

## EXHIBIT A PRICING ATTACHMENT

This Exhibit A is to the Transaction Confirmation dated October 16, 2019 between  
**DIRECT ENERGY BUSINESS LLC**  
 and  
**BIRDSONG CORPORATION**  
 for a term of 48 Months

PJM\_NSTC\_VA

Account Number	Service Location	Utility	Utility Rate Class	Zone	Capacity / Transmission Tags	*Estimated Meter Read Start Date (MM/DD/YYYY)	Purchase Price (cents / kWh)	Annual Historical Usage (kWh)
4853647503	County St Warehouse 19 (BIRDSONG CORPORATION Customer C)	Dominion Virginia Power	110	DOM	18.8 / 24.3	01/06/2020	6.724	26,623
5485709546	31380 General Thomans Hwy New (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	GS-2-GS-2U	DOM	49.0 / 52.4	01/03/2020	6.724	441,838
5983730002	Warwick St Warehouse No 5 (BIRDSONG CORPORATION Customer W)	Dominion Virginia Power	110	DOM	2.6 / 2.7	01/09/2020	6.724	14,232
7633632505	612 Madison Ave (BIRDSONG CORPORATION Customer 6)	Dominion Virginia Power	GS-2-GS-2U	DOM	36.8 / 32.2	01/08/2020	6.724	220,653
7299668926	31380 General Thomas Hwy (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	GS-2-GS-2U	DOM	21.9 / 43.0	01/03/2020	6.724	165,243
7533717505	301 Mill St Warehouse 2223 (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	110	DOM	7.0 / 6.7	01/06/2020	6.724	27,203
7739176456	Madison Ave Pond Cold Storage (BIRDSONG CORPORATION Customer M)	Dominion Virginia Power	110	DOM	2.5 / 3.3	01/06/2020	6.724	4,543
2043775002	Adams St Truck Scale Office (BIRDSONG CORPORATION Customer A)	Dominion Virginia Power	110	DOM	2.5 / 2.6	01/10/2020	6.724	11,248
7552867744	612 Madison Ave Whse Electrical Room (BIRDSONG CORPORATION Customer 6)	Dominion Virginia Power	GS-2-GS-2U	DOM	49.0 / 52.4	01/08/2020	6.724	548,555

Account Number	Service Location	Utility	Utility Rate Class	Zone	Capacity / Transmission Tags	*Estimated Meter Read Start Date (MM/DD/YYYY)	Purchase Price (cents / kWh)	Annual Historical Usage (kWh)
0499147296	319 Factory St Whse 182 Cold Storage (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	GS-2-GS-2U	DOM	83.1 / 60.3	01/08/2020	6.724	527,788
4183069972	31380 General Thomas Hwy Rear WarehousePlant (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	GS-2-GS-2U	DOM	49.0 / 52.4	01/03/2020	6.724	289,164
3744109442	31380 General Thomas Hwy (BIRDSONG CORPORATION Customer 3)	Dominion Virginia Power	110	DOM	4.4 / 4.5	01/05/2020	6.724	22,736
7713555006	118 Factory St Whse45Parker Coldstor (BIRDSONG CORPORATION Customer 1)	Dominion Virginia Power	GS-2-GS-2U	DOM	49.0 / 41.8	01/08/2020	6.724	306,014
1133622504	118 Factory St FSWarehouse 14 (BIRDSONG CORPORATION Customer 1)	Dominion Virginia Power	110	DOM	1.7 / 0.8	01/08/2020	6.724	4,520
1123635003	600 Madison Ave 1 No 1 Sampler (BIRDSONG CORPORATION Customer 6)	Dominion Virginia Power	110	DOM	18.9 / 15.2	01/08/2020	6.724	85,440
<b>Total Annual Usage: 2,695,800</b>								

\*The Estimated Meter Read Start Date is merely an approximation based upon Seller's best estimation as to when the service will begin and may not reflect the actual start date. Seller shall not be liable for any lost savings or lost opportunity relating to this estimation.

