination. Notwithstanding any provision in this Agreement to the contrary, either Party may immediately terminate this Agreement without any liability in the event either Party violates any provision of this Article XI.

ARTICLE XII

MISCELLANEOUS

12.1 Governing Law. This Agreement and the enforcement thereof shall be governed by and construed under the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each of the parties hereby submits to the jurisdiction of the courts in the Province of Ontario.

12.2 Counterparts. This Agreement may be executed in one or more counterparts which when taken together shall constitute one Agreement.

12.3 Assignment. Provided Wind Company is not in default under the Agreement, Wind Company shall have the right at any time to assign this Agreement in whole or in part with the consent of North Stormont, which consent shall not be unreasonably withheld or denied. Wind Company shall have the right to pledge, mortgage, grant a security interest in, collaterally assign, encumber and hypothecate this Agreement in connection with any financing or financing of the Project without the consent of North Stormont.

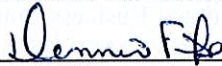
12.4 Amendments and Integration. This Agreement shall constitute the complete and entire agreement between North Stormont and Wind Company with respect to the subject matter hereof. No prior statement or agreement, oral or written, shall vary or modify the written terms hereof. This Agreement may be amended only by a written agreement signed by all of the parties.

12.5 Successors and Assigns. This Agreement shall endure to the benefit of and shall be binding upon the Parties hereto, their respective successors and assigns.

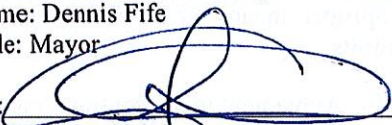
12.6 Severability. If any provision of this Agreement is held invalid under any applicable law, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision and, to this end, the provisions hereof are severable. As used in this Agreement, the term "Agreement" shall be interpreted to mean (i) the main body of this Agreement, (ii) all exhibits, attachments, appendices, and schedules attached hereto (collectively, "Exhibits") which are incorporated herein by reference, and as such Exhibits may be amended from time to time in accordance with this Agreement, and (iii) documents incorporated in this Agreement by reference but not attached hereto; *provided*, that in the event of any conflict or inconsistency between or among the aforementioned constituents of this Agreement, such constituents shall prevail between and among themselves in the following order (from most to least authoritative): (1) Exhibits; (2) the main body of this Agreement; and (3) other documents incorporated herein by reference.

IN WITNESS WHEREOF this Agreement has been executed by the Parties as of the date first written above.

**THE CORPORATION OF THE
MUNICIPALITY OF NORTH STORMONT**

By: 

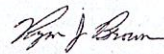
Name: Dennis Fife
Title: Mayor

By: 

Name: Marc Chénier
Title: Chief Administrative Officer / Clerk

I have authority to bind the Corporation

**NATION RISE WIND FARM LIMITED
PARTNERSHIP, by its general partner,
NATION RISE WIND
FARM GP Inc.**

DocuSigned by:


Name: Ryan J. Brown
Title: Executive Vice President, Eastern Regi

I have authority to bind the Limited Partnership.

**NATION RISE WIND FARM LIMITED
PARTNERSHIP, by its general partner,
NATION RISE WIND
FARM GP Inc.**

DocuSigned by:


Name: Bernardo Goarmon
Title: EVP Finance

I have authority to bind the Limited Partnership.

Exhibit A (attached hereto)
is North Stormont's
Asset Mgmt Plan.