

**NEW HAMPSHIRE RESIDENTIAL & SMALL
COMMERCIAL TERMS OF SERVICE**

For Electric Supply Service
Direct Energy Service, LLC

1. Terms of Service. These Terms of Service together with the Rate Plan Summary (defined below), which is incorporated herein by reference, constitute the agreement (“Agreement”) between you and Direct Energy Services, LLC (“Direct Energy”), a Competitive Electric Power Supplier (“CEPS”). “Rate Plan Summary” means, as applicable, either the section of the enrollment consent form/letter of authorization entitled ‘*Rate Plan Summary*’ or the Schedule A accompanying these Terms of Service entitled ‘*Rate Plan Summary - Schedule A to Terms of Service.*’

2. Agreement to Purchase Electric Generation Service. This Agreement serves as the agreement for electric generation service to be provided to you by Direct Energy. This Agreement is subject to the occurrence of the following conditions: (a) your receipt of this Agreement from Direct Energy; (b) Direct Energy's acceptance of this Agreement; (c) your Electric Utility's (“Utility”) acceptance of your enrollment; and (d) your applicable rescission period (see Section 10 below) having run. You agree to become a Direct Energy customer and appoint Direct Energy as your limited agent to perform the necessary tasks associated with your electric generation service and fulfill the terms of this Agreement. You authorize Direct Energy to obtain information from your Utility that includes your billing history, payment history, historical and future electricity usage, meter readings, and characteristics of electricity service. Direct Energy agrees to sell and deliver to you, and you agree to purchase and accept, the quantity of electricity delivered to you, as measured and/or estimated by your Utility, all in accordance with the terms and conditions set forth in this Agreement. Your electricity will be delivered to you by your Utility. You understand that as part of Direct Energy's process of qualifying you for this Agreement and continuing service under this Agreement, Direct Energy may investigate at any time and from time-to-time your credit history and choose to obtain a consumer credit report on you from a consumer-reporting agency. If Direct Energy learns that your credit, payment history, or account status is not satisfactory, Direct Energy may decline to provide retail electric service or any other service or product.

Please note the following: Direct Energy is licensed by the New Hampshire Public Utilities Commission (the “Commission”) as a Competitive Electric Power Supplier to offer and supply electric generation services in New Hampshire. Direct Energy's license number is **DM 15-513**. Direct Energy sets the Generation Service Charges that you pay. This charge depends on the contract between the customer and the CEPS. This service is included in the price that Direct Energy charges you, as described in the Rate Plan Summary. The Commission regulates electric distribution prices and services. The Federal Energy Regulatory Commission (“FERC”) regulates electric transmission prices and services.

If you need more information about choosing a supplier, please refer to: the website at: <http://www.puc.state.nh.us/Consumer/consumer.htm>

3. Term of Agreement. The Initial Term (as defined in the Rate Plan Summary) of this Agreement will begin on the meter read date that your CEPS is changed to Direct Energy by the Utility, and will continue for the number of monthly billing cycles set forth in the Rate Plan Summary. This Agreement will be effective during the Initial Term and through any Renewal Periods (as defined in Section 9) subject to the cancellation provisions of Sections 10 through 12 below.

4. Comfort & Control Plan. If you are purchasing our Comfort & Control Plan pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that includes electric generation service and at least one (1) but no more than (3) NEST Learning Thermostats. If selecting this plan, you will receive the NEST Learning Thermostat(s) at no additional cost, and you are not required to install the device(s) in order to enroll in the plan. You may request up to three (3) NEST Learning Thermostats; however, Direct Energy may limit the number of NEST Learning Thermostats provided to you in its sole discretion. To be eligible to enroll in the Comfort & Control Plan you must: (i) reside in a single family home, and (ii) have high speed, wireless internet service (dial up and mobile internet access is not compatible). The NEST Learning Thermostat works with a significant majority (but not all) of the heating and cooling systems in the market. You may check the compatibility of the NEST Learning Thermostat with your heating and/or cooling system at the following website <https://nest.com/support/>. If you cancel this Agreement after the Rescission Period (as defined in Section 10)

but within the Initial Term (as defined in Section 3), then you will be required to pay us a device cost recovery fee in the amount set forth in the Rate Plan Summary per NEST Learning Thermostat. You cannot return the NEST Learning Thermostat(s) to avoid the device cost recovery fee.