#### Monthly Contract Quantity

kWh	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<b>2020</b>	150,734	165,563	224,079	217,100	210,456	221,167	253,807	232,791	291,303	342,291	178,692	184,436
<b>2021</b>	179,233	160,267	225,050	217,100	210,456	221,167	252,127	233,917	291,303	340,517	179,890	185,686
<b>2022</b>	180,411	160,267	225,050	215,975	211,133	221,167	251,287	235,044	291,303	340,517	179,890	183,186
<b>2023</b>	180,411	160,267	225,050	214,850	211,810	221,167	251,287	235,044	290,523	342,291	179,890	181,937
<b>2024</b>	36,712											

\*Usage values in the above table represent the aggregated Usage for all Service Locations for a month. Material Usage Deviation includes for the purposes of this Exhibit A, any deviation caused by net metering or other Buyer initiated energy efficiency measures.

**This Exhibit is based on a Weighted Average Price. Any strikeouts of any of the accounts provided with a Weighted Average Price will render pricing for the accounts assigned with a Weighted Average Price null and void.**

Term of Months: 48 Months

Meter Read Start Date: January, 2020

Accepted and Agreed to:

By:  Date: \_\_\_\_\_



Commodity Master Agreement  
Billing Contact Information  
and Selection Form

☐ If this is a renewal, please check here if there are no changes needed to the prior billing form

Account / Customer Name: BIRDSONG CORPORATION

Your Name	P A U L H U B E R
Your E-mail address	P H U B E R @ B I R D S O N G P E A N U T S . C O M
Your Phone	7 5 7 - 5 3 9 - 3 4 5 6 X
Billing Information Address will be applied to all accounts on Agreement	(Exceptions: Please complete a separate form per account and list number)
Billing Contact Name	<del>J E F F D A Y</del> S U S A N C H A N E Y
Billing Contact Phone	7 5 7 - 5 3 9 - 3 4 5 6 X 1 1 8 2
Billing Contact Fax	
Billing Contact Email	S C H A N E Y @ B I R D S O N G P E A N U T S . C O M
Billing Company Name	B I R D S O N G P E A N U T S
Billing Address 1	P O B O X 1 4 0 0
Billing Address 2	
Billing City , State	S U F F O L K V A
Zip + 4	2 3 4 3 9 -

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/per consolidation per utility) (If more than 50 accounts are to be aggregated, accounts will be separated by meter read date) Please list accounts to be consolidated**

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

Please provide email address that contract should be sent to if different from above: \_\_\_\_\_



This Commodity Master Agreement ("CMA") among **Direct Energy Business, LLC, Direct Energy Business Marketing, LLC d/b/a Direct Energy Business**, (collectively "Seller"), each a Delaware limited liability company, and **BIRDSONG CORPORATION** ("Buyer" or "Customer") (each a "Party" and collectively, the "Parties") is entered into and effective as of October 16, 2019.

**1. Transactions:** The terms of this CMA apply to all end-use sales of electric power and/or natural gas as applicable (each a "Commodity" and collectively, the "Commodities"), by the applicable Seller to Buyer (each sale a "Transaction") which will be memorialized in a transaction confirmation signed by both Parties (each a "Transaction Confirmation"). Each Transaction Confirmation shall set forth the Seller party providing service to Customer for such Transaction. This CMA, any amendments to this CMA and related Transaction Confirmation(s) (together, a single integrated, "Agreement") is the entire understanding between Parties with respect to the Commodities and supersedes all other communication and prior writings with respect thereto; no oral statements are effective.

**2. Performance:** Buyer is obligated to purchase and receive, and Seller is obligated to sell and provide, the Contract Quantity of Commodity specified in a Transaction Confirmation. Buyer will only use the Commodity at the listed Service Locations in the applicable Transaction Confirmation and will not resell the Commodity.

**3. Term:** The Delivery Period and any Renewal Term are set forth in the applicable Transaction Confirmation. This CMA shall remain in effect until terminated by either Party pursuant to Section 14 or as otherwise terminated by either Party for convenience upon at least 30 days' prior written notice; provided, however, that this CMA will remain in effect with respect to Transactions entered into prior to the effective date of the termination until both Parties have fulfilled all outstanding obligations.

**4. Purchase Price:** Buyer will pay the Purchase Price stated in each Transaction Confirmation, subject to Sections 5 and 10. If the Purchase Price incorporates an index and the index is not announced or published on any day for any reason or if the Seller reasonably determines that a material change in the formula for or the method of determining the Purchase Price has occurred, then the Parties will use a commercially reasonable replacement price calculated by the Seller.

**5. Changes to Purchase Price:** In the event there is a change to any tariff, law, order, rule, tax, regulation, transmission rate, or any LDC, EDC or ISO changes to supplier obligations to serve, which increase Seller's costs, the Purchase Price may be adjusted by Seller to include such costs.

