

OFFSHORE WIND DEVELOPMENT AND REPORTING AGREEMENT

This **Offshore Wind Development and Reporting Agreement** (this “Agreement”) is entered into effective as of April 13, 2022 (the “Effective Date”) by and between MAYFLOWER WIND ENERGY LLC, a Delaware Limited Liability Company (LLC) (“Mayflower Wind” or “COMPANY”) and the Massachusetts Department of Energy Resources (“MA DOER”). Each of Mayflower Wind and MA DOER is referred to as a “Party” and, collectively, as the “Parties.”

RECITALS

WHEREAS, on September 16, 2021, Mayflower Wind submitted Proposal B2 (the “Bid”) for an offshore wind project (the “Project”) in response to the Request for Proposals for Long-Term Contracts for Offshore Wind Energy Projects (the “RFP”) issued May 7, 2021, by Fitchburg Gas & Electric Light Company d/b/a Unitil, Massachusetts Electric Company d/b/a National Grid, Nantucket Electric Company d/b/a National Grid, NSTAR Electric Company d/b/a Eversource Energy, Western Massachusetts Electric Company d/b/a Eversource Energy (each, individually, an electric distribution company or “EDC” and, collectively, the “EDCs”);

WHEREAS, on December 17, 2021, the EDCs, in coordination with the Massachusetts Department of Energy Resources (“MA DOER”), selected the Bid as a winning proposal under the RFP;

WHEREAS, following the selection of the Bid, Mayflower Wind and each EDC negotiated and subsequently executed and delivered Offshore Wind Generation Unit Power Purchase Agreements for the EDCs’ purchase of the energy and other products to be generated by the Project (as the same may be amended, restated, modified, supplemented, extended or otherwise superseded from time to time, the “PPAs”), which PPAs will be subsequently submitted for approval to the Massachusetts Department of Public Utilities (“MA DPU”);

WHEREAS, among other aspects of the Bid, Mayflower Wind committed to investments to promote short and long-term employment and economic development in the Commonwealth, track and report on the status of environmental justice impacts, and engagement and employment opportunities (training, recruitment and hiring goals), and a commitment to diversity, equity and inclusion, including employment and procurement/contracting opportunities, for minority, women, veterans, LGBT and persons with disabilities; as further detailed in Appendices A and B;

WHEREAS, among other aspects of the Bid, Mayflower Wind outlined its plans to support wind industry development in Massachusetts through various commitments further detailed in Appendices A and B and to report to MA DOER its progress in connection with the same;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

AGREEMENT

1. **Wind Industry Development Initiatives.** Mayflower Wind hereby agrees that it shall develop and operate the Project consistent with the commitments as described in Appendix A that support developing the offshore wind industry in the Commonwealth (“Offshore Wind Industry Development Initiatives”):

2. **Direct Economic Investment Initiatives:** Mayflower Wind has committed to in its Bid and hereby agrees that it shall fund each of the direct economic initiatives (“Direct Economic Investment Initiatives”) designed to create and foster economic benefits to the Commonwealth. Pursuant to the requirements of the RFP, each Direct Economic Investment Initiative in Mayflower Wind’s Bid is memorialized in a separate binding Memorandum of Understanding (“MOU” or “Ancillary Agreements”) with a third-party partner organization (“Partner Organization”), as detailed in Appendix B to this Agreement.