5. Back to Business Plan. If you are purchasing our Back to Business Plan pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that includes electricity service and at least one (1) but no more than (3) NEST Learning Thermostats. If selecting this plan, you will receive the NEST Learning Thermostat(s) at no additional cost, and you are not required to install the device(s) in order to enroll in the plan. You may request up to three (3) NEST Learning Thermostats; however, Direct Energy may limit the number of NEST Learning Thermostats provided to you in its sole discretion. To be eligible to enroll in the Back to Business Plan, you must have high speed internet service (dial up and mobile internet access is not compatible). The NEST Learning Thermostat works with a significant majority (but not all) of the heating and cooling systems in the market. You may check the compatibility of the NEST Learning Thermostat with your heating and/or cooling system at the following website <https://nest.com/support/>. If you cancel this Agreement after the Rescission Period (as defined in Section 9) but within the Initial Term (as defined in Section 3), then you will be required to pay us a device cost recovery fee in the amount set forth in the Rate Plan Summary per NEST Learning Thermostat. You cannot return the NEST Learning Thermostat(s) to avoid the device cost recovery fee.

6. RateFlex Plan. If you are purchasing our RateFlex Plan pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that includes electricity service. Beginning on the next available meter read date that your electricity service supplier is changed to Direct Energy by the Utility, Direct Energy will charge you a series of rates through pre-defined periods ("Price Blocks") as determined in your Rate Plan Summary. After your electricity service supplier is changed to Direct Energy, during each Price Block, as defined in your Rate Plan Summary, Direct Energy will charge you the price per kWh as set forth in the Rate Plan Summary for such Price Block. You understand that your rate is for Electric Generation Service but excludes other taxes and regulated charges from the

utility, including but not limited to, the price of transmission and distribution, the systems benefits charge, stranded cost recovery charges, taxes, and any other delivery and distribution charges. If you cancel this Agreement after the Rescission Period (as defined in Section 9 below) but within the Initial Term (as defined in Section 3), then you may be required to pay us an early cancellation fee in the amount set forth in the Rate Plan Summary.

7. Smart & Bright Plan. If you are purchasing a plan with a Hive Active Light™ Starter Pack pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that includes electric supply service and one (1) Hive Active Light™ Starter Pack. The Hive Active Light™ Starter Pack consists of one (1) Hive Hub and two (2) A19 dimmable white light bulbs. To utilize the full features of the Hive Active Light™ Starter Pack, you must have high speed, Wi-Fi internet service (dial up and mobile internet access is not compatible) and a router with a spare Ethernet port. To download the Hive app, you will need a device running iOS7 or later or Android 4.0.3 or higher. The Hive Active Light™ Starter Pack may also collect usage data that may be shared between Hive and Direct Energy and/or their affiliates and trusted third parties. For more information on the Hive Active Light™ Starter Pack, please visit <https://www.hivehome.com/faqs>. If you cancel this Agreement after the Rescission Period (as defined in Section 8) but within the Initial Term (as defined in Section 3), then you will be required to pay us an early cancellation fee in the amount set forth in the Rate Plan Summary per Hive device(s). You cannot return the Hive device(s) to avoid the early cancellation fee.

8. Pricing, Billing and Payment Terms. During the Initial Term, you will pay Direct Energy for your Electric Generation Service at the price set forth in the Rate Plan Summary. The Initial Term Rate is for Electric Generation Service but excludes other taxes and regulated charges from the utility, including but not limited to, the price of transmission and distribution, the system benefits charge, stranded cost recovery charge, taxes, and any other delivery and distribution charges. Electric generation service prices of CEPS such as Direct Energy are set competitively and are not regulated by the Commission. As to billing and payment terms, your Utility will send you a bill monthly (or on such other frequency as it may determine) and that bill will contain, among other charges, Direct

Energy's Generation Service Charges for the amount of electricity you used during the billing cycle. That amount will be measured or estimated by the Utility. **Depending on the date of the meter read date, your bill from the Utility may be prorated. The prorated billing is a technique for applying standard methods to nonstandard billing periods. A billing period that is shorter or longer than the Utility's designated billing period days will have prorated charges based on a 30-day average for the applicable rate.** Your payment will be due to the Utility by the date specified in the Utility bill. If you fail to pay it on time, you could be subject to interest and late charges imposed by the Utility, and your service could be disconnected. Your Utility may offer you budget, leveled or other payment plans.

