



PowerSupply  
Coordination®  
Service Agreement  
New York

This Agreement is entered into on \_\_\_\_\_ and is between Direct Energy Business LLC ("Direct Energy") and \_\_\_\_\_ ("Buyer"). Direct Energy and Buyer are sometimes individually referred to herein as a "Party" or collectively as the "Parties".

#### 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).

#### 2. Term:

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 or Exhibit B, as applicable. However, Buyer acknowledges that the commencement of service hereunder is dependent upon confirmation by the Host Utility of the completion of all required switching and enrollment processes and if such switching and enrollment processes occur after the Facility(ies) meter read date in the start month stated on the Pricing Attachment or Exhibit B, as applicable. Buyer's Facility(ies) shall be enrolled at the next available meter read date. Direct Energy shall not be liable for any lost savings or lost opportunity as a result of a delay in service commencement due to actions or inactions of the Host Utility.

Service shall continue through the Facility(ies) meter read date in the end month or with respect to PowerPortfolio™ or PowerAdvantage™ service, until the meter read date after the expiration of the Transaction or Transaction Confirmation, if later as stated on the Pricing Attachment or Exhibit B, as applicable (the "Term"), unless sooner terminated as provided herein. At the end of the Term, if Buyer and Direct Energy have not entered into any written modification, amendment or renewal of this Agreement and if Buyer has not elected to obtain service from another supplier, this Agreement shall automatically continue on a month-to-month basis ("Monthly Renewal") at the market-based costs as defined in the Confirmation.

#### 3. Definitions:

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

##### "Actual Damages"

means the total amount of the loss that the non-defaulting party (or, in the event of a termination without cause, the non-terminating 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 of the Electricity - as described in the Confirmation - 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 of the Electricity - as described in the Confirmation - 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.

##### "Ancillary Services"

means wholesale electric services and products required to facilitate delivery of Energy to the Host Utility.

**"Confirmation"**

refers to the product and pricing attachment(s) to this Agreement, which set forth a description of the Energy product selected by Buyer, describes the pricing for such Energy product, and identifies the Facilities covered by this Agreement. For fixed price service, the Confirmation includes a Part I (Energy product description) and a Part II (Pricing Attachment), in addition to any special provisions to the Agreement agreed to between the Parties. For PowerPortfolio™ or PowerAdvantage™ service, the Confirmation includes a Part I (Product and Pricing description), together with an Exhibit A and Exhibit B, in each case as defined herein. In all cases, the confirmation also includes any special provisions to the Agreement agreed to between the Parties.

**"Distribution"**

means all delivery service for Energy and applicable Ancillary Services provided by the Host Utility.

**"Electricity"**

means the combination of Energy and Ancillary Services which are provided by Direct Energy under this Agreement.

**"Energy"**

means electrical energy, as measured in kilowatt hours (kWh) or megawatt hours (MWh).

**"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 Buyer pursuant to this Agreement any amounts, charges or damages owed by Buyer to Direct Energy.

**"Exhibit A"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and refers to the form of Transaction Confirmation attached to this Agreement, identified as Exhibit A, and which is used to confirm Transactions entered into under this Agreement, as described in the Confirmation.

**"Exhibit B"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and refers to the list of Facilities attached to this Agreement and identified as Exhibit B, which list specifies the Facilities covered under the scope of this Agreement.

**"Facility (ies)"**

means the electric account meter(s) located at the service address(es) for which Buyer has the authority to purchase Electricity under this Agreement and which are set forth on the Pricing Attachment or Exhibit B, as applicable.

**"Firm"**

means that Parties may only suspend performance hereunder to the extent that such performance is prevented for reasons of Force Majeure.

**"Force Majeure"**

means any "Act of God" or other unexpected and disruptive event beyond the reasonable control of either Party that interferes with its 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 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 therefore agree that Direct Energy shall not be liable for any damages associated with any failure in the delivery of Energy in connection with the failure of such transmission or distribution systems.

**"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 Service to Buyer's Facility(ies).

**"Point(s) of Delivery"**

shall mean the point(s) where Energy is delivered to the Host Utility.