**6. Billing and Payment:** Seller will invoice Buyer for the Actual Quantity of Commodity and for any other amounts for which Buyer is responsible under this Agreement. Except as otherwise set forth herein, payment is due within 15 days of the date of the invoice. If Seller cannot verify the Actual Quantity at the time an invoice is issued, Seller will estimate the Actual Quantity. Seller will adjust Buyer's account following (i) confirmation of the Actual Quantity, (ii) any Utility adjustment or (iii) any other corrections or

adjustments, including adjustments to, or re-calculation of Taxes. Buyer will pay interest on late payments for any amount due under this Agreement at 1.5% per month or, if lower, the maximum rate permitted by law ("Interest Rate"). Buyer is also responsible for all costs and fees, including reasonable attorney's fees, incurred in collecting any amounts owed to Seller and any fee charged to Seller for insufficient funds of Buyer. "Actual Quantity" means the actual quantity of Commodity that is either delivered or metered, as applicable, to Buyer's account. "Utility" means a state regulated entity engaged in the distribution of the applicable Commodity.

**7. Taxes:** The Purchase Price does not include Taxes that are or may be the responsibility of the Buyer, unless such inclusion is required by law. Buyer will reimburse Seller for any Taxes that Seller is required to collect and pay on Buyer's behalf and will indemnify, defend and hold Seller harmless from any liability against all Taxes for which Buyer is responsible. Buyer must provide Seller with any applicable Tax exemption documentation and Buyer will be liable for any Taxes assessed against Seller because of Buyer's failure to timely provide or properly complete any such documentation. "Taxes" means all applicable federal, state and local taxes, including any associated penalties and interest and any new taxes imposed in the future during the term of this Agreement. Liabilities imposed in this Section will survive the termination or expiration of this Agreement.

**8. Disputes:** If either Party in good faith disputes amounts owed hereunder, the disputing Party will contact the non-disputing Party in writing and pay the undisputed amount by the payment due date. The Parties will have 15 Business Days to negotiate a resolution. If such dispute is not resolved, the disputing Party will pay the balance of the original invoice and either Party may exercise any remedy available to it at law or equity. "Business Day" means any day on which banks are open for commercial business in New York, New York; any reference to "day(s)" means calendar days.

**9. Title and Risk of Loss:** Title to, possession of and risk of loss to the Commodity will pass to Buyer at the Delivery Point specified in the applicable Transaction Confirmation.

**10. Material Deviation:** Seller may in its sole discretion pass through to Buyer any losses and/or costs incurred by Seller related to a deviation of +/-25% from Contract Quantity (or, as applicable, estimated Contract Quantities) stated in the applicable Transaction Confirmation (which is not caused by weather).

**11. Force Majeure:** Other than payment obligations, a Party claiming Force Majeure will be excused from its obligations under Section 2 only if it provides prompt notice of the Force Majeure, uses due diligence to remove its cause and resumes performance as promptly as reasonably possible. During a Force Majeure, Buyer will not be excused

from its responsibility to pay for Balancing Charges nor from its responsibility to pay for Commodity received. "Force Majeure" means a material, unavoidable occurrence beyond a Party's control, and does not include inability to pay, an increase or decrease in Taxes or the cost of Commodity, the economic hardships of a Party, the full or partial closure of Buyer's facilities, unless such closure itself is due to Force Majeure.

**12. Financial Responsibility:** Seller's entry into this Agreement and each Transaction is conditioned on Buyer, its parent, any guarantor or any successor maintaining its creditworthiness during the Delivery Period and any Renewal Term. When Seller has reasonable grounds for insecurity regarding Buyer's ability or willingness to perform all of its outstanding obligations under any agreement between the Parties, Seller may require Buyer to provide adequate assurance, which may include, in the Seller's discretion, security in the form of cash deposits, prepayments, letters of credit or other guaranty of payment or performance ("Credit Assurance").

**13. Default:** "Default" means: (i) failure of either Party to make payment by the applicable due date and the payment is not made within 3 Business Days of a written demand; (ii) failure of Buyer to provide Credit Assurance within 2 Business Days of Seller's demand; (iii) any representation or warranty made by a Party in this Agreement proves to have been false or misleading in any material respect when made or ceases to remain true and such breach is not cured within 15 Business Days after written notice; (iv) a secured party has taken possession of all or any substantial portion of its assets or is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation or merger); (v) failure of a Party to fulfill any of its obligations in this Agreement (except as otherwise provided in subsections (i), (ii) (iii) and (iv) hereof) and such failure is not cured within 15 Business Days after written notice; provided that no cure period or demand for cure applies to an early termination of a Transaction Confirmation by Buyer or under Section 15(A)(iii).