3. **Economic Impact Assessment and Reporting.** Mayflower Wind hereby agrees that it shall deliver to MA DOER written annual progress reports to the Commonwealth, beginning not later than the date that is sixty days (60) after the first anniversary of the Effective Date (the “Reporting Date”) and, thereafter, not later than each subsequent anniversary of such first Reporting Date during the term of the PPAs. Each report shall summarize Mayflower Wind’s progress in achieving the Wind Industry Development Initiatives goals and Direct Economic Investment Initiatives as set forth in Section 1 and Section 2 of this Agreement and Appendices A and B, as committed by Mayflower Wind in its Bid in the RFP. Mayflower Wind agrees, that upon reasonable consultation with MA DOER, the annual report will not include any personal identifiable information (“PII”) with respect to any personnel or other confidential or commercially sensitive information. Mayflower Wind will make all reasonable efforts to present the following information in a non-confidential manner:

a) Diversity, Equity, and Inclusion:

1. General demographic information regarding employment created by the project related to the goals outlined in Mayflower Wind’s Diversity, Equity and Inclusion Plan and descriptions of efforts to recruit and retain diverse job candidates;
2. Descriptions of how the direct, specific and measurable employment and contracting benefits committed to during the development of the Project in both the Offshore Wind Industry Development Initiatives and the Direct Economic Investment Initiatives provides employment and procurement/contracting opportunities for persons who identify as minority, women, veteran, LGBT, persons with disabilities, or Diverse Business Enterprises¹;

b) Environmental Justice Impacts:

¹ Diverse Business Enterprises are those certified by the Massachusetts Supplier Diversity Office (SDO) or a third-party organization recognized by Massachusetts SDO.

1. Descriptions of project impacts, both positive and negative, to Environmental Justice (“EJ”) Populations² and residents of EJ Populations in the Commonwealth, including from project construction and siting, Offshore Wind Industry Development Initiatives, and Direct Economic Investment Initiatives;
2. Descriptions of Mayflower Wind’s project-related stakeholder outreach and engagement efforts in EJ Populations;

c) Offshore Wind Industry Development Initiatives:

1. The total number jobs created during each phase of the project (development, construction, and operations), as well as the number jobs located in the Commonwealth of Massachusetts;
2. Descriptions of the types of jobs included in Section 3.c.1 by general category (e.g. development, operations & maintenance, construction, manufacturing, etc.) and the estimated average annual salary level by category and county;
3. In the annual progress report released following the achievement of the Commercial Operation Date, an estimate of the direct, indirect, and induced employment and economic impacts to date in Massachusetts from the Project;
4. The extent to which the reported results align with the estimates of the Project’s contributions to employment and economic development contained in the Project proposal;
5. Any relevant lessons learned that Massachusetts officials can use to improve economic outcomes for Massachusetts and inform future state procurement and programmatic efforts;

d) Direct Economic Investment Initiatives:

1. The total dollar amount and schedule of payments made to partner organizations consistent with the Direct Economic Investment Initiatives and a summary of programming supported by the funds; and
2. The impact of projects supported by the Direct Economic Investment Initiatives, specifically focusing on funds allocated, revenue generation and the impacts on the communities in which such projects are located.

4. Covenant to Replace Offshore Wind Industry Development Initiatives and Direct Economic Investment Initiatives. The Parties acknowledge and agree that, on or about the Effective Date, Mayflower Wind has entered into the following agreements in furtherance of

² As defined in MGL ch. 30, § 62; see also EEA Environmental Justice Policy: <https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts>

its plans to support wind industry development in Massachusetts: (a) Ancillary Agreements with Partner Organizations as listed in Appendix A to execute Mayflower Wind's commitments under the Offshore Wind Industry Development Initiatives; and (b) Ancillary Agreements with Partner Organizations as listed in Appendix B to execute Mayflower Wind's commitments under the Direct Economic Investment Initiatives. Mayflower Wind hereby covenants and agrees with MA DOER that, in the event that any Ancillary Agreement is terminated due to a default of a party thereto or is otherwise terminated prior to its respective term, Mayflower Wind shall enter into a replacement of such Ancillary Agreement with one or more other third parties to perform the obligations of the original parties under such terminated Ancillary Agreement that may remain unperformed as of the date such Ancillary Agreement was terminated. Mayflower Wind shall provide reasonable written notice to MA DOER of any such termination of an Ancillary Agreement. Mayflower Wind agrees to provide a copy of any such replacement agreement to MA DOER prior to its execution by Mayflower Wind and such third party(ies)/Partner Organizations. MA DOER shall be permitted a reasonable period of time, not to exceed thirty (30) Business Days, within which to review such replacement agreement and to reasonably confirm that such replacement agreement includes terms that require the replacement third parties thereunder to perform the obligations that remained unperformed by the original Partner Organization parties under the terminated Ancillary Agreement as of the date it was terminated. Mayflower Wind shall take into account and reasonably address any comments delivered by MA DOER to Mayflower Wind in writing during such thirty (30) Business Day period prior to its execution of such replacement agreements.

