

**AGREEMENT REGARDING THE MASSACHUSETTS FISHERIES COMPENSATORY
MITIGATION FUND AND THE CONTRIBUTION TO THE MASSACHUSETTS
FISHERIES INNOVATION FUND**

This Agreement Regarding the Massachusetts Fisheries Compensatory Mitigation Fund and the Massachusetts Fisheries Innovation Fund, dated as of November 10, 2023, is made between Park City Wind LLC (“Park City Wind”) and the Massachusetts Executive Office of Energy and Environmental Affairs (“EEA”) (collectively the “Parties”).

WHEREAS, Park City 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-0534 (the “Lease”), pursuant to the Outer Continental Shelf Lands Act (“OCSLA”), located in federal waters approximately 20 miles south of Martha’s Vineyard, Massachusetts;

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

WHEREAS, on July 2, 2020, Vineyard Wind LLC submitted a COP to BOEM proposing to construct what was then the southern portion of lease OCS-A 0501 that was subsequently segregated and assigned to Park City Wind and renumbered as lease OCS-A 0534;

WHEREAS, Park City Wind intends to develop the Lease in two phases, with Phase 1 known as Park City Wind and Phase 2 known as Commonwealth Wind (together, the “Development”);

WHEREAS, under OCSLA, BOEM, as part of its COP review, requires the submission of information on social and economic conditions, including recreational and commercial fishing that could be affected by the proposed activities and proposed measures for mitigating those impacts (30 CFR 585.627(a)(7); .626(b)(15)), including compensatory mitigation;

WHEREAS, the COP estimates the potential economic exposure of the Development on commercial and recreational fishers, including Massachusetts fishers;

WHEREAS, Park City Wind intends that export cables for both phases of the Development traverse Massachusetts state waters within the Massachusetts Ocean Planning Management Area, which is described in the Massachusetts Ocean Management Plan (the “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 (“Coastal 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, including charter/for-hire fishing;

WHEREAS, portions of the Development are fished by Massachusetts commercial and charter/for hire fishers;

WHEREAS, Park City Wind has committed in the COP to implement measures to avoid, minimize, and mitigate potential impacts to Massachusetts fishers, including but not limited to adopting a uniform one nautical mile by one nautical mile spacing between wind turbines;

WHEREAS, on September 8, 2023, Park City Wind submitted a proposed Compensatory Mitigation Plan to EEA’s Office of Coastal Zone Management (“CZM”) to address potential impacts to Massachusetts commercial and charter/for hire fisheries from the Development, which was based on reports included in the COP and dated May 2023 (South Coast Variant) and June 2023 (Lease Area/OECC) prepared by an expert fisheries economist, Dr. Dennis King;

WHEREAS, Park City Wind and CZM subsequently negotiated in relation to the Compensatory Mitigation Plan, including by the soliciting and receiving feedback from the Massachusetts Fisheries Working Group on Offshore Wind Energy;

WHEREAS, the Office for Coastal Management of the National Oceanic and Atmospheric Administration has stated that Parties may agree to compensatory mitigation as a means of achieving federal consistency concurrence;

WHEREAS, Park City Wind agrees to establish a two-part compensatory mitigation program that totals \$7,359,471 to (1) compensate Massachusetts fishers for reasonably foreseeable adverse impacts not eliminated by the avoidance and minimization measures within the Development area (the “Compensatory Mitigation Fund”) and (2) to support Massachusetts fishers’ continued fishing in its lease area (the “Massachusetts Fisheries Innovation Fund”);

WHEREAS, the Compensatory Mitigation Fund will compensate Massachusetts fishers and associated businesses for economic losses directly related to the construction, operations, and decommissioning of Phase 1 and Phase 2 of the Development;

WHEREAS, the Compensatory Mitigation Fund will satisfy, in part, Park City Wind’s obligations under its COP to mitigate impacts to recreational and commercial fishermen, making the Funds federally enforceable;