**14. Remedies:** In the event of a Default, the non-defaulting Party may: (i) withhold any payments or suspend performance; (ii) accelerate any amounts owing between the Parties and terminate any Transactions and/or this Agreement between the Parties and/or their affiliates; (iii) calculate a settlement amount by calculating all amounts due to Seller for Actual Quantity and the Close-out Value for each Transaction being terminated; and/or (iv) net or aggregate all settlement amounts and all other amounts owing between the Parties and their affiliates under this Agreement and other energy-related agreements between them and their affiliates, whether or not due and whether or not subject to any contingencies, plus costs, into one single amount ("Net Settlement Amount"). Any Net Settlement Amount due from the defaulting Party to the non-defaulting Party will be paid within 3 Business Days of written notice from the non-defaulting Party. Interest on any unpaid portion of the Net Settlement Amount will accrue daily at the Interest Rate. "Close-out Value" is the sum of (a) the amount due to the non-defaulting Party regarding the Contract Quantities (or, as applicable, estimated Contract Quantities) remaining to be delivered as stated in the applicable Transaction Confirmation(s) during the Delivery

Period or, if applicable, the current Renewal Term, calculated by determining the difference between the Purchase Price and the Market Price for such quantities; and (b) without duplication, any net losses or costs incurred by the non-defaulting Party for terminating the Transaction(s), including costs of obtaining, maintaining and/or liquidating commercially reasonable hedges, Balancing Charges and/or transaction costs. "Market Price" means the price for similar quantities of Commodity at the Delivery Point during the Delivery Period or Renewal Term. For purposes of determining Close-out Value, Market Price may be established by Seller through information available to Seller internally or through third parties. The Parties agree that Close-out Value constitutes a reasonable approximation of damages and is not a penalty or punitive in any respect. Physical liquidation of a Transaction or entering into a replacement transaction is not required to determine Close-out Value or Net Settlement Amount. The defaulting Party is responsible for all costs and fees incurred for collection of Net Settlement Amount, including, reasonable attorney's fees and expert witness fees.

**15. Representations, Warranties and Covenants:** Each of the following are deemed to be repeated each time a Transaction is entered into and during the Delivery Period and any Renewal Period: **A.** Each Party represents that: (i) 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 to this Agreement; (ii) the execution of this Agreement is within its powers, has been duly authorized and does 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; and (iii) there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it, its parent or guarantor or to its knowledge, threatened against it, its parent or guarantor. **B.** Buyer represents, warrants and covenants that: (i) it is not a residential customer; (ii) execution of this Agreement initiates enrollment and service for the Delivery Period and any Renewal Term; (iii) if it is the person or entity executing this Agreement is doing so in its capacity as an agent, such Party represents and warrants that it has the authority to bind the principal to all the provisions contained herein and agrees to provide Seller true, correct and complete documentation of such agency relationship, and (iv) (a) it has and will provide, to Seller, all information reasonably required to substantiate its usage requirements; (b) acceptance of this Agreement constitutes an authorization for release of such usage information; (c) it will assist Seller in taking all actions necessary to effectuate Transactions, including providing an authorization form permitting Seller to obtain its usage information; and (d) the usage information provided is true and accurate as of the date furnished and as of the effective date of the Agreement. **C.** Each Party acknowledges that: (i) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code ("Code"); (ii) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodity; (iii) Seller is not a "utility" or an

"energy generation facility" as defined in the Code; (iv) Commodity supply will be provided by Seller under this Agreement, but delivery will be provided by Buyer's Utility; (v) Seller does not own or operate transmission and distribution systems through which the Commodity is delivered to Buyer, and Seller is not liable for any damages or Losses associated with such transmission or distribution systems; and (vi) Buyer's Utility, and not Seller, is responsible for responding to leaks or emergencies should they occur. **D.** Seller warrants that (i) it has good title to Commodity delivered, (ii) it has the right to sell the Commodity, and (iii) the Commodity as delivered will be free from all royalties, liens, encumbrances, and claims. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

**16. Confidentiality:** Buyer will not disclose the terms of this Agreement, without prior written consent of the Seller, to any third party, other than Buyer's employees, affiliates, agents, auditors and counsel who are bound by substantially similar confidentiality obligations, trading exchanges, governmental authorities, courts, adjudicatory proceedings, pricing indices, and credit ratings agencies; provided that if Buyer receives a demand for disclosure pursuant to court order or other proceeding, it will first notify Seller, to the extent practicable, before making the disclosure.

