

NAESB AMENDMENT AGREEMENT

This NAESB Amendment Agreement (this "Agreement"), dated as of June 22, 2022 (the "Effective Date"), is entered into by and between Direct Energy Business Marketing, LLC, a Delaware limited liability company ("Direct") and City of Long Beach, a California Chartered City and Municipal Corporation of the State of California ("Counterparty") (Direct and Counterparty are sometimes referred to in this Agreement as a "Party" or collectively as the "Parties").

RECITALS

WHEREAS, Direct, as successor to Energy America, LLC, and Counterparty are parties to that certain Base Contract for Sale and Purchase of Natural Gas with Special Provisions and Municipal Rider dated December 15, 2016, as may be amended from time to time (the "NAESB");

WHEREAS, Direct and Counterparty have entered into one or more transactions pursuant to the NAESB (collectively, the "Transactions"), which Transactions may be evidenced by one or more transaction confirmations (collectively, "Confirmations" and together with the NAESB and any Transactions, the "Counterparty Agreement");

WHEREAS, pursuant to that certain Purchase Agreement, dated July 24, 2020 ("Purchase Agreement"), among Centrica plc, NRG Energy, Inc. ("NRG"), Centrica Beta Holdings Limited and Centrica Gamma Holdings Limited, effective January 5, 2021, NRG has purchased, among other assets, all issued and outstanding equity interests of Direct (the "DE Sale"); and

WHEREAS, as a part of the DE Sale, the Parties desire to provide in this Agreement for, among other things, the amendment of the Counterparty Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants hereinafter set forth herein, the Parties hereby agree to amend the Counterparty Agreement as follows:

**ARTICLE I
AMENDMENTS AND REPRESENTATIONS****1.1 Certain Amendments to Counterparty Agreement.**

- (a) General Amendments. As of the Effective Date, the Counterparty Agreement will be amended as follows:
- i. Party A's information on the cover page of the Counterparty Agreement is deleted and hereby replaced with the information contained on Exhibit A.
 - ii. References, if any, to "Centrica plc" or words of similar import in the Counterparty Agreement, including, without limitation, being a credit support provider, guarantor, or the parent of Direct, or similar provisions, shall be

replaced with appropriate references to “NRG Energy, Inc., a Delaware corporation”; provided, however, any obligation to provide financial statements of Centrica will be deemed to instead require the delivery of the publicly available audited annual consolidated financial statements of NRG, certified by independent certified public accountants and prepared in accordance with generally accepted accounting principles in the applicable jurisdiction; provided, that if such financial statements are available on “EDGAR” or NRG’s corporate websites, such obligation will be deemed to have been satisfied.

- iii. Counterparty accepts as of the Effective Date NRG as the ultimate parent of Direct and guarantor of Direct under the Counterparty Agreement (if applicable), irrespective of any credit rating, financial requirements, thresholds or any other provisions to the contrary in the Counterparty Agreement.

1.2 **Representations and Warranties.**

- (a) As of the Effective Date, each Party represents and warrants to the other Party that:
 - i. its execution, delivery, and performance of this Agreement do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets, or any contractual restriction binding on or affecting it or any of its assets; and
 - ii. its obligations under this Agreement constitute its legal, valid and binding obligations enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium, or similar laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law).
- (b) As of the Effective Date, the Counterparty represents and warrants to the other Party that it has made no prior transfer or assignment (whether by law of security or otherwise) of any interests, rights, or obligations in or under the Counterparty Agreement or Transactions, except in accordance with the terms thereof, nor will it make any transfer or assignment of any interests, rights or obligations in or under Counterparty Agreement or Transactions prior to the Effective Date except in accordance with the terms thereof.

ARTICLE II MISCELLANEOUS

2.1 **Counterparts.** This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by electronic communication and PDF), each of which will be deemed an original.

2.2 **Notices.** Any notice required or authorized by this Agreement to be given to a Party shall

be given in writing and shall be sufficiently given if delivered by electronic mail to the address set forth below or to such other address as such Party may designate for itself by prior notice given in accordance with this Section. Any such notice shall be effective only upon receipt thereof, provided that such notice is received during the normal business hours of the addressee, and if not received during such normal business hours, then on the first business day following such receipt. The address for the delivery of the notices to each Party and the respective telephone number are as follows:

Notices to Counterparty:

City of Long Beach, Energy Resources
2400 E. Spring St.
Long Beach, CA 90806
Attn: Dennis Burke
Telephone: 562-570-2066
Email: dennis.burke@longbeach.gov

with a copy to:

City of Long Beach, Energy Resources
2400 E. Spring St.
Long Beach, CA 90806
Attn: Rachel Rock
Telephone: 562-570-2062
Email: rachel.rock@longbeach.gov

Notices to Direct:

NRG Energy, Inc.
804 Carnegie Center
Princeton, NJ 08540
Attention: Contract Administration
Facsimile: 609-524-4540
Telephone: 609-524-4543

2.3 Costs and Expenses. The Parties will each pay their own costs and expenses (including legal fees) incurred in connection with this Agreement and as a result of the negotiation, preparation and the execution of this Agreement and any of the actions contemplated hereunder.

2.4 Amendments. Except for any amendment to the Counterparty Agreement made pursuant to this Agreement, all terms and conditions of the Counterparty Agreement will continue in full force and effect in accordance with its provisions and all provisions of the Counterparty Agreement shall, as applicable, be deemed to be amended consistent with the terms of this Agreement. No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by electronic communication or PDF) and executed by each of the Parties. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise of any other right, remedy, power or privilege.

2.5 Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, agency, trust or other association of any kind among or between the Parties, each Party being individually responsible only for its obligations as set forth in this Agreement.

2.6 Governing Law. This Agreement will be governed by and construed in accordance with the law of the State of New York without reference to the conflict of laws provisions thereof.

2.7 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

2.8 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

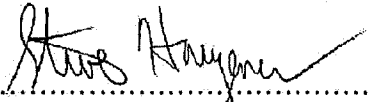
2.9 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party to this Agreement may assign its rights or obligations hereunder without the prior written consent of each other Party, which consent shall not be unreasonably withheld or delayed.

2.10 Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

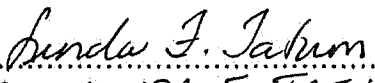
[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

Direct Energy Business Marketing, LLC

By: 
Name: Steven Haugenes
Title: Vice President
Date: 7/6/2022

City of Long Beach

By: 
Name: LINDA F. TATUM
Title: ASST CITY MANAGER
Date: 6-29-2022

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM

JUNE 27, 2022
CHARLES PARKIN, City Attorney

By: 
VANESSA S. IBARRA
DEPUTY CITY ATTORNEY

ATTN: _____ ADDRESS: _____	CHECKS (IF APPLICABLE)
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