9. Renewal and Notice of a Change to this Agreement. Prior to the expiration date of the Initial Term, you will receive a written notification explaining the proposed changes to the terms of service and your options going forward. If you find the change(s) unacceptable, you may choose another supplier or return to Utility service without any penalty to you. If you do not respond to the notifications, your service with Direct Energy will continue under the new terms and the Agreement, as amended, will automatically renew on a month-to-month basis or to another fixed term contract, ("Renewal Period") as set forth in the notifications, with no early cancellation fee or device cost recovery fee.

(a) *Month-to-Month Basis.* If during a Renewal Period, you receive electric service from Direct Energy on a month-to-month basis as set forth in the Notification, , the rate for electricity will be a variable rate that may be higher or lower each month and will be set in Direct Energy's sole discretion. Direct Energy typically considers the following factors when setting variable rates:

- publically available competitor pricing;
- strategic business objectives;
- customer retention or attrition;
- market volatility or uncertainty;
- anticipated customer usage;
- the cost of procuring power including wholesale prices, ancillary service costs, capacity auctions, utility fees, transmission and distribution losses and storage costs;
- weather, supply congestion and infrastructure issues;

- legal or regulatory issues; and
- profit margin.

This list of factors is not exhaustive and no single factor will determine the rate. Some factors must be estimated or projected and the factors Direct Energy considers may be weighed differently each month. Direct Energy does not include other costs, including but not limited to, the price of transmission and distribution, the system benefits charge, stranded cost recovery charge, and taxes. Direct Energy may amortize sudden cost increases over multiple billing cycles so that its customers do not bear the burden of such increases in a single month. In addition, Direct Energy seeks to acquire the majority of its anticipated electricity supply in advance rather than from the spot market. **For all of these reasons, the variable rate may not correlate with changes in wholesale market prices or your local utility's rates.** In addition, the variable rate may be higher than your local utility rate or other suppliers' rates.

(b) *Fixed Term Contract.* If during a Renewal Period, you receive electric service from Direct Energy on a fixed term contract as set forth in the Notification, then Direct Energy will charge you for all electricity billed by your Utility at a fixed rate per kWh as set forth in the Notification and the Rate Plan Summary provided to you at that time.

10. Your Right to Rescind or Cancel Service. You have three (3) business days after personal or electronic receipt (or, if received by the United States Postal Service, five (5) business days after the postmarked date) of a written copy of this Agreement to rescind your enrollment with Direct Energy ("Rescission Period") without penalty by contacting Direct Energy at the phone number provided in Section 17 below. After your service begins, you may cancel it at any time during the Initial Term, but you will be required to pay an early cancellation fee and/or device cost recovery fee as set forth in the Rate Plan Summary. If an early cancellation fee and/or device cost recovery fee is imposed, you agree to pay it at the time of your request to cancel this Agreement, but no later than ten (10) days after the date you receive notice to pay it.

11. Direct Energy's Right to Cancel Service. You are affirming to Direct Energy that you have provided Direct Energy with your correct and complete name,

address and contact information and you do not have any outstanding balance with Direct Energy. If there is any evidence that any of these statements are or become untrue, or you otherwise provide fraudulent or misrepresented information, Direct Energy can cancel this Agreement immediately. Also, if for any reason performance of this Agreement becomes materially uneconomical to Direct Energy, or if Direct Energy is otherwise unable to continue this Agreement, Direct Energy can cancel this Agreement after giving you at least fourteen (14) business days' advance written notice prior to the termination. If Direct Energy cancels this Agreement, you must still pay all Direct Energy charges through the date you are switched to another CEPS or returned to the Utility for service. Your cancellation will not be effective until the next regularly scheduled meter-reading date following the date on which Direct Energy gives notice to the Utility of your cancellation request. If you enroll (or attempt to enroll) and Direct Energy determines that you do not have a smart meter, then Direct Energy will have the right to cancel this Agreement (or cancel your enrollment with Direct Energy).