**17. Indemnification; Limitation of Liability:** **A.** Buyer will be responsible for and shall indemnify Seller against all losses, costs and expenses, including court costs and reasonable attorney's fees, arising out of claims for personal injury, including death, or property damage from the Commodity or other charges (collectively, "Losses") which attach after title passes to Buyer. **B.** Seller will be responsible for and indemnify Buyer against any Losses which attach before title passes to Buyer. **C.** NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, LOST PROFITS OR SPECIFIC PERFORMANCE.


**18. Other:** **(A)** The Agreement, and any dispute arising hereunder, is governed by the law of the state in which the Service Locations are located, without regard to any conflict of rules doctrine. **(B)** Each Party waives its right to a jury trial regarding any litigation arising from this Agreement. **(C)** No delay or failure by a Party to exercise any right or remedy to which it may become entitled under this Agreement will constitute a waiver of that right or remedy

**(D)** Any notice or waiver including without limitation any termination or disconnection notice, shall be provided in writing and, if sent to Seller, a copy delivered to: Direct Energy Business, Attn: Customer Services Manager, 1001 Liberty Avenue, Pittsburgh, PA 15222, Phone: (888) 925-9115; Fax: (866) 421-0257; Email: CustomerRelations@directenergy.com. Notice sent by 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 overnight 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 first class mail (postage prepaid) shall be deemed to have been received at the end of the third Business Day after the date of mailing. **(E)** No amendment to this Agreement will be enforceable unless reduced to writing and executed by both Parties. **(F)** Seller may pledge, encumber or assign this Agreement or the accounts, revenues and proceeds thereof without Buyer's consent. Buyer may not assign this Agreement without Seller's consent not to be unreasonably withheld. **(G)** This Agreement may be executed in separate counterparts by the Parties, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. **(H)** Any capitalized terms not defined in this CMA are defined in the Transaction Confirmation or shall have the meaning set forth in the applicable Utility rules, tariffs or other governmental regulations, or if not defined therein then it shall have the generally accepted meaning customarily attributed to it in the natural gas or electricity generation industries, as applicable. **(I)** Any document generated by the Parties with respect to the Agreement, including the Agreement, may be imaged and stored electronically and may be introduced as evidence in any proceeding as if it were an original business record and shall not be contested by either party as admissible evidence. **(J)** Where multiple parties are Party to this Agreement with Seller and are represented by the same agent, this Agreement will constitute a separate agreement with each such Party, as if each such Party executed a separate Agreement, and that no such Party shall have any liability under this document for the obligations of any other Parties. **(K)** If a conflict arises between the terms of this CMA and a Transaction Confirmation, the Transaction Confirmation will control with respect to that particular Transaction. **(L)** If a broker or agent has been involved in any Transaction, such broker is an agent of Buyer only and not an agent of Seller.

IN WITNESS WHEREOF, this CMA is entered into and effective as of the date written above.

**Buyer: BIRDSONG CORPORATION**

**Seller: Direct Energy Business, LLC  
Direct Energy Business Marketing, LLC**

By:   
Name: S. Paul Hester  
Title: Controller  
Date: 10/16/19

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



DIRECT ENERGY BUSINESS, LLC  
1001 Liberty Avenue Pittsburgh, PA 15222  
1.888.925.9115  
www.directenergy.com

Date: October 16, 2019

Product Code: PJM\_NSTC\_VA

#### CUSTOMER INFORMATION

Customer Name: BIRDSONG CORPORATION

Contact Name: Paul Huber

Address: 612 MADISON AVE, SUFFOLK, VA 234344028

Telephone: 7575393456

Fax:

Email:

Billing Contact:

3rd Party Bill Pay:

Billing Address:

Telephone:

Fax:

Email:

#### ELECTRICITY TRANSACTION CONFIRMATION - Virginia Fixed Price - under 5mw - 100% Renewable Energy

This Transaction Confirmation confirms the terms of the Electricity Transaction entered into between Direct Energy Business, LLC ("Seller"), and the customer above ("Buyer" or "Customer") pursuant to the terms of the Commodity Master Agreement between Customer and Seller and/or Seller's affiliate Direct Energy Business Marketing, LLC, d/b/a Direct Energy Business dated \_\_\_\_\_, \_\_\_\_\_, as may be amended, (the "CMA"). If the referenced CMA is between Customer and Direct Energy Business Marketing, LLC, d/b/a Direct Energy Business, Customer and Seller agree that this Transaction Confirmation shall be governed by and incorporate the terms of such CMA. The Exhibit A for the Purchase Price described below is attached to, and is made a part of, this Transaction Confirmation. The Purchase Price excludes Utility transmission and distribution charges and Taxes that are or may be the responsibility of Customer. Customer's execution and submission of this Transaction Confirmation, including Exhibit A hereto, to Seller shall constitute an offer from Customer to Seller to purchase the Commodity on the terms set forth in the CMA. This Transaction Confirmation shall become effective only upon (i) execution by Customer of this Transaction Confirmation, including Exhibit A, and CMA; and (ii) the earlier of (a) execution of the CMA and this Transaction Confirmation by Seller or (b) written confirmation by Seller of its acceptance of the Transaction Confirmation to Customer.

#### DELIVERY PERIOD

For each Service Location, the first meter read date will be on or after: January 01, 2020, and will continue for a term of 48 Months. Seller will request the Utility to enroll Customer on the first meter read date in the first month of the Delivery Period as defined by the Utility. The service start date hereunder will be the date that the Utility enrolls Customer for Seller's services. Seller 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 Utility. Upon the expiration of the Delivery Period, this Transaction shall continue for successive one month terms (collectively the "Renewal Term") until either Party notifies the other Party in writing of its intention to terminate, at least 15 days prior to the end of the Delivery Period or 15 days prior to the end of each successive month Renewal Term. The termination date shall be the next effective drop date permitted by the Utility. All terms of the Agreement will remain in effect through the termination date as set by the applicable Utility. During the Renewal Term, the Purchase Price for each successive month Renewal Term will be the then market-based price for similar quantities of Commodity at the Delivery Point, including all Taxes, costs, charges or fees which are set forth herein, unless otherwise agreed to in writing by the Parties.

#### DELIVERY POINT

The Delivery Point shall be the point(s) where Commodity is delivered to the Utility. The Utility is specified on Exhibit A.

#### BILL TYPE - DUAL

#### CONTRACT QUANTITY

Customer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed on the Exhibit A, provided, that for purposes of determining whether a material deviation has occurred, Contract Quantity shall include the applicable deviation in capacity and transmission tag values and for purposes of calculating Contract Quantities remaining to be delivered under the Remedies section of the CMA, Contract Quantity shall be determined by reference to the historical monthly usage for such Service Locations. Electricity provided by Seller to the Delivery Point will be 100% Renewable Energy.

#### PURCHASE PRICE

The Purchase Price per kWh to be paid by Buyer for the services provided hereunder during the Delivery Period of this Agreement shall be that set forth on Exhibit A. The Purchase Price includes a Services Fee, as well as the components marked below as "Included". For those components marked "Pass through", they will be passed through to you at cost and shown as a line item on your bill.



PJM	Value
Energy	100% Renewable - Included
RPS	Included
Losses	Included
Capacity	Included
Transmission	Included
Auction Revenue Rights	Included
Ancillaries	Included
Marginal Loss Credits	Included
Reliability Must Run	Included
Applicable Taxes	Pass Through

#### DEFINITIONS

**100% Renewable Energy:** means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power; it does not include energy derived from coal, oil, natural gas, or nuclear power. Renewable energy shall also include the proportion of thermal or electric energy from a facility that results from the co-firing of biomass.

**Ancillaries:** Wholesale commodity services and products required to facilitate delivery of Commodity to the Utility.

**Auction Revenue Rights (ARR):** Entitlements allocated annually to Fixed Transmission Service Customers that entitle the holder to receive an allocation of the revenues from the Annual FTR Auction.

**Capacity:** The Capacity obligations met through the provisions of the PJM Reliability Assurance Agreement (RAA).

**Exhibit A:** The list of Service Locations attached to this Transaction Confirmation, which list specifies the Service Locations covered under the scope of this Transaction Confirmation for PowerPortfolio, Day-Ahead, Real-Time and other index products. For fixed price products, it refers to the pricing attachment to this Transaction Confirmation that sets forth (together with this Transaction Confirmation) the Purchase Price applicable to, and the Service Locations covered by, this Transaction Confirmation.