5. Default: (a) Mayflower Wind hereby agrees that in the event that any Ancillary Agreement listed in Appendix B is terminated due to a default of a party thereto or is otherwise terminated prior to its respective term and Mayflower Wind is unable to find replacement of such Ancillary Agreement with one or more other third parties to perform the obligations that remained unperformed by the original counterparty per the terms of Section 4, or committed funds as listed in Appendix B, Column C have not been dispersed by the committed timelines as described in Appendix B, Column D, or by the or by the fifteenth (15th) anniversary of the Commercial Operation Date, whichever is sooner, the Massachusetts Clean Energy Center ("MassCEC") shall receive any unutilized funds set forth in any such Ancillary Agreement. Such funds shall be deposited into one or more accounts designated by MassCEC in line with the payment schedule agreed in the Ancillary Agreement in question and will be deployed by MassCEC in a manner determined by MassCEC in its sole discretion to be consistent with the Offshore Wind Industry Development Initiatives. DOER shall consider MassCEC as a suitable replacement for any defaulting counterparty listed in Appendix B.

(b) To the extent Mayflower Wind defaults under any of its obligations under any of the Ancillary Agreements and the counterparty has given Mayflower Wind a notice of default, Mayflower Wind shall provide a copy of such notice to DOER and MassCEC within five (5) business days. Mayflower Wind will cure such default or provide a written explanation to DOER and MassCEC as to the nature of the default and how the Company will cure such default or resolve such default. If Mayflower Wind cannot resolve the default and the underlying Ancillary Agreement is terminated for any reason, then Mayflower Wind shall be liable to pay MassCEC the amount of any remaining funding required to be paid by Mayflower Wind. Such funds shall be deposited into one or more accounts designated by MassCEC and will be deployed

by MassCEC in a manner determined by MassCEC in its sole discretion to be consistent with the Offshore Wind Industry Development Initiatives. The Company shall take any and all such action as DOER or MassCEC deems appropriate in its sole discretion with respect to any termination as described in this subsection (b).

(c) The Parties agree that both Parties shall have any and all rights under law with respect to any other default hereunder not addressed in clauses (a)-(b) of this Section 5.

6. Termination: In the event that the PPAs are not approved by the Massachusetts Department of Public Utilities (“DPU”) or are otherwise terminated by the provisions contained therein, the Parties agree and understand that the obligations under said Ancillary Agreements will terminate rendering this agreement void.

7. Representations and Warranties. As of the Effective Date, Mayflower Wind represents and warrants to MA DOER (which representations and warranties shall survive the termination or expiration of this Agreement) that: (i) the execution, delivery and performance of this Agreement has been duly authorized by all requisite action on the part of Mayflower Wind, and Mayflower Wind has full power and authority to enter into this Agreement and fulfill its obligations hereunder; (ii) this Agreement constitutes the legal, valid and binding obligation of Mayflower Wind enforceable against Mayflower Wind in accordance with its terms; (iii) all Ancillary Agreements with Partner Organization listed in Appendices A and B have been duly executed and are in full force and effect as of the Effective Date of this Agreement; (iv) Mayflower Wind’s performance or compliance with this Agreement will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under any obligation (including license, sublicense, lease, contract, or agreement) or instrument to which it is bound or to which its properties are subject; (v) there are no lawsuits, actions or any other legal or administrative proceedings pending, or to the knowledge of Mayflower Wind, threatened in writing against Mayflower Wind which, if determined against Mayflower Wind, would have a materially adverse effect on its ability to perform its obligations under this Agreement; and (vi) to the best of its knowledge, neither Mayflower Wind or any of its directors, officers, employees or agents have, directly or indirectly, made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any “foreign official” (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended), foreign political party or official thereof or candidate for foreign political office for the purpose of (1) influencing any official act or decision of such official, party or candidate, (2) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign governmental authority, or (3) securing any improper advantage, in the case of (1), (2) and (3) above in order to assist such Party or any of its affiliates in obtaining or retaining business for or with, or directing business to, any person.

