



**PowerSupply Coordination® Agreement Illinois Fixed AI (MISO)
Matrix Terms and Conditions**

1. Nature of Service: This Agreement shall become effective only upon (i) execution by Buyer of the Pricing Attachment and this Agreement; and (ii) the earlier of execution of this Agreement by Direct Energy or written confirmation by Direct Energy of its acceptance of this Agreement to Buyer. Upon such effectiveness, Direct Energy will provide PSC Services and Electricity to meet Buyer's full usage requirements at Buyer's Facility(ies) and Buyer will receive and pay for PSC Services and Electricity to meet such usage requirements. Direct Energy will deliver Electricity to the Host Utility for delivery to Buyer's Facility(ies). Title to, control and possession of Electricity shall pass from Direct Energy to Buyer at the Point of Delivery.

Buyer and Direct Energy acknowledge that Direct Energy does not intend to serve customers whose aggregate usage per Host Utility service area is less than 15,000 kWh's per year. Accordingly, Buyer represents and warrants that electrical usage, in aggregate, at all of Buyer's locations within a Host Utility's service area exceeds 15,000 kWh per year. Upon request by Direct Energy, Buyer shall provide evidence sufficient to prove that Buyer's usage within a Host Utility's service area exceeds 15,000 kWh per year. If, at any time, usage at Buyer's locations within a Host Utility's service areas is in fact less than 15,000 kWh per year, Buyer is in material breach of this Agreement and Direct Energy reserves the right to terminate this Agreement at any time without prior notice or opportunity to cure. The effect of such termination is described in Section 11 of this Agreement. Buyer waives the requirements contained in 220 ILCS 5/16-115A (e) applicable to small commercial retail customers, which are defined by statute as "nonresidential retail customers ... consuming 15,000 [kWh] or less of electricity annually in [the Host Utility's service area]."

2. Qualification-Authorization to Act as Limited Agent: Without limiting Section 1, as a condition to Direct Energy's obligations hereunder, Buyer is authorizing Direct Energy to obtain all required account and usage information for all Facility(ies) from the Host Utility upon execution of this Agreement. Buyer agrees to appoint Direct Energy as its limited agent to perform the necessary tasks associated with its electric generation service and fulfill the terms of this Agreement. Buyer authorizes Direct Energy to execute a letter of authorization, as required by the Host Utility, and to obtain information from the Host Utility that includes Buyer's billing history, payment history, historical and future electricity usage, meter readings, and characteristics of electricity service. It is expressly understood that Direct Energy will not countersign this Agreement, purchase Electricity for Buyer's Facility(ies) or provide PSC Services until such condition is met.

3. Term: This Agreement shall be effective upon execution of the Agreement by both parties, execution by Buyer of the Pricing Attachment and satisfaction of the conditions set forth in Section 2 above. Direct Energy shall use reasonable efforts to commence service on the Facility(ies) meter read date in the start month stated on the Pricing Attachment. However, Buyer acknowledges that the commencement of service hereunder is dependent upon confirmation by the Host Utility of the completion of all required enrollment processes and if such enrollment processes occur after the Facility(ies) meter read date in the start month stated on the Pricing Attachment, Buyer's Facility(ies) shall be enrolled at the next available meter read date. Buyer will receive written notification from the Host Utility confirming a switch of the Buyer's power and energy supplier. Service shall continue through the Facility(ies) meter read date in the end month as stated in the Pricing Attachment (the "Initial Term") unless sooner terminated as provided herein. At the end of the Term, this Agreement shall automatically continue on a month to month basis ("Monthly Renewal", each Monthly Renewal together with the Initial Term shall be the "Term") at the market-based costs as set forth in Section 4.

Buyer Acknowledges
Price Terms:

Initial Here:

4. Price: The price per kWh to be paid by Buyer for the Services provided hereunder during the Term of this Agreement (the "Price") shall be that set forth on the Pricing Attachment. The Price includes applicable costs for Energy procured in accordance with Direct Energy's policies; Ancillary Services; losses; the Illinois Energy Efficiency Fund Fee; Capacity; any applicable network transmission charges (NITS); applicable RSG charges; applicable Renewable Portfolio Standard ("RPS") charges and the fee for PSC Services. Any sales taxes, transactional taxes or other governmental or regulatory imposed taxes or surcharges to which Buyer may be subject; and any additional or increased charges, not currently included in the Price, associated with Direct Energy's obligation for RSG charges as required by MISO are not included in the Price and shall be passed through to be paid by the Buyer in addition to the Price. The Price shall not include any charges for delivery services provided by the Host Utility; however subject to Section 5 below, charges from the Host Utility for any delivery service charges shall also be included upon the Direct Energy invoice.