12. Relocation. You should notify both your Utility and Direct Energy of a change in your residence/service location at least fourteen (14) days before such change. A final meter read will be made at your old address and your account will be finalized by both your Utility and Direct Energy. In the event you relocate outside of your Utility's service territory, you may terminate this Agreement without penalty by providing fourteen (14) days' prior notice to Direct Energy, either in writing or by phone. If you change your residence/service location within your Utility's service territory, then you may have the option of entering into a new electricity supply agreement with Direct Energy for your new residence/service location. Direct Energy's contact information is set forth in Section 17 below. If you cancel this Agreement, you will be responsible to pay for Direct Energy's service through the date that you are switched to another supplier or returned to your Utility. In the event that you move to another service address where Direct Energy provides service, and you cancel this Agreement, you will be subject to the early cancellation fee. If you are enrolled in the Comfort & Control Plan or the Back to Business Plan, Direct Energy will have the right to charge you the device cost recovery fee per thermostat set forth in the Rate Plan Summary.

13. Disputes. You should contact Direct Energy regarding any dispute related to this Agreement. Direct Energy will attempt to resolve the dispute in an efficient, fair and timely manner. Direct Energy will provide an acknowledgment to your dispute within a reasonable time after receipt. Direct Energy will then issue a report within thirty (30) days after initiation of the dispute. Direct Energy will report to you the results of its investigation of the dispute, and that report will be available to you upon request. If you are not satisfied after discussing your terms of service with Direct Energy, you may contact the Commission. The contact information for both Direct Energy and the Commission is set forth in Section 18 below.

14. Title to Electricity. Title to the electricity will pass from Direct Energy to you when it is delivered by Direct Energy to the Utility.

15. Force Majeure. Direct Energy will make commercially reasonable efforts to provide your electric service, but does not guarantee a continuous supply of electricity. Certain causes and events out of Direct Energy's reasonable control ("Force Majeure Events") may result in interruptions in service. Direct Energy is not responsible for transmitting or distributing electricity. Direct Energy is not liable for damages caused by acts of God, changes in laws, rules, or regulations or other acts of any governmental authority (including the Commission or NEPOOL ISO Interconnection), accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, nonperformance by the Utility or any other cause beyond Direct Energy's reasonable control.

16. Limitations of Liabilities. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. DIRECT ENERGY WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. DIRECT ENERGY IS NOT LIABLE FOR INTERRUPTIONS TO, OR SHORTAGES OF, ELECTRICITY SUPPLY, NOR ANY ASSOCIATED LOSS OR DAMAGE RESULTING THEREFROM. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. THERE ARE NO THIRD-PARTY BENEFICIARIES TO THIS AGREEMENT.

17. Direct Energy's Representations and Warranties; Limitation. THE ELECTRICITY

PROVIDED UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARD OF THE APPLICABLE UTILITY AND WILL BE SUPPLIED FROM A VARIETY OF ELECTRIC GENERATION SOURCES INCLUDING THE ELECTRICITY PROVIDED PURSUANT TO ANY RENEWABLE ENERGY PRODUCT REQUIREMENT. DIRECT ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. DIRECT ENERGY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

18. Contact Information.

Direct Energy: You may contact Direct Energy in one of the following ways: (a) call 1-866-334-8084 or at 1-844-827-0609 (Residential Door-to-Door customers only), Monday through Friday 8:00 a.m. to 8:00 p.m. EST, and Saturday 8:00 a.m. to 5:00 p.m. EST (contact center hours subject to change without notice); or (b) write to Direct Energy at PO BOX 180, Tulsa, OK 74101-0180 (be sure to include your account number(s)).