8. Public Records. As a public agency, MA DOER is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66; “Massachusetts Public Records Law”) and thus documents and other materials made or received by MA DOER and/or its employees may be subject to public disclosure. Mayflower Wind acknowledges and agrees that any document, report or other information provided pursuant to this Agreement,

including any Agreement, shall be a public document and subject to disclosure under Massachusetts Public Record, as determined by MA DOER.

9. No Partnership, etc. It is expressly agreed that the relationship between the Parties shall not constitute a partnership, joint venture or agency.

10. Miscellaneous.

(a) Entire Agreement. This Agreement sets forth the entire agreement between MA DOER and Mayflower Wind regarding the matters herein and supersedes all prior agreements and understandings, written or oral, between MA DOER and Mayflower Wind with respect to the subject matter hereof.

(b) Amendment; Waiver. This Agreement may be modified or amended only by a writing executed by Mayflower Wind and MA DOER. No failure by a Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

(c) Assignment. This Agreement shall inure to the benefit of each Party and any of its successors and permitted assigns. Neither Party may assign this Agreement without obtaining the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, that Mayflower Wind shall have the right to assign this agreement to an affiliate that will own the Project effective upon its delivery of Notice to MA DOER and provided further, that MA DOER shall have the right to assign this agreement to its legal successor-in-interest effective upon delivery of Notice to Mayflower Wind. For purposes of Mayflower Wind's rights under this Section 8(c), "affiliate" shall mean an entity that is (a) formed for the purpose of owning, financing and operating the Project, that at such time owns and intends for the duration of this Agreement to continue to own all or substantially all of the assets of the Project and/or (b) is directly, or indirectly through one or more intermediaries controls, or is controlled by, or is under common control where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such affiliate, whether through the ownership of membership interests, by contract or otherwise. MA DOER accepts such an affiliate as a permitted assignee of this Agreement.

(d) Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, and the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(e) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without reference to the conflicts of laws provisions thereof that would require the application of the laws of another state. Each Party expressly consents that any judicial action with respect to this Agreement shall

be filed exclusively in the state courts located in the Commonwealth of Massachusetts, and each Party further irrevocably consents and submits to the personal jurisdiction and venue of the state courts located therein and irrevocably waives any and all claims and defenses it might have in any action or proceeding in any of such courts based upon any alleged lack of personal jurisdiction, improper venue, forum *non conveniens*, or any similar claim or defense.

(f) Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “Notice”) shall be delivered by an authorized person of a Party in writing and addressed to the receiving Party at the address set forth herein (or to such other address that may be designated by the receiving party from time to time in accordance with this section). Notices to Mayflower Wind shall be addressed to Commercial Manager, Mayflower Wind Energy LLC, 101 Federal Street, Suite 1900, Boston, MA 02110. Notices to MA DOER shall be addressed to General Counsel, Department of Energy Resources, 100 Cambridge Street, Suite 1020, Boston, MA 02114. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), e-mail of a PDF document (with confirmation of transmission) or certified mail (return receipt requested, postage prepaid). All e-mail notices shall be promptly followed by overnight delivery (with all fees pre-paid) or certified mail (return receipt requested, postage prepaid) to the persons identified in this paragraph (f).