WHEREAS, the Massachusetts Fisheries Innovation Fund will provide funds to support Massachusetts fishers’ continued fishing in and around the Development;

WHEREAS, Park City Wind has an already-established a Gear Loss Program that is separate and apart from the Compensatory Mitigation Funds and Massachusetts Fisheries Innovation Fund that provides compensation for loss or damage to fishing gear due to Development activities;

WHEREAS, Massachusetts CZM will reference the Compensatory Mitigation Fund and the Massachusetts Fisheries Innovation Fund as a condition of its federal consistency concurrence as a means by which the Development satisfies the enforceable policies of the Massachusetts Coastal Zone Management Program;

WHEREAS, Massachusetts has an already-established Fisheries Innovation Expendable Trust for the same purposes as the Massachusetts Fisheries Innovation Fund, as described herein;

NOW THEREFORE, the Parties agree as follows:

The Compensatory Mitigation Fund

1. The purpose of the Compensatory Mitigation Funds is to compensate claims by Massachusetts fishing businesses for impacts resulting in economic losses during each phase of development (construction, operations, decommission) of the Development (Phase 1 and Phase 2).
2. Park City Wind will provide a total of \$5,859,471 (net present value) in funding to the Compensatory Mitigation Fund as compensatory mitigation as part of its overall Development modifications and mitigations to meet, in part, its mitigation obligations under the COP and achieve consistency with the enforceable policies of the Coastal Policies. The Compensatory Mitigation Fund will compensate Massachusetts commercial and for-hire charter fishers and shoreside businesses impacted by the Development in lease area OCS-A 0534 and its export cable areas in federal and state waters for direct economic losses arising from the construction, operation, decommissioning of each Phase of the Development, and unforeseen, extraordinary events that lead to later business interruption. The funds are based on the best available data, adjusted for lobster and Jonah crab, covers potential economic exposure to both lease area OCS-A 0534 and its proposed export cable corridors, and includes multipliers for upstream, downstream, and for-hire recreational fisheries.
3. The funds will be deposited into either: (1) an escrow account managed by a third-party administrator (“TPA”); or (2) if established and mutually agreed to by the Parties, a regional fund to compensate commercial fishing interests for impacts associated with offshore wind development on the East Coast, provided that the funds will be reserved to pay claims by Massachusetts fishers and businesses.
4. Park City Wind will deposit 40% of the Compensatory Mitigation Funds within 60 days of Phase 1 achieving financial close¹ and 60% of the Funds within 60 days of Phase 2

¹ For the purposes of this Agreement, financial close means the date upon which all financing documentation has been executed and becomes effective.

achieving financial close to either the escrow account or the regional fund, whichever is agreed to by the Parties pursuant to paragraph 3.

5. If the funds are deposited to an escrow account, Park City Wind will establish the account with a national bank, federal savings bank or federal savings and loan association (the “Trust Company”). The Trust Company shall serve as custodial administrator of the Compensatory Mitigation Fund. Park City Wind, in consultation with CZM, will select a TPA to establish a claims process and to independently evaluate and process claims against the Compensatory Mitigation Fund. The TPA shall be a person, institution, or business entity with fiduciary, accounting, and/or legal experience and where feasible knowledge of the fishing industry, including the commercial and charter/for-hire fishing industry, in New England. Absent fishing industry experience, the TPA would be supported by fishing advisors knowledgeable of Massachusetts commercial and for-hire charter fishers and shoreside businesses operating in the Development area.
6. Administrative costs associated with the Trust Company serving as the custodial administrator of the Fund and the costs associated with the TPA establishing a claims procedure, reviewing claims, and, dispersing financial compensation will be paid by Park City Wind directly and not deducted from the escrow funds.
7. The claims process will be aligned, to the extent practicable, with already established claims processes established by other offshore wind developers to decrease confusion and simplify the process for claimants. This may include retaining a TPA and/or fishing advisors that are also working on behalf of other developers, aligning the eligibility requirements for making claims, developing similar claims forms, and using similar criteria for claims payments. The selection of the TPA and the final claims process shall be subject to the approval of EEA, which approval shall not be unreasonably withheld, conditioned, or delayed.
8. Paid claims will be accompanied by a release of liability for only those claims that are resolved thereby, and not for other claims that may arise.
9. The Compensatory Mitigation Fund is not intended to address or provide compensation for any claims of lost or damaged gear or related economic loss. Those claims will be processed separately by Park City Wind’s already established gear loss program. Under the program, gear loss claim forms are available on Park City Wind’s website and claims are processed as quickly as possible to allow fishers to continue fishing.