The price per kWh during any Monthly Renewal will include the market-based cost for Energy as determined by Direct Energy, plus all other taxes, costs, charges or fees which are set forth in the Price section of this Agreement.

Buyer acknowledges that any costs assessed by the Host Utility or any third party as a result of the provision of service

hereunder, including but not limited to switching costs, are not included in the Price and shall be the responsibility of Buyer.

5. Billing and Payment: Payment in full of Direct Energy's invoice is due twenty (20) calendar days from the date of the invoice. If Buyer fails to remit payment in full in any month, interest will be assessed on the late balance at the lower of 1.5% per month or the highest amount permitted by applicable law. Buyer may in good faith dispute any portion of an invoice by providing Direct Energy with a written explanation specifying the amount in dispute and the reason for the dispute by the payment due date. Buyer shall remit all invoiced and undisputed amounts by the date due. In all cases, the Parties shall use good faith efforts to resolve any dispute. In the event the Parties are unable to resolve the dispute within ten (10) days of the notice date, either Party may begin legal proceedings to resolve the dispute. Any amounts determined owed, together with interest thereon as provided above, shall be paid within three (3) days of the date on which the dispute is resolved.

Buyer will receive from Direct Energy a monthly invoice following its meter read date for Direct Energy services provided under this Agreement as well as for the Host Utility delivery service charges, unless Direct Energy is not able to provide a single bill option (in such cases, Buyer will receive separate bills for Direct Energy's charges (as set forth in section 4) and for the Host Utility's charges until such time that the single bill option arrangement is available through Direct Energy). Buyer shall receive a separate invoice per Facility unless Buyer selects the Aggregated Billing option. For the purposes of this Agreement, Aggregated Billing shall mean that Buyer Facility(ies) shall be combined onto one Direct Energy invoice (excepting however, that an aggregated invoice may contain no more than fifty (50) Facility(ies). If Buyer has more than fifty (50) Facility(ies), Buyer shall receive more than one aggregated invoice). If Buyer selects Aggregated Billing, Direct Energy shall choose the day of the month on which to deliver a invoice to Buyer based upon the Facility(ies) meter read dates. In the event Buyer desires to discontinue Aggregated Billing and instead receive a separate invoice for each Facility, Buyer shall submit such request in writing to Direct Energy and Direct Energy shall separate Buyer's invoice provided that the invoice balance(s) on Buyer's Facility(ies) are zero.

If in any month Direct Energy does not receive the information necessary to invoice Buyer or uses information obtained from a third party meter reading service, Direct Energy may use either the estimated data or the third party meter usage data to calculate Buyer's invoice and, upon receipt of actual data in the case of an estimated read, reconcile the amount billed on future invoices.

In no event shall any adjustments or corrections be made to any amount billed after the lapse of the longer of twenty-four (24) months from the date of the invoice or the time frame permitted by the Regional Transmission Operator, the Independent System Operator or the Host Utility's tariff for adjustments to consumption information.

6. Credit: Direct Energy may request that Buyer provide financial information sufficient for Direct Energy to complete a credit review prior to providing service hereunder. If, prior to commencing service or at any time during the term of this Agreement, Direct Energy has good faith concerns about the creditworthiness of Buyer, Direct Energy may require that Buyer provide reasonable credit assurances, including but not limited to, an escrow account, deposit, letter of credit, or parental guaranty. If such credit assurance(s) is not provided within seven (7) days of being requested by Direct Energy, then such failure shall be deemed an Event of Default under this Agreement and Direct Energy may terminate this Agreement without any additional notice. If, as a result of the early termination due to Buyer's failure to provide the requisite credit assurance, Direct Energy incurs direct actual damages in liquidating the Electricity purchased to serve Buyer under this Agreement, Buyer agrees to be responsible for such damages. Direct Energy will calculate the amount of the damages and submit an invoice to Buyer, along with substantiation of the charges, which invoice will be due and payable pursuant to the payment terms of this Agreement.

