

**AGREEMENT
REGARDING THE ESTABLISHMENT AND FUNDING OF THE
RHODE ISLAND FISHERMEN’S FUTURE VIABILITY TRUST**

This Agreement Regarding the Establishment and Funding of the Rhode Island Fishermen’s Future Viability Trust (the “Trust”), dated as of February 21, 2019, is made between Vineyard Wind, LLC (“Vineyard Wind”) and the Rhode Island Coastal Resources Council (“CRMC”) (collectively the “Parties”).

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”), 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, the Vineyard Wind Project area has historically been fished by Rhode Island commercial fishermen;

WHEREAS, CRMC’s Ocean Special Area Management Plan (“Ocean SAMP”) identifies commercial fishing as an important contributor to the state’s economy;

WHEREAS, CRMC requested to review Vineyard Wind’s COP for consistency with the Ocean SAMP pursuant to the federal Coastal Zone Management Act, 16 U.S.C. § 1456, and its implementing regulations, 15 C.F.R. Part 930, Subparts D and E;

WHEREAS, Vineyard Wind voluntarily agreed to CRMC’s review and filed a consistency certification with BOEM on April 6, 2018, certifying that the proposed activities in the COP will be conducted in a manner consistent with the Ocean SAMP enforceable policies;

WHEREAS, the Ocean SAMP supports the policy of increasing offshore renewable energy production as a means of mitigating the potential effects of global climate change, 650-R.I.C.R. 20-05-11.9.2;

WHEREAS, the Ocean SAMP is the nation’s first regulatory structure whose principal purposes include providing a framework for addressing the compatibility of the offshore wind and commercial fishing industries through its goal of supporting offshore wind development while promoting and enhancing existing uses;

WHEREAS, it is the policy of the Ocean SAMP to protect commercial and recreational fisheries within the Ocean SAMP area, including within the Rhode Island geographic location description (GLD 2011 and 2018) from the adverse impacts of other uses, while supporting actions to make ongoing fishing practices more sustainable, 650-R.I.C.R. 20-05-11.9.4(C);

WHEREAS, the Ocean SAMP enforceable policies provide that the potential adverse impacts of offshore developments on commercial or recreational fisheries be evaluated, considered, and mitigated, 650-R.I.C.R. 20-05-11.10.1(G);

WHEREAS, Rhode Island commercial fishing interests believe the Project's layout will have an impact on their historical methods of fishing within the Project area;

WHEREAS, pursuant to federal requirements, Vineyard Wind will separately establish a direct compensation fund to compensate Rhode Island fisheries for any claims of direct impacts to Rhode Island vessels or Rhode Island fisheries in the project area (the "Direct Compensation Fund");

WHEREAS, Vineyard Wind will establish the Direct Compensation Fund in accordance with the final term sheet dated February 15, 2019 regarding Vineyard Wind Fisheries Mitigation Proposal (attached hereto as Exhibit A);

WHEREAS, CRMC will include the terms agreed to regarding the Direct Compensation Fund in its federal consistency concurrence letter, thereby making the terms set forth in the final term sheet federally enforceable;

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 fishing interests;

WHEREAS, Vineyard Wind obtained input from the Fishermen's Advisory Board ("FAB") and CRMC staff in developing its proposal to establish a Trust to support and promote the compatibility of the offshore wind and commercial fishing interests, which resulted in the final term sheet attached hereto as Exhibit 1; and

WHEREAS, the purpose of the Trust is to further the policies of the Ocean SAMP with respect to the continued viability and success of Rhode Island's fishing industry by providing funds to address concerns raised about safety and effective fishing in and around the Vineyard Wind project area and wind farms generally.

NOW THEREFORE, the Parties agree as follows:

Purpose of the Trust

1. The establishment of the Rhode Island Fishermen's Future Viability Trust is an effective means to advance the goals of the Ocean SAMP and support and promote the compatibility of the offshore wind and commercial fishing interests within Rhode Island's GLD (2011 and 2018).

2. The purpose of the Trust is therefore to further the policies of the Ocean SAMP with respect to the continued viability and success of Rhode Island's fishing industry by providing funds to address concerns raised about safety and effective fishing in and around the Vineyard Wind project area and wind farms generally. It is intended to benefit Rhode Island fishermen and Rhode Island fishing interests within the Rhode Island GLD (2011 and 2018). There are no restrictions on the use of the funds provided they fulfill the purpose of the Trust. Examples of how the funds may be used include, but are not limited to, improvements in fishing vessels and gear, supporting widespread deployment of navigational equipment, development of new gear types or fishing methods, financial support for individual fishermen, purchase of updated safety equipment such as radar, GPS, survival suits, emergency position-indicating radio beacons, life rafts, etc., and payment of increased insurance costs related to fishing in or around wind farms.