**"PowerSupply Coordination (PSC) Services"**

are the services provided by Direct Energy to match the Facility(ies) load, as described in this Agreement. As described in the Confirmation, the fee for PSC Service (the "PSC Services fee") is included in the Price to be paid by Buyer.

**"Pricing Attachment"**

applies only to fixed price service, and refers to Part II of the Confirmation and describes (together with Part I) the pricing terms applicable to, and the Facilities covered by, this Agreement.

**"Transaction Confirmation"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and is defined in Part I of the Confirmation.

**4. Type of Service:**

Firm - subject only to Force Majeure.

**5. Price:**

Pricing is as set forth in the Confirmation.

**6. Billing and Payment:**

Payment-in-full is due twenty (20) 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 one and one-half (1.5%) percent per month or the highest rate allowed by 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 services provided under this Agreement and the Host Utility will continue to bill Buyer directly for any transmission and Distribution charges. Buyer shall receive a separate invoice per Facility unless Buyer selects the Aggregated Billing option as described in this paragraph and reflected in a "Billing Contract Information and Selection Form." "Aggregated Billing" means that billing for Buyer's Facility(ies) may be combined into a single monthly invoice (excepting however, that a aggregated invoice may contain no more than fifty (50) Facilities. 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 an 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 there are no outstanding invoice balance(s) on Buyer's Facility(ies).

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 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. If Buyer's Facility(ies) have any interval meters, Buyer acknowledges that the usage information for such meters contained on the Direct Energy invoice may vary from that contained upon the Host Utility bill as a result of different billing cycles being utilized for those meter reads.

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.

**7. 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 or Buyer's ability to perform hereunder, Direct Energy may require that Buyer provide reasonable credit assurance(s), in an amount and in a form determined by Direct Energy in a commercially reasonable manner, including but not limited to, an escrow account, deposit, letter of credit, or parental guaranty.

**8. Title, Control and Possession:**

Title to, control and possession of Energy shall pass from Direct Energy to Buyer at the Point of Delivery.

**9. 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 removing a Facility(ies) from service hereunder as a result of ceasing operations (closing of the Facility(ies) or sale of the Facility(ies) to an unrelated third party) at such Facility(ies).

Except for any PowerPortfolio and PowerAdvantage Agreements, the following shall also apply:

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 25% 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.

**10. Change in Law or Regulation:**

If regulatory changes shift costs from the Host Utility or ISO to Direct Energy or from Direct Energy to the Host Utility or ISO, 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 rate class which applies to Buyer's Facilities, which creates additional costs not currently included in the Price or increases in 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.

**11. 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 BUSINESS INTERRUPTION DAMAGES. EACH PARTY AGREES THAT IT HAS A DUTY TO MITIGATE DAMAGES AND AGREES THAT IT WILL USE COMMERCIAL REASONABLE EFFORTS TO MINIMIZE ANY DAMAGES IT MAY INCUR AS A RESULT OF THE OTHER PARTY'S PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT.

TO THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO ENERGY 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

**12. 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 7, within seven (7) days of being requested by Direct Energy; or (iv) during a Monthly Renewal pursuant to Section 2, by either Party upon providing the other Party with thirty (30) days prior written notice.

**13. 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, any indemnification or confidentiality obligation of either Party which has arisen hereunder and any other obligation hereunder which by its nature survives the termination of this Agreement.

**14. 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 New York, without regard to its choice of law provisions.

**15. 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, conditioned or delayed. Notwithstanding the above, Direct Energy may, without the consent of Buyer, assign this Agreement and its rights and obligations hereunder to any third party 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 equivalent financial capability to that of the assigning Party and agrees to be bound by the terms and conditions hereof. Buyer expressly agrees that if necessary Buyer will execute any documents necessary to effectuate such assignment including, but not limited to, a letter of agency. As used herein, "Affiliate" shall mean with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For purposes of the foregoing definitions, "control" means the direct or indirect ownership of more than fifty percent (50%) of the outstanding capital stock or other equity interests having ordinary voting power.