7. Load Change Information: In order to assist Direct Energy in providing accurate expected usage information to Buyer's Host Utility, Buyer shall timely notify Direct Energy of any anticipated significant changes in its actual usage. Without limiting Buyer's obligation to provide such notice, Buyer shall give Direct Energy at least thirty (30) days' notice ("Notice of Load Change") prior to 1) removing a Facility(ies) from service hereunder as a result of i) ceasing operations at such Facility(ies), ii) closure of the Facility(ies) or iii) the sale of the Facility(ies) to an unrelated third party, and/or 2) engaging in any load usage reduction as a result of any third party arrangement(s), or programs(s). Buyer shall be responsible for payment of any Actual Damages incurred by Direct Energy, if any, as a result of any such changes.

Also, if Buyer has a change in usage of 100% or more for its Facilities, Direct Energy may pass through the resulting cost increases to Buyer. If Direct Energy elects to pass through such cost increases, Direct Energy will calculate the amount of such costs in a commercially reasonable manner and submit an invoice to Buyer, which invoice will be due and payable pursuant to the payment terms of this Agreement.

8. Change in Law: If regulatory changes shift costs from the Host Utility or ISO or RTO to Direct Energy or from Direct Energy to the Host Utility or ISO or RTO, then such costs or credits may be passed through to the Buyer. If any laws, orders, decisions, or regulations are passed, modified, implemented or interpreted by judicial or regulatory order administrative proceeding or legislative enactment, or if there is a change in any rate or rate class which applies to Buyer's Facilities, any of which creates additional costs not currently included in the Price or an increase in any of the cost components of the Price ("Incremental Charges"), then Direct Energy may pass through such Incremental Charges to be paid by Buyer in addition to the Price and in accordance with the payment terms in this Agreement.

9. Limitation of Liability Disclaimer: EXCEPT WITH RESPECT TO REMEDIES OTHERWISE SPECIFICALLY PROVIDED FOR IN

THIS AGREEMENT, LIABILITY IS LIMITED TO DIRECT DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE EXPRESSLY WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR ANY BUSINESS INTERRUPTION DAMAGES. EACH PARTY AGREES THAT IT HAS A DUTY TO MITIGATE DAMAGES AND COVENANTS THAT IT WILL USE COMMERCIALY REASONABLE EFFORTS TO MINIMIZE ANY DAMAGES IT MAY INCUR AS A RESULT OF THE OTHER PARTY'S PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT. TO THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO ELECTRICITY SOLD HEREUNDER. DIRECT ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND EXPRESSLY DISCLAIMS AND NEGATES ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Termination: This Agreement may be terminated at any time after the date hereof (i) by mutual consent in writing by the parties, (ii) by either party if there has been an Event of Default that is not cured within fifteen (15) calendar days of the defaulting party's receipt of written notice from the non-defaulting party, (iii) by Direct Energy if Buyer fails to provide the credit assurance requested, pursuant to Section 6 within seven (7) days of being requested by Direct Energy, or (iv) during a Monthly Renewal pursuant to Section 3, by either party upon providing the other party with thirty (30) days prior written notice.

In the event this Agreement is terminated by Buyer prior to the expiration of the Initial Term and where permitted by applicable law (and such termination is not the result of an uncured breach of Direct Energy pursuant to subsection (ii) of Section 10 above) or if Direct Energy terminates this Agreement pursuant to subsections (ii) or (iii) above, the following calculation of Direct Energy's damages shall apply and serve as Direct Energy's exclusive remedy (except in the case of a breach of the confidentiality obligations set forth in Section 15): if Buyer's historical load profile for the 12 months prior to the date of termination was (A) under 100,000 kWh, Buyer shall pay to Direct Energy an amount equal to the lesser of (i) \$200 or (ii) the maximum extent permitted by applicable law; or (B) equal to or over 100,000 kWh, Buyer shall pay to Direct Energy an amount equal to, at Direct Energy's election, the greater of (i) \$200 or (ii) any Actual Damages. Buyer understands and acknowledges that, to the extent that Buyer's historical load profile for the 12 months prior to the date of termination is equal to or over 100,000 kWh, Direct Energy will incur substantial damages as a result of Buyer's breach, and is entitled to be paid the Actual Damages incurred as a result of such breach.

11. Effect of Termination: In the event of termination as provided in this Agreement, all further obligations of the Parties under this Agreement shall terminate without further liability of the Parties, except for the payment by the owing Party of any sums due and owing to the other Party for services rendered prior to the termination date, any Actual Damages (in the event of termination under subsections (ii) or (iii) of Section 10 above), any damages due Direct Energy pursuant to the calculation set forth in the second paragraph of Section 10 above, any confidentiality obligation of either Party which has arisen hereunder and any other obligation hereunder which by its nature survives the termination of this Agreement.

