



This Amendment constitutes the changes to the Commodity Master Agreement (“CMA”) among Direct Energy Business, LLC, Direct Energy Business Marketing, LLC d/b/a Direct Energy Business and Dairyland USA Corporation dated February 18, 2020, attached hereto as Exhibit 1. Any inconsistency in the Agreement shall be resolved by giving precedence in the following order of priority: (1) the Transaction Confirmation (2) the Amendment and (3) the CMA.

1. Section 2 is amended by inserting the following to the end of the last sentence: “except in connection with Buyer’s sublease of a Service Location and only to Buyer’s subtenant.”
2. Section 6 is amended by:
 - a. deleting the second sentence and replacing it with the following: “Except as otherwise set forth herein, payment of undisputed amounts are due within twenty (20) days of the date of the invoice.”
 - b. deleting the fifth sentence and replacing it with the following: “Buyer will pay interest on undisputed late payments at 0.5% per month or, if lower, the maximum rate permitted by law (“Interest Rate”).
3. Section 8 is deleted and replaced with the following:

“8. Disputes: If either Party in good faith disputes amounts owed hereunder, the disputing Party will contact the non-disputing Party in writing within 15 days of the date of Seller’s invoice 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 within 15 Business Days of such written notice, either Party may exercise any remedy available to it at law or equity pursuant to this Agreement. “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.”
4. Section 12 is deleted and replaced with the following: “Seller’s entry into this Agreement and each Transaction is conditioned on Buyer, maintaining its creditworthiness during the Delivery Period and any Renewal Term. In the event Buyer is late in making payment on two (2) undisputed payments in any twelve (12) month period or when Seller has commercially reasonable grounds for insecurity regarding Buyer’s ability to perform all of its outstanding obligations under any agreement between the Parties, Seller may require Buyer to provide commercially reasonable adequate assurance, which may include, in the Seller’s discretion, security in the form of cash deposits (“Credit Assurance”).”
5. Section 13 is amended as follows:
 - a. Subsection (i) is amended by deleting the words “three (3)” and replacing them with the words “five (5).”
 - b. Subsection (ii) is amended by deleting the words “two (2)” and replacing them with the words “five (5).”
 - c. Subsection (iii) is amended by deleting the words “fifteen (15) and replacing them with the words “twenty (20).”
 - d. Subsection (iv) is deleted and replaced with the following: “(iv) failure of a Party to materially 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 20 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).”

6. Section 14 is amended as follows:
- a. Subsection (iii) is deleted and replaced with the following: “(iii) calculate a settlement amount, in good faith as of the date of Default, by calculating all amounts due to Seller for Actual Quantity and the Close-out Value for each Transaction being terminated; and/or;”
 - b. The second sentence is amended by deleting the “3” and replacing it with “5”.
7. Section **15** is amended as follows:
- a. Subsection B, (ii) is deleted and replaced with the following: “and; (ii) execution of this Agreement initiates enrollment and service for the Delivery Period and any Renewal Term as set forth in an executed Transaction Confirmation;”
 - b. Subsection B, (iv) (c), is amended by inserting the words “commercially reasonable” before the word “actions”.
 - c. Subsection D, is amended by inserting a new romanette (iv) as follows: “(iv) the Commodity delivered will be free from all royalties, liens, encumbrances, and claims, and (iv) it shall comply with all applicable laws, rules and regulations in providing the Commodities subject to this Agreement;”
8. Section 16 is deleted and replaced with the following: “**16. Confidentiality:** Neither party will disclose the terms of this Agreement, without prior written consent of the other party, to any third party, other than such party’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 a party receives a demand for disclosure pursuant to court order or other proceeding, it will first notify the other party, to the extent practicable, before making the disclosure.”
9. Section 17 deleted and replaced with the following: “**17. Indemnification; Limitation of Liability:** EXCEPT TO THE EXTENT CAUSE BY SUCH PARTY’S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, LOST PROFITS OR SPECIFIC PERFORMANCE. Buyer shall have the option to control the defense of any indemnifiable loss, claim, cost or expenses brought against Buyer. The indemnified party’s written consent shall be required to settle any indemnifiable loss, claim, cost or expense which would admit liability of, create any liability or other obligation for or in any way, directly or indirectly, damage the reputation of the indemnified party.”