**16. Notices and Correspondence:**

Any notice or other document to be given or served hereunder or under any document or instrument 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 courier shall be deemed to have been received on the business day after it was sent 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: (866) 421-0257

Email: CustomerRelations@directenergy.com

Attn: «FirstName» «MiddleName»

«LastName»

«Line1»

«Line2»

«City», «State» «PostalCode»

Phone: «PhoneNumber»

Fax: «FaxNumber»

**Monday through Friday from 8:00AM to  
6:00PM Eastern Time**

**17. 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 a party has obtained written consent from the other party. Direct Energy agrees that such confidential treatment shall extend to Buyer's usage and consumption data which is not otherwise in the public domain and which will not be disclosed except as appropriate to carry out the terms of this Agreement or as requested in writing by the Buyer. 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.

**18. 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:

- (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) as of the date of service commencement hereunder, it shall have all regulatory authorizations necessary for it to legally perform its operations;
- (d) 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;
- (e) there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it or, to its knowledge, threatened against it;
- (f) 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;
- (g) if it is a property management company 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 property management agreement with the owner of the Facility(ies) is equal to or greater than the Term of this Agreement; and
- (h) the Facility(ies) to be provided the services described herein are not contractually bound by another agreement for Electricity services that will overlap with the Term stated in the Pricing Attachment.

Each Party covenants that it shall cause its respective representations and warranties to remain true and correct throughout the Term of this Agreement.

**19. Multiple Dwellings. BUYER TO SELECT EITHER OPTION A OR B:**

OPTION A: Buyer represents and warrants that none of the premises covered by this Agreement are multiple dwellings or two-family dwellings or are regularly used for residential use ("Covered Dwellings"), and covenants that it shall promptly notify Direct Energy of any change to such status during the term of this Agreement.

OPTION B: Buyer represents and warrants that one or more of the premises covered by this Agreement is a Covered Dwelling, in which case, the following provisions shall apply:

Buyer acknowledges that Direct Energy and/or the Host Utility are/is required to take certain actions under the New York Home Energy Fair Practices Act in the event Direct Energy decides to terminate this Agreement or suspend delivery service for non-payment, and/or the Host Utility decides to disconnect delivery service for non-payment of charges. Buyer agrees that it and its agents and employees shall cooperate fully in assisting Direct Energy and/or the Host Utility in the performance of such required actions, including without limitation, by providing (i) access to the Covered Premises for the posting of required notices in public places or for interviewing or meeting with occupants; (ii) information regarding

mailing addresses or energy delivery configuration information for each unit in the Covered Premises; (iii) assistance in, or the furnishing of, heat to occupants of the Covered Premises who are likely to suffer serious impairments to health or safety in the event this Agreement was terminated in whole or in part, or delivery service was suspended or disconnected; and (iv) assistance and information to applicable state agencies and officials in connection with the above. Additionally, Buyer shall provide Direct Energy with prompt notice in the event Buyer, or one or more occupants of any Covered Premises petition(s) or otherwise request(s) to permit individual metering of one or more unit(s) of the subject premise(s). In the event the applicable authorities direct the cessation of master-metered Host Utility and/or Direct Energy service to Buyer in whole or in part in response to such petition(s), Direct Energy may cancel this Agreement without any liability to Buyer. Direct Energy agrees that it shall provide Buyer with at least fifteen (15) calendar days' notice prior to so cancelling this Agreement and upon such cancellation, shall provide Customer with a cancellation number.

**20. 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

**21. 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.

**22. 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.

**23. 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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

**DIRECT ENERGY BUSINESS LLC**

By:  
Print Name:  
Title:  
Date:

\_\_\_\_\_  
By:  
Print Name:  
Title:  
Date:



**PowerSupply  
Coordination®  
Service Agreement  
Product Confirmation for  
New York Fixed PTG**

**This Confirmation is an integral part of the Agreement to which it is attached. Capitalized terms not defined in the Confirmation have the meaning referenced elsewhere in the Agreement.**

**Part I - Product and Pricing Description**

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; Ancillary Services; losses; and the PSC Services fee. Costs associated with Direct Energy's obligation to provide capacity as required by the New York ISO ("Installed Capacity Costs") are included in the Price. Any sales taxes, transactional taxes or other governmental or regulatory imposed taxes or surcharges to which Buyer may be subject are not included in the Price and shall be passed through to the Buyer in addition to the Price. All applicable gross receipts taxes shall be passed through to be paid by Buyer above the Price. The Price does not include any transmission and Distribution charges for services provided by the Host Utility.

