

**AGREEMENT  
REGARDING THE ESTABLISHMENT AND FUNDING OF THE  
MASSACHUSETTS FISHERIES INNOVATION FUND**

This Agreement Regarding the Establishment and Funding of the Massachusetts Fisheries Innovation Fund (the “Fund”), dated as of May 21, 2020, is made between Vineyard Wind, LLC (“Vineyard Wind”) and the Massachusetts Executive Office of Energy and Environmental Affairs (“EEA”) (collectively the “Parties”). The Massachusetts Office of Coastal Zone Management (“Massachusetts CZM”) will implement this agreement on behalf of EEA.

WHEREAS, Vineyard Wind holds a federal Commercial Lease of Submerged Lands for Renewable Energy Development with the U.S. Bureau of Ocean Energy Management (“BOEM”), OCS-A-0501 (the “Lease”), pursuant to the Outer Continental Shelf Lands Act (“OCSLA”), located in federal waters approximately 14 miles south of Martha’s Vineyard, Massachusetts;

WHEREAS, the Lease grants Vineyard Wind the exclusive right to submit to BOEM a Construction and Operations Plan (“COP”) for a wind energy project and to conduct the activities described in the COP if approved by BOEM;

WHEREAS, on December 19, 2017, Vineyard Wind submitted a COP to BOEM proposing to construct an 800 MW wind energy project in the northern portion of its lease area (the “Project”);

WHEREAS, Vineyard Wind’s export cable traverses Massachusetts state waters within the Massachusetts Ocean Planning Management Area, which is described in the Massachusetts Ocean Management Plan (“Ocean Plan”);

WHEREAS, the Ocean Plan reflects the importance of commercial and recreational fishing to the State and identifies areas of high commercial fishing activity and concentrations of recreational fishing activity;

WHEREAS, Section 307(c)(3) of the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., (“CZMA”), as amended, requires that an applicant for a federal license or permit activity in or outside the coastal zone or an outer continental shelf plan affecting any land or water use or natural resource of a state coastal zone certify that the proposed activities comply with the enforceable policies of the state’s approved program and that such activities will be conducted in a manner consistent with the program;

WHEREAS, the enforceable policies of the Massachusetts Coastal Zone Management Program require, to the maximum extent practicable, the avoidance, minimization, and mitigation of impacts to areas of high concentrations of existing water-dependent uses specified in the Ocean Plan, which include commercial and recreational fishing;

WHEREAS, by letter dated March 3, 2020 to Massachusetts CZM, Vineyard Wind detailed its efforts and commitments to avoid, minimize, and mitigate potential project impacts to

commercial and recreational fishing within both state and federal waters (attached hereto as Exhibit A);

WHEREAS, pursuant to BOEM requirements under the OCSLA and as set forth in its letter dated March 3, 2020, Vineyard Wind will separately establish a direct compensation fund to compensate Massachusetts fisheries for any claims of direct, downstream, and cumulative impacts to Massachusetts vessels or Massachusetts fisheries in the project area (the “Compensatory Mitigation Fund”);

WHEREAS, as set forth in Vineyard Wind’s Massachusetts Fisheries Compensatory Mitigation Plan (“Compensatory Mitigation Plan”) submitted to BOEM and to Massachusetts CZM in its letter dated March 3, 2020 the Compensatory Mitigation Fund will total \$18,426,366 over the life of the Project;

WHEREAS, the Project schedule has been delayed by two years, Vineyard Wind has updated its Compensatory Mitigation Plan to account for payments to the Compensatory Mitigation Fund beginning in 2021, which under the methodology presented in the March 3, 2020 letter increases the Compensatory Mitigation Fund to a total of \$19,185,016 over the life of the Project (the updated tables of the Fisheries Compensatory Mitigation Plan were submitted to Massachusetts CZM in a supplemental filing on May 15, 2020, which is included with Exhibit A);

WHEREAS, as required by BOEM, Vineyard Wind will separately establish the Compensatory Mitigation Fund in accordance with the Vineyard Wind Fisheries Mitigation Plan, the terms of which are summarized in Exhibit B hereto;