12. Applicable Law: As to all matters of construction and interpretation, this Agreement shall be construed, interpreted, and governed under and by the laws of the State of Illinois, without regard to its choice of law provisions.

13. Parties, Assignment: This Agreement shall inure to and benefit the parties hereto and their permitted successors and assigns. Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the above, Direct Energy may, without the consent of Buyer, assign its rights and obligations under this Agreement for the limited purpose of securing credit and financing or to any person or entity succeeding to all or substantially all of the assets of Direct Energy. Further, either party may, without the need for consent from the other party, transfer or assign this Agreement to an Affiliate of such party provided that such Affiliate has substantially equivalent financial capability to that of the assigning party and that such assignee shall agree to be bound by the terms and conditions hereof.

14. Notices and Correspondence: Any notice or document or instrument to be given hereunder or executed pursuant hereto, including without limitation any termination or disconnection notices, shall be in writing and shall be delivered to either the address specified below or the address to which bills are sent to Buyer. Notice sent by facsimile or other electronic means shall be deemed to have been received by the close of the business day on which it was transmitted or such earlier time as is confirmed by the receiving party. Notice delivered by mail shall be deemed to have been received at the end of the third business day after the date of mailing by prepaid first class mail, except that when there is a strike affecting delivery of mail, all notices shall be delivered by courier or by facsimile or other electronic means.

Direct Energy: Attn: Customer Service Manager

1001 Liberty Avenue, Pittsburgh, PA 15222

Phone: (888) 925-9115; Fax: 412-644-6681; Monday through Thursday from 7:00AM to 7:00PM Eastern Time and Friday 7:00AM to 6:00PM Eastern Time.

Buyer: To the address specified upon the Pricing Attachment.

15. Confidentiality: Neither Party will disclose the terms of this Agreement, or any information of the other Party which it knows or reasonably should know to be confidential or proprietary (other than to the party's employees, lenders, counsel, consultants,

agents or accountants who have agreed to keep such terms confidential) except when disclosure may be required by law, is required to carry out the terms of this Agreement or with the prior written consent from the other party. The parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. This provision shall survive the termination of this Agreement for a period of two (2) years.

16. Representations and Warranties: As a material inducement to entering into this Agreement, each party, with respect to itself, hereby represents and warrants to the other party as follows, and agrees to cause each of its respective representations and warranties to remain true and correct throughout the term of this Agreement:

- a. it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement;
- b. the execution and delivery of this Agreement are within its powers, have been duly authorized by all necessary actions and/or board approvals, and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it;
- c. this Agreement constitutes a legal, valid and binding obligation of such party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending;
- d. there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it or, to its knowledge, threatened against it;
- e. if a broker has been involved in this transaction, such broker is an agent of Buyer in this transaction and may receive a commission to be paid by Direct Energy from payments received from Buyer under this Agreement;
- f. if it is a property management company or other agent acting on behalf of the owner of the Facility(ies), it has the authority to execute and bind the Facility(ies) to this Agreement for the term stated in the Pricing Attachment and that the term of its agreement with the owner of the Facility(ies) is equal to or greater than the term of this Agreement; and
- g. this Agreement constitutes a legal, valid and binding obligation of such party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending.

17. Miscellaneous:

- a. Waiver: No waiver by either party of any default or defaults by the other party under this Agreement shall operate as a waiver of any future default or defaults, whether of a like or different character or nature. No delay or failure by Direct Energy in enforcing any part of this Agreement shall be deemed a waiver of any of its rights or remedies.
- b. Counterparts: This Agreement may be executed in one or more than one counterpart and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other party by facsimile, mail, courier or electronic mail, all of which together shall constitute one and the same Agreement.
- c. Severability: The various provisions of this Agreement are severable. The invalidity, illegality or unenforceability of any portion or provision shall not affect the validity, legality or enforceability of any other portion or provision of this Agreement.
- d. Entire Agreement: This Agreement and the Pricing Attachment contain the entire understanding of the parties with respect to the subject matter contained herein. There are no promises, covenants or understanding other than those expressly set forth herein. This Agreement may only be amended by a written instrument executed by both parties. Any modifications to the Pricing Attachment must be accepted and agreed to in writing by Buyer.