The price per kWh during any Monthly Renewal will include the market-based costs 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 Confirmation.

Buyer acknowledges that any costs assessed by the Host Utility or any third Party as a result of Buyer's switch to or from Direct Energy, including but not limited to switching costs, are not included in the Price and shall be the responsibility of Buyer.

**Part II - Pricing Attachment**

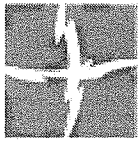
The Pricing Attachment for the Energy product described in Part I above is attached to, and is made a part of, this Confirmation. Buyer's execution of the Pricing Attachment shall constitute execution of the Confirmation.

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**Special Provisions applicable to this Confirmation:**

None.





**Direct  
Energy**  
Business

**PowerSupply Coordination®  
Service Agreement**

**Billing Contact Information  
and Selection Form**

**Account / Customer Name: SARATOGA SPRINGS CITY CENTER AUTHORITY**

Your Name	CITY OF SARATOGA SPRINGS
Your Phone	518-587-3550 x 2550
<b>Billing Information</b>	
Address will be applied to all accounts on Agreement (Exceptions: Please complete a separate form per account and list number)	
Billing Contact Name	STEPHANI VOIGT
Billing Contact Phone	518-587-3550 x 2550
Billing Contact Fax	518-587-6512
Billing Contact Email	STEPHANI.VOIGT@SARATOGA-SPRINGS.COM
Billing Company Name	CITY OF SARATOGA SPRINGS
Billing Address 1	474 BROADWAY
Billing Address 2	5 LAKE AVENUE
Billing City, State	SARATOGA SPRINGS, NY
Zip + 4	12866

Please select, by initialing in the spaces provided below, those options to be applied to your billing accounts.



**My accounts are Tax Exempt**

Please provide current copy of a valid Tax Exemption Form when submitting this document to receive applicable tax exemption on your electricity invoices.

(Direct Energy can only apply exemptions if a completed form is provided)

**Please aggregate my accounts onto one invoice (maximum 50 accounts per invoice)**

(If more than 50 accounts are to be aggregated, accounts will be separated by meter read date)

☐ Please check here if you would like to receive your contract electronically instead of in the mail.

**Internal Use Only**

Billing Address update required for ERM Accounts Yes ☐ No ☐

LDC Account to be used to identify account for Scanning



## New York Disclosure Statement

### **Purpose:**

This Disclosure Statement is meant to provide you, our prospective customer, with a clear description of our offer to provide electricity. If you decide to accept our offer, you will be required to sign a contract.

### **Service Options:**

Direct Energy offers different pricing options and different lengths of contracts. The price offered to you will be determined by your pattern and level of electricity demand, as well as by current and predicted market conditions. Your preferences for price certainty and maximum savings will also determine which options are best for you. Please discuss all the service options with our salesperson.

Your price and the duration of the contract will be clearly indicated in your contract. If you have any questions, please contact us before signing the contract.

### **Our Policies:**

You will receive an invoice from Direct Energy for the electricity and services we provide. You will continue to receive a bill from your electric distribution company for the services they will continue to provide.

Direct Energy's invoice will be itemized and usually sent to you on a monthly basis. Our charge will be based on your electricity consumption as reported to us by your local electricity distribution company. Payment will be due within twenty (20) calendar days of the date of the invoice. We will charge an interest rate of 1.5% per month on any overdue amounts.

If Direct Energy has concerns about your creditworthiness, we will notify you and ask for credit assurances. If we find the assurances are not sufficient, we will ask for credit enhancement. You will have 7 days to provide the enhancement, or we may suspend delivery under the contract.

If you have any questions or complaints about our service or invoices, please contact our Customer Service Department at (888) 925-9115 as soon as possible. The Customer Service phones are answered Monday through Thursday from 7:00AM to 7:00PM Eastern Time and Friday 7:00AM to 6:00PM Eastern Time, except holidays.

The circumstances under which we would cancel our contract with you are identified in the contract. Notice of cancellation would be provided in writing and would give you at least 15 business days' notice.