This Amendment is governed under the laws as indicated in the Agreement, constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all prior oral and written communications with respect thereto. The remaining terms of the Agreement are unchanged.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the respective dates specified below with effect as of the latest date specified in the signatures below (the “Effective Date”).

Buyer: **Dairyland USA Corporation**

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

By: Kenneth Wilt

By: _____

Name: Kenneth Wilt

Name: _____

Title: Director of Facilities

Title: _____

Date: 2/25/2020

Date: _____

Exhibit 1

[CMA]

EXHIBIT A PRICING ATTACHMENT

This Exhibit A is to the Transaction Confirmation dated February 18, 2020 between
DIRECT ENERGY BUSINESS LLC
 and
DAIRYLAND USA CORPORATION
 for a term of 36 Months

NY_CONED-OR_FP_UCB_NY

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)
393021702500050	240 Food Center Drive (Dairyland HP LLC)	Consolidated Edison	EL9	J	882.0 / N/A	03/05/2020	8.047	4,748,982
Total Annual Usage:								4,748,982

*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
2020			307,839	365,378	415,680	456,893	518,043	501,310	437,540	398,982	326,591	331,839
2021	332,961	310,266	355,532	365,378	415,680	456,893	512,696	504,558	437,540	395,846	328,905	334,037
2022	334,747	310,266	355,532	363,128	418,503	456,893	510,022	507,807	437,540	395,846	328,905	329,642
2023	334,747	310,266	22,938									

*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.

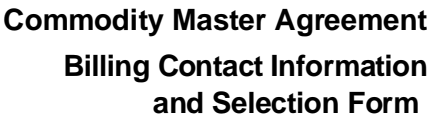
This Exhibit is based on a Weighted Average Price. Any strikeouts of any of the accounts provided with a Weighted Average Price will render pricing for the accounts assigned with a Weighted Average Price null and void.

Term of Months: 36 Months

Meter Read Start Date: March, 2020

Accepted and Agreed to:

By: Kenneth Wilt Date: 2/25/2020



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

Account / Customer Name: DAIRYLAND USA CORPORATION

Your Name	K	e	n	n	e	t		W	i	l	t																		
Your E-mail address	k	w	i	l	t	@	c	h	e	f	s	w	a	r	e	h	o	u	s	e	.	c	o	m					
Your Phone	2	0	3	-	2	4	6	-	2	6	2	5	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 email : geleopoulos@chefswarehouse.com																												
Billing Contact Name	G	e	o	r	g	e		E	l	e	p	o	u	l	o	s													
Billing Contact Phone	8	0	0	-	8	7	8	-	3	2	4	7	x	2	0	5	0	3											
Billing Contact Fax	7	1	8	-	3	7	8	-	2	2	3	4																	
Billing Contact Email	g	e	l	e	o	p	o	u	l	o	s	@	c	h	e	f	s	w	a	r	e	h	o	u					
Billing Company Name																													
Billing Address 1	2	4	0		F	o	o	d		C	e	n	t	e	r		D	r											
Billing Address 2																													
Billing City , State	B	r	o	n	x												,	N	Y										
Zip + 4	1	0	4	7	4	-																							

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 **DAIRYLAND USA CORPORATION** ("Buyer" or "Customer") (each a "Party" and collectively, the "Parties") is entered into and effective as of February 18, 2020.