(g) Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which together shall constitute one and the same agreement binding on each of the parties hereto. Counterparts may be delivered via electronic mail, first class mail or personal delivery and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

(h) Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. The Parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

(i) Force Majeure. Performance by a Party of its obligations contained in this Agreement at the time of and during an event of Force Majeure shall be excused and suspended so long as such event of Force Majeure is in effect, and for a reasonable period thereafter within which such Party shall make all commercially reasonable efforts to resume performance, but for no longer period. A Party shall give prompt Notice to the other Party of such Force Majeure, which Notice shall provide details regarding the nature, the extent and expected duration of such Force Majeure. Each Party shall keep the other updated and advised of the effect of and remedial measures being undertaken to overcome such an event of Force Majeure. Neither Party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure. “Force Majeure” shall have the meaning set forth in the first sentence of Section 10.1(a) of the PPAs as of the Effective Date.

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IN WITNESS WHEREOF, the Parties hereto have executed this Offshore Wind Development and Reporting Agreement as of the Effective Date.

**MASSACHUSETTS DEPARTMENT
OF ENERGY RESOURCES [OR
OTHER STATE AGENCY]:**

MAYFLOWER WIND ENERGY LLC:

By:

Name: Patrick C. Woodcock

Title: Commissioner

By:

A handwritten signature in black ink, appearing to be 'MB', is written above a solid horizontal line that serves as a signature line.

Name: Michael Brown

Title: Chief Executive Officer

IN WITNESS WHEREOF, the Parties hereto have executed this Offshore Wind Development and Reporting Agreement as of the Effective Date.

**MASSACHUSETTS DEPARTMENT
OF ENERGY RESOURCES:**

By: 

Name: Patrick C. Woodcock

Title: Commissioner

MAYFLOWER WIND ENERGY LLC:

By: _____

Name: Michael Brown

Title: Chief Executive Officer

Appendix A – List of Wind Industry Development Initiatives

Column A: Initiative	Column B: Partner Company	Column C: Location
Mayflower Wind office space in Fall River, MA	Long Term Lease in Fall River, MA	Fall River, MA
Operations and Maintenance (O&M) and Service Operation Vessel (SOV) base	Letter of Intent with Borden & Remington Corp	Fall River, MA
Crew Transfer Vessel (CTV) construction	MOU with Gladding-Hearn Shipyard	Somerset, MA

Appendix B – List of Direct Economic Investment Initiatives

Column A: Initiative	Column B: Partner Organization	Column C: Dollar Amount	Column D: Timing of Funding
Westport Home Build and ReStore	Buzzards Bay Habitat for Humanity	\$2,500,000	18.4% pre-FC 81.6% post-FC
MassCEC Triple Decker	MassCEC	\$1,000,000	100% post-FC
SouthCoast LGBTQ+ Network Donation	SouthCoast LGBTQ+ Network	\$100,000	100% pre-FC
The Mayflower Fund	SouthCoast Community Foundation	\$27,000,000	9.1% pre-FC 90.9% post-FC
The Mayflower Fund	Bristol Community College Foundation	\$6,000,000	13.3% pre-FC 86.7% post-FC
The Mayflower Wind SouthCoast Scholarship Fund	Massachusetts Maritime Academy Foundation	\$2,000,000	10% pre-FC 90% post-FC
Mayflower Veterans Employment Program	MassHire Greater New Bedford Workforce Board	\$660,000	6.1% pre-FC 93.9% post-FC
Protected Species Observer Local Expertise Development Initiative	RPS Group	\$600,000	10% pre-FC 90% post-FC
NSBE Visionary Level Corporate Partnership	National Society of Black Engineers (NSBE) Boston Professionals	\$275,000	9.1% pre-FC 90.9% post-FC
NSBE Visionary Level Corporate Partnership – Internships and Rotational Jobs	Supply Chain Partners (To Be Named)	\$2,275,000	100% post-FC

Note: FC means Financial Close, as defined in the EDC Contracts