



## *Wind Energy Easement Checklist*

Wind Farm developers have been aggressively targeting farmland throughout the Midwest for long-term leases. Before you finalize any agreement, several issues need to be considered. Hertz Farm Management has been helping landowners for over six decades and stands ready to help you with your wind energy questions.

- Duration of the agreement, renewal periods, e.g. 40-50 years
- Phases of development, length and termination
- Effects of signing the option
- Assignment by developer - presumed in most cases
- Transfers by landowner during lifetime, subject to agreement terms
- Multiple agreements, lease or easement, various easements
- Scope of agreement, amount of property covered
- Compensation - types, amounts, timing:
  - Per turbine, fixed
  - Acre payment
  - Percent of gross revenue
- Escalators, fixed amount e.g. 2% or tied to Consumer Price Index
- Green tags and environmental attributes - typically claimed by developer
- Property damages, crop loss, compaction
- Restrictions on use of land - hunting, farming
- Non-interference provisions, buffer
- Restrictions on buildings or other obstructions - competition
- Access for maintenance, repair, replacement
- Removal at end of agreement, abandonment
- Consultation with landowners on placement of turbines, lines, roads
- Payments if land not used for turbines, but lines or other facilities
- Renewals and re-powering
- Default provisions, what are the party's remedies
- Indemnification and hold harmless clauses, who protects who
- Setback requirements, separation distances and buffers, overhand easements
- Noise standards and methods to limit, potential nuisance claims
- Rights to use turbine for other purposes, e.g. cell towers
- Liability for property taxes
- Liability for insurance coverage, who obtains
- Subordination clauses and compliance with laws and regulations
- Termination, varying rights of parties
- Assignment of payments by landowner
- Confidentiality clauses
- Mortgages, encumbrances on property
- Recording of Memoranda of Lease not actual agreement

Compiled by Prof. Neil Hamilton, Agricultural Law Center, Drake University

This list is not legal advice and it is imperative that landowners consult with their attorney, farm manager, banker and others that can offer assistance to maximize returns to the owner. Please contact Hertz Farm Management for additional information with no obligation.