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: DAIRYLAND USA CORPORATION

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

By: Kenneth Wilt
Name: Kenneth Wilt
Title: Director of Facilities
Date: 2/25/2020

By: _____
Name: _____
Title: _____
Date: _____

	New York Disclosure Statement
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NY DISCLOSURE STATEMENT

Price	Your price is 8.047 cents per kilowatt-hour. This price may change pursuant to the Purchase Price section (or Changes to Purchase Price section, as applicable) of the CMA and the Purchase Price section of the Transaction Confirmation.
Fixed or Variable and, if variable, how the price is determined	Fixed: See your Transaction Confirmation for full details
Length of the agreement and end date	36 Months
Process customer may use to rescind the agreement without penalty	Rescission without penalty not permitted
Amount of Early Termination Fee and method of calculation	Non-defaulting Party has the right to terminate and liquidate all Transactions, calculate a settlement amount by calculating the Close-out Value for each Transaction and aggregate all amounts owing - See the Remedies section of the CMA for more information
Amount of Late Payment Fee and method of calculation	Interest will be assessed on the late balance at the lower of 1.5% per month or the highest amount permitted by applicable law - See the Billing and Payment section of the CMA for more information
Provisions for renewal of the agreement	Automatically renews in successive one-month terms unless affirmatively renewed or terminated by either Party at a market-based price for similar quantities at the Delivery Point
Conditions under which savings to the customer are guaranteed	Savings compared to the Utility rate are not guaranteed



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

Date: February 18, 2020

Product Code: NY_CONED-OR_FP_UCB_NY

CUSTOMER INFORMATION

Customer Name: DAIRYLAND USA CORPORATION
Contact Name: Ken Wilt
Address: 240 FOOD CENTER DR., BRONX, NY 104747045
Telephone: 203-246-2625
Fax:
Email:

Billing Contact:
3rd Party Bill Pay:
Billing Address:
Telephone:
Fax:
Email:

ELECTRICITY TRANSACTION CONFIRMATION - New York Fixed Price

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 February 18, 2020, 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 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: March 01, 2020, and will continue for a term of 36 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 - UTILITY CONSOLIDATED BILLING (EXTERNAL RATE READY)

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 capacity 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.

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.

NYISO	Value
Energy	Included
CES*	Included
Losses	Included
Capacity	Included
Ancillaries	Included
Applicable Taxes	Included

The Purchase Price does not include costs to comply with New York's Offshore Wind Standard component of the Clean Energy Standard ("CES") effective July 12, 2018 (Case 18-E-0071). If Seller concludes that said Standard costs increase Seller's costs, the Purchase Price may be adjusted by Seller to reflect such costs.

During the Delivery Period of this Transaction, if there is a change to the structure of the CES, whether as a result of additional units being added to the CES program, a new order released or an amendment to the current Order (Case 16-E-0270) issued, the Purchase Price may be adjusted by Seller or a separate line item may be added to your bill to reflect any increase in Seller's costs.

DEFINITIONS

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

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.

New York ISO (NY ISO): The New York Independent System Operator.

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.

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.
- As it relates to this Transaction Confirmation, the section of the CMA regarding material deviation shall be deleted in its entirety and replaced with the following: "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. Covered Dwellings:** 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 Seller of any change to such status during the Delivery Period of this Agreement.
- For inquiries related to your purchase, or for any other questions or complaints against Seller, please contact Seller at the address above. For general inquiries related to the sale and delivery of Electricity, you may contact the New York Public Service Commission, Department of Public Service ESCO hotline at 1-888-697-7728; write the PSC at the Office of Consumer Education & Advocacy, Three Empire State Plaza, Albany, NY 12223, e-mail the PSC at <http://www.dps.state.ny.us> or visit the PSC's website at <http://www.dps.state.ny.us>.
- 6. UCB Acceptance Language:** Without limiting anything in this Transaction Confirmation, as a condition to Seller's obligations hereunder, Buyer must be accepted by Seller and the Utility to receive a consolidated utility bill for both services and Energy provided by Seller and delivery services provided by the Utility.
- 7. Utility Consolidated Bill:** Without limiting the Performance section of the CMA, as a condition precedent to Seller's acceptance of this Transaction Confirmation, Buyer must be accepted by Seller and the Utility to receive a consolidated utility bill for both services as described herein, Energy (provided by Seller) and delivery services (provided by the Utility). Buyer will receive from Utility a monthly invoice, incorporating both the services provided under this Agreement and Utility charges, in accordance with the Utility's meter reading and billing cycle schedule. Seller shall have the right to assign to Utility all amounts due from Buyer to Seller and Buyer is to remit payment in full to the Utility. If Buyer fails to remit payment in full in any month, a late payment charge will be assessed at the same rate and in the same manner as Utility applies late payment charges to its unpaid charges. The Utility may, at its option, disconnect all services to Buyer for any failure by Buyer to make full payment of all amounts billed in accordance with New York State Department Public Service Commission's rules for residential and non-residential service. In the case of such