When your contract is nearing expiration, we will notify you in writing or on your invoice at least 15 business days before expiration.

Before providing price options to you, we will request your historic usage data from your local electric distribution company. We will keep this data confidential and not share it with other parties.

If there is a power outage, downed wire, or other electrical emergency, you should contact your local electric distribution company. Their number can be found in the phone book, on their bills to you, and on our invoices.

Your rights to cancel or modify the contract with us, after you have signed it, are defined fully in the contract. If you and Direct Energy agree in writing, the contract may be terminated. If you find that Direct Energy is not fulfilling the contract, you must provide written notice to Direct Energy of the failure. If Direct Energy's failure has not been fixed within 15 days of receiving your written notice, you may terminate the contract.

### **Customers' Rights and Obligations:**

Your rights to cancel or modify the contract with us, after you have signed it, are defined fully in the contract. If you and Direct Energy agree in writing, the contract may be terminated. If you find that Direct Energy is not fulfilling the contract, you must provide written notice to Direct Energy of the failure. If Direct Energy's failure has not been fixed within 15 days of receiving your written notice, you may terminate the contract.

Direct Energy does not have the right to shut off your electric service; only your local electric distribution company can shut off your electric service and they must follow procedures approved by the Public Service Commission. If your contract with us is cancelled or otherwise ends, you will receive uninterrupted electric service from your local electric distribution company until you find a new supplier or your service is shut off by the local electric distribution company under procedures approved by the Public Service Commission.

Your local electric distribution company may impose certain obligations on you as a requirement to participate in its retail access program. Any such obligations are specified in the local electric distribution company's customer education information.

If you have any questions or complaints about our service or invoices, you should contact our Customer Service group at (888) 925-9115 as soon as possible. The Customer Service phones are answered Monday through Thursday from 7:00AM to 7:00PM Eastern Time and Friday 7:00AM to 6:00PM Eastern Time, except holidays. If you are not satisfied with our response, you may contact the Department of Public Service at 1-888-NYS-PSC8. The Department of Public Service is monitoring complaints against non-utility energy service providers (ESCOs).

#### Summary of Key Provisions in Your Agreement:

The table below is being provided to you in connection with Direct Energy's PowerSupply Coordination® Service Agreement with you (the "Agreement"). The table below identifies key provisions of your Agreement. Please note that section numbering in your Agreement may differ depending on the product you have selected, a description of which may be found in the upper-right hand corner of your Agreement. Refer to the table below for the applicable sections of your Agreement.

Price	<b>Fixed or Xpress agreements:</b> Refer to the Pricing Attachment and Section 5 or 6 (Price) of the Agreement, as applicable. <b>PowerPortfolio™/PowerAdvantage™ agreements:</b> Refer to the Pricing Attachment and Section 3 (Price) of the Agreement.
Fixed or Variable and, if variable, how the price is determined	<b>Fixed or Xpress agreements:</b> Refer to the Pricing Attachment and Section 5 or 6 (Price) of the Agreement, as applicable. <b>PowerPortfolio™/PowerAdvantage™ agreements:</b> Refer to the Pricing Attachment and Section 3 (Price) of the Agreement.
Length of the agreement and end date	<b>All agreements:</b> refer to the Pricing Attachment and Section 2 (Term) of the Agreement.
Process customer may use to rescind the agreement without penalty	Not applicable.
Amount of Early Termination Fee and method of calculation	<b>Fixed or Xpress agreements:</b> Refer to Sections 12 or 13 (Termination) and 13 or 14 (Effect of Termination) of the Agreement, as applicable. <b>PowerPortfolio™/PowerAdvantage™ agreements:</b> Refer to the Pricing Attachment and Section 6 or 7 (Termination) of the Agreement, as applicable.
Amount of Late Payment Fee and method of calculation	<b>Fixed or Xpress agreements:</b> Refer to Section 6 or 7 (Billing and Payment), as applicable. <b>PowerPortfolio™/PowerAdvantage™ agreements:</b> Refer to Section 4 or 5 (Billing and Payment), as applicable.
Provisions for renewal of the agreement	<b>All agreements:</b> Refer to Section 2 (Term) of the Agreement.
Conditions under which savings to the customer are guaranteed	Not applicable.