18. Definitions: As used herein, unless the context clearly indicates otherwise, the following terms shall have the meaning set forth below:

- a. "Actual Damages" means the total amount of the loss that the non-defaulting party (or, in the event of a termination without cause, the nonterminating party) (as applicable, the "Damaged Party") would experience as a result of termination. As to each terminated transaction, Actual Damages shall be deemed to equal: (A) where Direct Energy is the Damaged Party, the positive difference, if any, between the contract price as defined in the Price section of the Agreement of the Electricity for the remaining term of such terminated transaction and the market price of the Electricity for the remaining term of such terminated transaction, in each case as determined by Direct Energy in a commercially reasonable manner; and (B) where Buyer is the Damaged Party, the positive difference, if any, between the market price of the Electricity for the remaining term of such terminated transaction and the contract price as defined in the Price section of the Agreement of the Electricity for the remaining term of such terminated transaction, in each case as determined by Direct Energy in a commercially reasonable manner for the avoidance of doubt, "contract price" shall include the PSC Services fee for purpose of the above calculations.
- b. "Ancillary Services" means wholesale electric services and products required to facilitate delivery of Energy to the Host Utility.
- c. "Capacity" means the resources purchased to meet the Resource Adequacy Requirements of MISO's Tariff Module E.
- d. "Distribution" means all delivery service for Energy and applicable Ancillary Services provided by the Host Utility.
- e. "Electricity" means the combination of Energy and Ancillary Services which are provided by Direct Energy under this

Agreement.

- f. "Energy" means electrical energy, as measured in kilowatt hours (kWh) or megawatt hours (MWh).
- g. "Event of Default" means: (a) the failure of a Party to make, when due, any payment that is required under this Agreement; (b) any representation or warranty made by a Party that proves to be false or misleading in any material respect; (c) the failure of a Party to perform its obligations under this Agreement, except to the extent such failure is excused by a Force Majeure event; (d) Buyer's failure to cooperate with Direct Energy as reasonably required in order for Direct Energy to perform its obligations under this Agreement. If an Event of Default has occurred, (a) the non-defaulting Party shall have the right to setoff and net against any undisputed amounts owed by the defaulting Party to the non-defaulting Party under this Agreement, and (b) Direct Energy shall additionally have the right to setoff and net against any deposit or security provided by Customer pursuant to this Agreement any amounts, charges or damages owed by Buyer to Direct Energy.
- h. "Facility (ies)" means the electric account meter(s) located at the service addresses for which Buyer has the authority to purchase Electricity under this Agreement and which are set forth on the Pricing Attachment.
- i. "Firm" means that parties may only suspend performance hereunder to the extent that such performance is prevented for reasons of Force Majeure.
- j. "Force Majeure" means any "Act of God" or other unexpected and disruptive event beyond the reasonable control of either party that interferes with either party's ability to perform its obligations under this Agreement, except for the obligation to pay monies due. Any party which is unable to perform its obligations hereunder as a result of a Force Majeure event shall provide written notice to the other party of the existence of such event and exercise due diligence to remove such event with all reasonable dispatch, but shall in no event be required to incur any commercially unreasonable expense in doing so. It is expressly understood by the parties that the ability of Direct Energy to sell the products and services provided hereunder at a price greater than the Price paid by Buyer shall not constitute an event of Force Majeure. Conversely, the ability of Buyer to purchase the products and services provided hereunder for an amount less than the Price shall not constitute an event of Force Majeure. Buyer acknowledges that while Direct Energy may take title to Energy provided hereunder, Direct Energy does not own or operate transmission or distribution systems through which Energy is delivered to Buyer, and the Parties.
- k. "Host Utility" means any investor-owned utility, municipal utility, public utility, or other provider of electric lines whose system is directly interconnected with and which provides Distribution to Buyer's Facility(ies).
- l. "Point(s) of Delivery" shall mean the points where Energy is delivered to the Host Utility.
- m. "Power Supply Coordination (PSC) Services" are the services provided by Direct Energy to match the Facility(ies) load, as described in this Agreement. As described in Section 4 herein, the fee for PSC Services is included in the Price to be paid by Buyer.
- n. "Revenue Sufficiency Guarantee ("RSG")" is a mechanism that ensures generation resources that are committed by the MISO to ensure that adequate capacity is available to meet demand and reserve obligations are guaranteed recovery of costs.

Direct Energy

1001 Liberty Avenue, Pittsburgh, PA 15222

www.Directenergy.com

Phone: (888) 925-9115

INTERNAL USE ONLY:

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