**Marginal Loss Credit:** A credit provided by certain RTOs as a result of an over-collection of funds for transmission and distribution losses.

**PJM:** The Pennsylvania New Jersey Maryland Interconnection, L.L.C.

**Regional Transmission Expansion Plan (RTEP):** PJM's Regional Transmission Expansion Plan identifies transmission system additions and improvements needed to keep electricity flowing to the millions of people throughout PJM's region.

**Reliability Must Run(RMR):** A unit that must run for operational or reliability reasons, regardless of economic considerations. Also called reliability agreement.

**Renewable Portfolio Standard (RPS):** A regulation that requires the increased production of energy from renewable energy sources.

**Services Fee:** The fee for the services provided by Seller to meet the Service Locations' load requirements, including any applicable broker fee, which is included in the Purchase Price to be paid by Buyer.

**Transmission:** The transportation of energy over high voltage wires from a generator to the Utility.

**Utility Defined Loss Factor:** Loss Factor as published in applicable utility tariff.

#### SPECIAL PROVISIONS

- 1. Change in Utility Account Numbers:** The account number for a Service Location shall be the Utility Account Number set forth in the Service Locations attached in the Exhibit A or any replacement account number issued by the Utility from time to time.
- 2. Third Party Charges:** Customer acknowledges that any costs assessed by the Utility or any third party as a result of Customer's switch to or from Seller, including but not limited to switching costs, are not included in the Purchase Price and shall be the responsibility of the Customer.
- 3.** As it relates to this Transaction Confirmation, the section of the CMA relating to material deviation shall be deleted in its entirety and replaced with the following: "A. Material Deviation: Seller may in its sole discretion pass through to Buyer any losses and/or costs incurred by Seller related to a deviation of +/- 25% from Contract Quantity (or, as applicable, estimated Contract Quantities) stated in the applicable Transaction Confirmation, which is not caused by weather."
- 4.** If Seller concludes that a change in transmission rate or tag occurs and such change increase Seller's costs, the Purchase Price may be adjusted by Seller to reflect such costs.
- 5. Notice of Change:** Seller will provide 30 days advance communication or notice to Customer regarding changes in the terms and conditions of this Agreement, including any provisions governing the Purchase Price or how it is derived, or the assignment of this Agreement to another Competitive Service Provider.
- 6. Utility Minimum Stay Requirement:** If Customer ceases to purchase Electricity from Seller and instead returns to

electricity service from Utility, Utility may require Customer to purchase electricity from Utility for a 12-month minimum period ("Minimum Stay Period") before Customer may return to service from a competitive service provider. If Utility elects to implement a Minimum Stay Period, Utility must inform affected customers.

7. **CUSTOMER'S RIGHT TO CANCEL:** Customer understands that it may receive a notice from Utility stating that the Customer may cancel the agreement, without penalty, by notifying the Utility or Seller prior to the close of business on the tenth day following the Utility's mailing regarding an enrollment request from the Seller. However, the Customer hereby acknowledges that it has waived the right to this 10-day cancellation period and consequently such notice does not affect the rights or obligations of either Party under this Agreement.
8. **Transfer to Incumbent Utility:** Customer may return to electricity service provided by Utility upon five years' written notice and at the prices, terms, and conditions of the tariffs approved by the State Corporation Commission. Alternatively, Customer may seek an exemption from the State Corporation Commission to provide less than five years' notice and, if such exemption is granted, return to service at prices based on market-based costs pursuant to Virginia Code § 56-577 A 3 d. Provided, however, that the requirement to provide five years' written notice before returning to Utility's tariffed rates shall not apply to account numbers which have been served by 100% renewable energy.

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**TAX EXEMPTION STATUS - If exempt, must attach certificate**

In order to insure accurate billing, tax status indication is required. Please check the appropriate status below:

☐ Non-Exempt

☐ Exempt (e.g. Residential, Non-Profit Organization, Manufacturing, Small Business, Agricultural, Resale, etc.)

**BUYER: BIRDSONG CORPORATION**

**SELLER: Direct Energy Business, LLC**

By:   
Name: S. P. Hester  
Title: Controller  
Date: 10/16/19

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