Direct Energy's internet domain address is: www.directenergy.com. Information on generation energy sources, energy efficiency, environmental impacts or historical billing data is available from Direct Energy upon request.

Your Utility (in case of emergency, including electric outage): Please refer to the Rate Plan Summary for your Utility's contact information.

The Commission: You may contact the New Hampshire Public Utilities Commission, with questions about your rights and responsibilities or otherwise, as follows: (a) call: 1-603-271-2431; Consumer Assistance: 1-800-852-3793; TDD Access-Relay NH: 1-800-735-2964; (b) write: 21 South Fruit Street, Suite 10, Concord, N.H. 03301-2429; (c) Fax: 1-603-271-3878; or (d) email: puc@puc.nh.gov.

Assistance Program: Your Utility may have programs available to customers who are on a limited or fixed income to assist them with utility bills. Some of these programs might include bill payment assistance and weatherization services. Information on your Utility's assistance program, if any, can be obtained by contacting your Utility at the number listed on the Rate Plan Summary, [contacting the New Hampshire Public Utilities Commission](#), or by contacting one of the following programs: Electric Assistance Program; Gas

Residential Low Income Assistance Program; Fuel Assistance Program; Weatherization Assistance Program; Neighbor Helping Neighbor; or Project CARE.

19. Choice of Law. You agree that this Agreement shall be governed by New Hampshire law, without regard to its conflict of law principles.

20. Taxes. Except as otherwise provided in this Agreement or required by law, all taxes of whatsoever kind, nature and description, due and payable with respect to your performance of your obligations under this Agreement, will be paid by you.

21. Privacy Policy. Direct Energy may not release your electricity billing, payment and credit information without your prior written consent; however, Direct Energy is permitted to disclose to any party, including the Utility, any such information for the purpose of facilitating billing, bill collection and credit reporting. Further, except as described below, Direct Energy may not release your other proprietary personal information to any other person without your prior written consent. Other proprietary personal information means your name, address, choice ID, type or classification of service, historical electricity usage (actual or profiled by your Utility), current electricity usage, expected patterns of use, types of facilities receiving service and individual Agreement information. These prohibitions do not apply to the release of your information under certain circumstances: as required by law, including release to the Commission; as required by court order or the Commission, as required by law enforcement agencies or your Utility. Finally, Direct Energy may also share your other proprietary personal information with its affiliates or a third party for the purpose of, or in connection with, the development, operation, maintenance, marketing, selling or evaluating Direct Energy's or any of its affiliates' products or services, including this generation service if you have provided your written consent to the release of such information. The National Do Not Call Registry is managed by the Federal Trade Commission (FTC), the nation's consumer protection agency. For information on how to be added to the list, please visit the FTC website: www.donotcall.gov or call 1-888-382-1222.

22. Assignment. You may not assign this Agreement without Direct Energy's prior written consent. Direct Energy may: (a) transfer or sell this Agreement or your account in connection with any financing; (b) transfer this Agreement to any of its affiliates; (c) transfer or

assign this Agreement to anyone succeeding to all or substantially all of Direct Energy's assets or business; and (d) transfer this Agreement to another supplier licensed by the Commission by sending you advance written notice at least fourteen (14) days before the effective date of the assignment. After assignment, Direct Energy will have no further obligations under this Agreement. This Agreement is binding upon you and Direct Energy, and will further bind each of your successors and permitted assigns.

23. Miscellaneous Provisions. This Agreement is subject to applicable laws and supersedes any previous promises, understandings and agreements. If any provision of this Agreement is deemed invalid, illegal or otherwise unenforceable, you agree that it shall be modified to the minimum extent necessary to render it valid, legal and enforceable. If a provision cannot be modified in a manner that would make it valid, legal and enforceable, the provision shall be severed from the Agreement, and all other provisions shall remain in full force and effect. Any failure on our part to enforce any of the terms of this Agreement or to exercise any right under such terms shall not be considered a waiver of Direct Energy's right to enforce each and every such term, exercise such right, or exercise any other right under this Agreement.