Establishment of the Trust

3. A Rhode Island Fishermen's Future Viability Trust shall be established as a non-profit entity in accordance with Rhode Island law to fulfill the purposes set forth in Paragraph 2 herein. CRMC shall consult with CRMC's Fishermen's Advisory Board ("FAB"), as that body is defined in Ocean SAMP § 11.3(E), 650-R.I.C.R. § 20-05-11.3(E), regarding establishment of the Trust.
4. Vineyard Wind agrees to pay the legal costs associated with establishing the Trust up to fifty thousand dollars (\$50,000). Vineyard Wind will pay the \$50,000 to CRMC's legal counsel's IOLTA trust account at Vineyard Wind's financial close (expected late 2019). Vineyard Wind shall have no other role in the establishment of the Trust.
5. CRMC agrees to assist the FAB in selecting appropriate legal counsel to establish the Trust. CRMC's legal counsel will review and pay the invoices from counsel's Interest on Lawyers Trust Account (IOLTA) trust account in accordance with CRMC counsel's routine practices for handling similar arrangements. Any funds remaining after all invoices are paid will be returned to Vineyard Wind.
6. CRMC will work with the FAB and its appointed counsel to ensure that the Trust is established within 60 days following Vineyard Wind's financial close. CRMC will notify Vineyard Wind that the Trust has been established.
7. Once the Trust is established, Vineyard Wind, in consultation with CRMC, will arrange for and pay the costs associated with conducting up to three sessions to train the Trust's first Board members as to their roles and responsibilities with respect to the Trust.

Payments to the Trust

8. Vineyard Wind will make annual payments to the Trust to be paid in five (5) equal installments of two million five hundred thousand dollars (\$2,500,000) per year. The first installment will be paid within 60 days of Vineyard Wind's financial close and the next four payments paid annually on the anniversary date thereafter. In the event that the Trust is not established within the time prescribed in Paragraph 6 herein, Vineyard Wind

will pay the first installment, and, if necessary, any future installments, to CRMC's legal counsel to be held in escrow until such time that the Trust is established.

Precedent Conditions

9. This Agreement is contingent on Vineyard Wind achieving financial close for the Project. Vineyard Wind will notify CRMC 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.
10. This Agreement is contingent upon CRMC's Fishermen's Advisory Board (1) voting to recommend to CRMC staff on or before February 25, 2019, that Vineyard Wind's mitigation proposal is acceptable for purposes of federal consistency and (2) the FAB members not objecting to the Project before the Council. If the FAB does not vote to recommend to CRMC staff that Vineyard Wind's mitigation proposal is acceptable for purposes of federal consistency, this Agreement is null and void.
11. This Agreement is contingent upon the CRMC concurring with Vineyard Wind's consistency certification on or before March 1, 2019.

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 R.I.G.L. § 9-30-1 *et. seq.* 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

13. This Agreement shall be construed in accordance with and all disputes hereunder shall be controlled by the laws of the State of Rhode Island without regard to its conflict of laws principles. Rhode Island 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 constitutes the entire agreement of the parties as to the subject matter herein, and supersedes any and all prior oral or written agreements of the parties. 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 on the date of this Agreement and shall expire upon Vineyard Wind’s payment of the fifth (5th) and final installment as set forth in Paragraph 8 herein unless otherwise 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

COASTAL RESOURCES MANAGEMENT
COUNCIL

DocuSigned by:

33AC5DE1A2C44C1
Lars Pedersen
Chief Executive Officer


Grover Fugate
Executive Director

Vineyard Wind Fisheries Mitigation Proposal

TERM SHEET

Related to Vineyard Wind's 800MW project located in the northern-most portion of BOEM Wind Lease Area A-501

January 16, 2019
(amended February 12, 2019 based on input
from CRMC and the FAB)
(FINAL February 15, 2019)

Mitigation Program Overview

Vineyard Wind is committed to providing a financial mitigation package for its proposed 800 MW project located in the northern-most portion of BOEM Wind Lease Area OCS-A-0501 (Project Area). The package is structured in two funds: (1) an escrow fund for financial compensation for direct Rhode Island fisheries impact claims and (2) a Rhode Island Fishermen's Future Viability Trust that will disperse funds in accordance with the purpose of the Trust and the goals of the Ocean SAMP.