WHEREAS, Massachusetts CZM will reference Vineyard Wind’s Compensatory Mitigation Plan in its federal consistency concurrence letter as a means by which the Parties agree satisfies the enforceable policies of the Massachusetts Coastal Zone Management Program;

WHEREAS, Vineyard Wind, as the first utility scale wind energy project in the United States, desires to provide additional funds to support and promote the compatibility of the offshore wind and commercial and recreational fishing interests;

WHEREAS, as also set forth in Vineyard Wind’s Compensatory Mitigation Plan, Vineyard Wind will provide funds to the Fisheries Innovation Fund totaling \$1,750,000 prior to the end of the construction of the project and according to the schedule described in Exhibit B; and

WHEREAS, through the establishment of the Fisheries Innovation Fund, Vineyard Wind will support programs and projects that ensure safe and profitable fishing continue as Vineyard Wind and future offshore wind projects are developed in Northern Atlantic waters.

NOW THEREFORE, the Parties agree as follows:

### **Purpose and Funding of the Compensatory Mitigation Fund**

1. The purpose of the Compensatory Mitigation Fund is to compensate for any claims by Massachusetts fishing businesses for impacts resulting in economic losses during any phase of the Vineyard Wind 1 project.
2. In accordance with BOEM's approval of Vineyard Wind's COP, Vineyard Wind will provide for a total of \$19,185,016 in funding to the Compensatory Mitigation Fund according to the schedule and parameters set forth in Exhibit B.

### **Purpose of the Fisheries Innovation Fund**

3. The purpose of the Fisheries Innovation Fund is to support programs and projects that ensure safe and profitable fishing continue as Vineyard Wind and future offshore wind projects are developed in Northern Atlantic waters. The Fund will provide support to programs and projects through grants to conduct studies on the impacts of offshore wind development on fishery resources and the recreational and commercial fishing industries as well as provide grants for technology and innovation upgrades for fishery participants (and vessels) actively fishing within a wind energy area. These programs and projects may include, but are not limited to, studies on the impacts of offshore wind development on fishery resources and the recreational and commercial fishing industries, improvements in fishing vessels and gear, development of new technology to improve navigation in and around the wind farm area, the development of alternative gear and fishing methods, optimization of vessel systems, technology and innovation upgrades for fishery participants (and vessels) actively fishing within a wind energy area, and general fishing vessel safety improvements.
4. There are no restrictions on the use of the funds provided they fulfill the purpose of the Fisheries Innovation Fund.

### **Establishment of the Fisheries Innovation Fund**

5. The Fisheries Innovation Fund will be created by EEA in accordance with Massachusetts law either within the existing DMF Expendable Trust ("Marine Mammals and Fisheries Research and Conservation Trust") or as a separate expendable trust dedicated to these matters. The fund shall be established to receive funds on a schedule described in the Vineyard Wind Fisheries Mitigation Plan (Exhibit B).
6. The Fisheries Innovation Fund will also receive unspent funds rolled over from the Compensatory Mitigation Fund, as set forth in the Vineyard Wind Fisheries Mitigation Plan (Exhibit B).
7. The DMF Director will serve as trustee of the expendable trust, and will chair an Offshore Wind Fisheries Research, Innovation, and Science advisory panel which will advise the Director on any expenditures from the Fund. All approved expenditures from the Fund shall follow all applicable Commonwealth procurement and finance laws, regulations, and guidelines.

8. EEA will use best efforts to ensure that the Fisheries Innovation Fund is established at least 60 days before Vineyard Wind's financial close. EEA will notify Vineyard Wind when the Fisheries Innovation Fund has been established.

### **Payments to the Fisheries Innovation Fund**

9. Vineyard Wind will provide a total of \$1.75 million prior to the end of the Project's construction phase, according to the schedule set forth below, with \$1 million in funding to be paid when Vineyard Wind 1 achieves financial close<sup>1</sup>. In the event that the Fisheries Innovation Fund is not established within the time prescribed in Paragraph 8, Vineyard Wind will pay the first installment, and, if necessary, any future installments, to another financial vehicle that is agreed upon by both parties until such time as the Fisheries Innovation Fund is established.