disconnection, Buyer shall be responsible for any and all charges required to reconnect service. If Buyer is disconnected, terminated, suspended, or withdraws from the utility consolidated program then it shall be in default and as such, this Agreement shall terminate and Buyer shall be responsible for any applicable Net Settlement Amount and/or Close-out Value. Notwithstanding the above and for termination not caused by disconnection by the Utility, Seller, may at its sole option continue to provide services as described herein and Energy in the case of early termination, suspension or withdrawal from such program. If so, the Agreement will not terminate and billing will proceed on a dual bill basis pursuant to the Billing and Payment section of the CMA. The Utility may, at its option, reject requests for consolidated billing for Buyer if Buyer's account becomes thirty-eight (38) or more calendar days past due, unless the past due amount is subject to a separate deferred payment agreement ("DPA") between Buyer and Utility and the Buyer is fulfilling its obligations under such DPA on a current basis. Notwithstanding anything to the contrary of the above, if Buyer is enrolled or becomes enrolled in any net metering program, Buyer understands and agrees that Seller may modify Buyer's billing option to a dual bill option consistent with the Billing and Payment section of the CMA.

8. If Seller concludes that any change in any utility consolidated bill program occurs and such change increase Seller's costs, the Purchase Price may be adjusted by Seller to reflect such costs.

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
☐ Partial Exemption – NY State Residential property (TP 385 required)
☐ Exempt (e.g. Residential, Non-Profit Organization, Manufacturing, Small Business, Agricultural, Resale, etc.)

BUYER: DAIRYLAND USA CORPORATION

SELLER: Direct Energy Business, LLC

By: Kenneth Wilt
Name: Kenneth Wilt
Title: Director of Facilities
Date: 2/25/2020

By: _____
Name: _____
Title: _____
Date: _____



This Transaction Confirmation Amendment constitutes the changes to the Electricity Transaction Confirmation dated [____], attached to this Amendment as Exhibit 1, executed between [DAIRYLAND USA CORPORATION] and Direct Energy Business, LLC under the Commodity Master Agreement (“CMA”) entered into and effective [____]. To the extent there is inconsistency in terms, the documents will govern as follows: (1) this Transaction Confirmation Amendment (2) the Transaction Confirmation (3) any Amendment to the CMA and (4) the CMA.

1. The Special Provisions section is amended by inserting the following:
“For the Delivery Period under this Transaction Confirmation, the section of the CMA regarding material deviation is amended by deleting “+/- 25%” and replacing it with “+/- 100%.”

This Transaction Confirmation Amendment is governed under and construed in accordance with the governing law as indicated in the Agreement. This Amendment constitutes the entire agreement with respect to its subject matter and supersedes all prior oral and written communication with respect thereto. The remaining terms of the Electricity Transaction Confirmation are unchanged.

IN WITNESS WHEREOF the Parties have executed this Transaction Confirmation Amendment on the respective dates specified below with effect as of the latest date specified in the signatures below (the “Effective Date”).

Buyer: [DAIRYLAND USA
CORPORATION

Seller: Direct Energy Business, LLC

By: Kenneth Wilt

By: _____

Name: Kenneth Wilt

Name: _____

Title: Director of Facilities

Title: _____

Date: 2/25/2020

Date: _____