Purpose of the Massachusetts Fisheries Innovation Fund

10. The purpose of the Massachusetts Fisheries Innovation Fund is to support programs and projects that ensure safe and profitable fishing continues as the Development and other offshore wind projects are constructed, operated, and decommissioned 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.

11. Park City Wind will provide \$1,500,000 to support the Massachusetts Fisheries Innovation Fund. Park City Wind shall deposit 40% of the funds into the Massachusetts Fisheries Innovation Fund within 60 days of Park City Wind (Phase 1) achieving financial close; and shall deposit 60% of the funds into the Massachusetts Fisheries Innovation Fund within 60 days of Commonwealth Wind (Phase 2) achieving financial close.
12. The Massachusetts Fisheries Innovation Fund will also receive unspent funds rolled over from the Compensatory Mitigation Fund.

Precedent Conditions

13. On or before November 10, 2023 CZM issues a concurrence with Park City Wind's federal consistency certifications for both Phase 1 and Phase 2 of the Development.
14. All other final federal, state, and local permits, authorizations, concurrences and approvals necessary to construct and operate each Phase of the Development are received. Notwithstanding the proceeding sentence, the Parties acknowledge that Park City Wind may in the future seek modifications to the COP and additional state permits for an export cable route known as the South Coast Variant and that such modification is not a condition precedent for the Phase 2 payments to either the Compensatory Mitigation Fund or the Massachusetts Fisheries Innovation Fund.
15. Phase 1 and Phase 2 achieve their respective financial close.

Dispute Resolution

16. 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 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

17. This Agreement shall be construed in accordance with laws of the Commonwealth of Massachusetts 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.

Implementation

18. CZM shall implement this Agreement on behalf of the EEA.

Entire Agreement

19. This Agreement, including the attached exhibits constitutes the entire agreement of the parties as to the subject matter of compensatory mitigation for potential impacts to Massachusetts fisheries and businesses operating within the Development area and supersedes any and all prior oral or written agreements of the parties relating to this subject matter. This Agreement does not supersede any agreement regarding the payment of the Ocean Development Mitigation Fee for either phase of Park City Wind's Development. This Agreement cannot be changed or modified except in a written instrument mutually agreed-upon and signed by both parties.

Successors and Assigns

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

Severability

21. 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

22. 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

23. The term of this Agreement shall start as of the date of this Agreement and shall expire after all funds have been expended. Park City Wind shall be relieved of any obligations

hereunder, notwithstanding Park City Wind's commitment to pay administrative costs as set forth in paragraph 6, once Park City Wind has made all final payments to the Compensatory Mitigation Fund and the Massachusetts Fisheries Innovation Fund after reaching financial close for Phase 2 of the Development as set forth herein in paragraphs 4 and 11.

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

PARK CITY WIND, LLC

A handwritten signature in blue ink, appearing to read 'K. Kimmell', with a long horizontal flourish extending to the right.

Kenneth Kimmell
Vice President, Offshore Wind

MASSACHUSETTS EXECUTIVE OFFICE
OF ENERGY AND ENVIRONMENTAL
AFFAIRS

A handwritten signature in black ink, appearing to read 'R. Tepper', with a long horizontal flourish extending to the right.

Rebecca L. Tepper
Secretary