**Payment Schedule for Fisheries Innovation Fund**

	<b>At Financial Close</b>	<b>One Year After Financial Close</b>	<b>Two Years After Financial Close</b>	<b>Three Years After Financial Close</b>
Vineyard Wind Payments	<b>\$1,000,000</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$250,000</b>
<b>TOTAL Payments over life of the Project (nominal): \$1,750,000</b>				

### **Precedent Conditions**

10. This Agreement is contingent on Vineyard Wind achieving financial close for the Project. Vineyard Wind will notify EEA of the financial close date once it is established. If Vineyard Wind fails to reach financial close for the Project, it shall have no further obligations under this Agreement.
11. This Agreement is contingent upon the Massachusetts CZM concurring with Vineyard Wind's consistency certification on or before May 22, 2020.

### **Dispute Resolution**

12. If either Party alleges that there exists a dispute or disagreement regarding the matters covered by this Agreement, it shall notify in writing the other Party of such alleged dispute or disagreement ("Dispute Notice"). The Parties shall attempt to resolve the alleged dispute or disagreement through good faith negotiations. If the Parties fail to resolve the alleged dispute or disagreement within sixty (60) days of the Dispute Notice, the Party alleging the dispute or disagreement may enforce this only by specific performance, injunctive relief or a declaratory judgment action pursuant to the laws of the Commonwealth of Massachusetts. The remedies of specific performance, injunctive

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<sup>1</sup> For the purposes of this Agreement, financial close means the date upon which all project and financing documentation for the Project has been executed and becomes effective.

relief and declaratory judgment shall be cumulative of all other rights and remedies at law or equity of the parties under this Agreement.

### **Governing Law**

13. This Agreement shall be construed in accordance with and all disputes hereunder shall be controlled by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws principles. Massachusetts shall be the forum state for all forms of dispute resolution, including but not limited to judicial actions to enforce the Agreement.

### **Entire Agreement**

14. This Agreement, including the attached exhibits constitutes the entire agreement of the parties as to the subject matter of mitigation for potential impacts to the Massachusetts fishing industry, and supersedes any and all prior oral or written agreements of the parties relating to this subject matter; in particular, this Agreement does not supersede the agreement regarding the payment of the Ocean Development Mitigation Fee. This Agreement cannot be changed or modified except in a written instrument mutually agreed-upon and signed by both parties.

### **Successors and Assigns**

15. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

### **Severability**

16. If any part of this Agreement is found to be unenforceable, the rest will remain in full force and effect and shall be interpreted so as to give full effect to the intent of the parties.

### **Execution in Counterparts**

17. This Agreement may be executed in counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all counterparts shall together constitute one and the same instrument. This Agreement may be delivered by the exchange of signed signature pages by facsimile transmission, electronic signatures, or by attaching a pdf copy to an e-mail, and any printed or copied version of any signature page so delivered shall have the same force and effect as an originally signed version of such signature page.

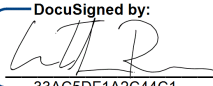
### **Term; Termination**


18. The term of this Agreement shall start as of the date of this Agreement and shall expire upon Vineyard Wind's payment of the final installment to the Fisheries Innovation Fund as set forth in Paragraph 3 or to the Compensatory Mitigation Fund as set forth in Paragraph 2 herein, whichever is later, unless otherwise provided for in BOEM's approval of the COP or as mutually agreed to in writing by the Parties.

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

VINEYARD WIND, LLC

MASSACHUSETTS EXECUTIVE OFFICE  
OF ENERGY AND ENVIRONMENTAL  
AFFAIRS

DocuSigned by:  
  
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Lars Pedersen  
Chief Executive Officer

  
Kathleen A. Theoharides  
Secretary