I. Direct Compensation Fund

Structure of the Direct Compensation Fund

- a) Funds to be held in escrow to compensate for any claims of direct impacts to Rhode Island vessels or Rhode Island fisheries in the project area.
- b) Vineyard Wind will make an initial payment of \$1 million to the escrow within 60 days following financial close (expected late 2019).
- c) Vineyard Wind will make annual funding payments to the escrow as follows:
 - i) First annual payment will be made in the second calendar year after offshore construction begins.
 - ii) The annual payments over 29 years total \$3.2 million (starting with \$76, 000 escalating 2.5% per year).
- d) The escrow will be administered by a third-party selected by Vineyard Wind. Vineyard Wind will consult with CRMC staff and the FAB regarding the selection of the administrator.
 - i) Administration costs associated with managing the fund, establishing a claims procedure, reviewing claims, and, dispersing financial compensation will be paid by Vineyard Wind directly and will not be deducted from the escrow funds.

- ii) Rhode Island fishermen, Rhode Island fishing companies, and companies that support Rhode Island fishing interests can submit claims of direct impacts or losses during any phase of the project (construction, operation, decommissioning) within the Project Area to the claims administrator.
- iii) A claims review and decision process to be established by Vineyard Wind. Vineyard Wind will seek input from the FAB with respect to the claims review and approval process.
- iv) Paid claims will be accompanied by a release of liability for future claims.
- v) Funds remaining after making claims payments for any given year will be rolled over to the following year for future claims.
- vi) After 5 years of commercial operations, the fund administrator will evaluate the claims history against the fund and make reasonable projections regarding future claims. The claims administrator will use his/her best professional judgment as to whether the balance of the fund and future payments to the fund exceed the amounts necessary to pay anticipated claims. If the fund administrator determines that the balance of the fund exceeds an amount deemed necessary to pay future claims, the administrator may transfer the excess funds, in an amount as determined by the administrator, to the Rhode Island Fishermen's Future Viability Trust to be used in accordance with the purposes of the Trust. The fund administrator will conduct this assessment every 5 years thereafter and transfer funds accordingly. Upon completion of decommissioning, any funds remaining after all claims are paid will be transferred to the Rhode Island Fishermen's Future Viability Trust to be used in accordance with the purposes of the Trust.

II. RHODE ISLAND FISHERMEN'S FUTURE VIABILITY TRUST

Purpose of the Rhode Island Fishermen's Future Viability Trust

The Rhode Island Ocean SAMP is the nation's first regulatory structure whose principal purposes include providing a framework for addressing the compatibility of the offshore wind and fishing industries through its goal of supporting offshore wind development while promoting and enhancing existing uses. It is the policy of the Ocean SAMP to protect commercial and recreational fisheries within the Ocean SAMP area, including within the Rhode Island geographic location description (GLD 2011 and 2018) from the adverse impacts of other uses, while supporting actions to make ongoing fishing practices more sustainable. The Ocean SAMP recognizes that the commercial and recreational fishing industries, and the habitats and biological resources of the ecosystem they are based on, are of vital economic, social, and cultural importance to Rhode Island's fishing ports and communities, as well as the need for offshore wind to address climate change.

The purpose of the Trust is to further the policies of the Ocean SAMP with respect to the continued viability and success of Rhode Island's fishing industry by providing funds to address concerns raised about safety and effective fishing in and around the Vineyard Wind project area and wind farms generally. It is intended to benefit Rhode Island fishermen and Rhode Island fishing interests within the Rhode Island GLD (2011 and 2018).

Structure of the Rhode Island Fishermen's Future Viability Trust

- a) The FAB, in consultation with CRMC staff, will establish the Rhode Island Fishermen's Future Viability Trust as a non-profit entity independent of the State of Rhode Island.
- b) Vineyard Wind will make annual payments to the Rhode Island Fishermen's Future Viability Trust to be paid in five (5) equal installments of \$2.5 million per year. The first installment will be paid within 60 days of financial close (expected late 2019) or when the Trust is established, whichever is later.
- c) The programs and activities supported by the Rhode Island Fishermen's Future Viability Trust to be decided by a trust board, the structure and composition of which to be determined by the FAB in consultation with CRMC staff. There are no restrictions on how the funds may be used provided they further the purpose of the Trust.
- d) Vineyard Wind will pay the legal costs associated with establishing the Trust up to \$50,000 payable 30 days after receiving an invoice for the costs associated with establishing the Trust.
- e) Costs associated with conducting up to three sessions to train the board as to their roles and responsibilities with respect to the Trust.

Contingencies

This mitigation package is contingent on:

1. The Fisheries Advisory Board (FAB) voting to recommend to CRMC on or before February 25, 2019, that Vineyard Wind's mitigation proposal is acceptable for purposes of federal consistency;
2. CRMC staff recommending to the Council that Vineyard Wind's consistency certification is consistent with the Ocean SAMP enforceable policies;
3. FAB members not objecting to the project before the Council;
4. The Council concurring with Vineyard Wind's consistency certification by March 1, 2019; and
5. Vineyard Wind achieving financial close (expected in late 2019) and thereby progressing towards actual construction.