

**NEW YORK RESIDENTIAL & SMALL COMMERCIAL
TERMS AND CONDITIONS**Electricity Supply Service
Direct Energy Services, LLC

1. **Terms of Service.** These Terms and Conditions together with the Customer Disclosure Statement (defined below), which is incorporated herein by reference, constitute the agreement ("Agreement") between you and Direct Energy Services, LLC ("Direct Energy"). "Customer Disclosure Statement" means, as applicable, either the section of the enrollment consent form/letter of authorization entitled '*Customer Disclosure Statement*' or the Schedule A accompanying these Terms and Conditions entitled '*Customer Disclosure Statement - Schedule A to Terms and Conditions*'.

2. **Agreement to Purchase Energy.** We will supply your retail electricity, as delivered to you by your Local Distribution Utility ("LDU"), subject to the terms and conditions of this Agreement.

3. **Agency.** You appoint us as your agent to provide retail electric service, including the electric transportation, transmission and related services appropriate to provide that service to you.

4. **Eligibility.** For electric service, you must (a) be eligible to receive service from your LDU and stay eligible for such service during the Term of this Agreement and (b) meet all eligibility requirements to enable Direct Energy to provide electric service. We can terminate this Agreement by giving you notice if you are not eligible. For the Connect to Comfort, Smart & Bright, Connect to Control or Take Control of Your Business Plans, you must meet the eligibility requirements set forth in Sections 10-13.

5. **Term of Agreement.** The "Initial Term" of your service can be found on the Customer Disclosure Statement. The Initial Term will continue for the number of monthly billing cycles as indicated on the Customer Disclosure Statement. Thereafter, you will be notified in advance that this Agreement will automatically renew on a month-to-month basis at the same terms, unless Direct Energy sends you written notice of proposed changes to such terms in advance of the renewal date (each such renewal are collectively referred to as the "Renewal Term"). Any such written notice will be sent at least thirty (30) days and no more than sixty (60) days prior to the renewal date, apprising you of any proposed changes in the terms and conditions of this Agreement and of your right to

renew, terminate or renegotiate this Agreement. If you wish to reject the renewal of this Agreement without incurring an early cancellation fee, if any, you will have three (3) business days from the day you receive the first billing statement of your Renewal Term to cancel by calling us as detailed in Section 30. When receiving service on a month-to-month basis, you may provide written notice of termination or call us as detailed in Section 30 or call LDU to terminate the agreement. We may terminate this Agreement by providing thirty (30) days' written notice to you.

6. **Price: the Rate and Daily Fee.** During the Initial Term, your rate per kWh will be as set forth on the Customer Disclosure Statement. For a fixed or variable rate, your rate per kWh will be for electric generation service and New York City Utility tax (when applicable), and excludes other taxes and regulated charges from the utility, including but not limited to, delivery and distribution charges. You may also be charged a flat daily fee, which you will find in the Customer Disclosure Statement. Upon completion of the Initial Term, this Agreement will automatically renew on a month-to-month basis (the "Renewal Period") with no cancellation fee unless Direct Energy sends you advance written notice of a change. After the Initial Term and during the Renewal Period, Direct Energy will charge you at a variable price per kWh based upon generally prevailing market prices for electricity in the LDU load zone for the applicable period, plus an adder, determined solely by Direct Energy in its discretion. Your variable price will include ancillary charges, cost of capacity, generation, line losses, New York City Utility Tax (when applicable), and other miscellaneous charges. If you are a tax-exempt customer, you must provide us with an appropriate exemption certificate before we will waive any assessment and collection of taxes. The amount you pay may change for reason for allowed by law, including, without limitation: (a) a change in charges, or new charges imposed by your LDU, NYPSC or other government agency; or (b) determine that the service plan originally designated is incorrect.

7. **Renewable Energy Plan.** If you are purchasing our Renewable Energy Plan pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that is supported 100% by renewable energy credits ("RECs"), in an amount sufficient to match your annual consumption from your EDC. RECs are a tradeable, non-tangible energy commodity in the United States that represents proof that 1 megawatt-

hour (MWh) of electricity was generated from an eligible renewable energy resource like biomass, hydro, solar or wind. Direct Energy will purchase and retire renewable energy certificates in either the state where you are located, the North American Electric Reliability Corporation (NERC) region, Independent System Operator (ISO), Regional Transmission Organization (RTO) or Balancing Authority Area of the customer being served, at any time and from time to time throughout the year. The electricity supply actually distributed to your service location will not contain electricity supply generated from any specific electric generation facility. The availability of electric generation facilities varies hour to hour, and from season to season, as does electricity use by customers. Direct Energy may take up to three (3) months following the close of a calendar year to make up any deficiency in the volume of renewable energy certificates needed from particular generation facilities associated with your Renewable Energy Plan.

8. Solar Advantage Plan. If you are purchasing our Solar Advantage Plan pursuant to this Agreement, you are agreeing to purchase from Direct Energy a product that is supported 100% by renewable energy credits, in an amount sufficient to match your annual consumption from your LDU. Direct Energy will purchase and retire RECs at any time and from time to time throughout the year. Direct Energy does not guarantee that the RECs purchased and retired by Direct Energy will be generated from any specific eligible renewable energy source (for example, sources may include wind, biomass, waste-to-energy, solar and hydroelectric). Direct Energy does not make any representations that the purchase of RECs under the Solar Advantage Plan includes eligible renewable generation required by state or federal RPS requirements, legislation, or settlement agreements. The electricity actually distributed to your service location will not contain electricity generated from any specific electric generation facility. The availability of electric generation facilities varies hour to hour, and from season to season, as does electricity use by customers. Direct Energy may take up to three (3) months following the close of a calendar year to make up any deficiency in the volume of RECs needed from particular generation facilities associated with your Solar Advantage Plan.

9. RateFlex Plan. If you are purchasing our RateFlex Plan (which may include "Power Grabber", "Brighter Edge", or "Brighter Savings") 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 LDU, Direct Energy will charge you a series of rates through pre-defined periods ("Price Blocks") as determined in your Customer Disclosure Statement. After your electricity service supplier is changed to Direct Energy, during each Price Block, as defined in your Customer Disclosure Statement, Direct Energy will charge you the price per kWh as set forth in the Customer Disclosure Statement for such Price Block. You understand that your rate per kWh will be for electric generation service and New York City Utility tax (when applicable), and excludes other taxes and regulated charges from the LDU, including but not limited to, delivery and distribution charges (as defined in Section 6). If you cancel this Agreement after the Rescission Period (as defined in Section 16 below) but within the Initial Term (as defined in Section 5), then you may be required to pay us an early cancellation fee in the amount set forth in the Customer Disclosure Statement.

10. Connect to Control Plan. If you are purchasing a Hive plan, you are agreeing to purchase from Direct Energy a product that includes electric and/or natural gas service and includes one (1) Hive Hub, one (1) Hive Active Plug™, two (2) Hive Window or Door Sensors and two (2) Hive Active Lights™. To utilize the full features of Hive products, you must have high speed, 'always on' 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. Hive Heating & Cooling may also collect usage data that may be shared between Centrica Connected Home US Inc. and Direct Energy and/or its affiliates and trusted third parties. For more information about Hive products, please visit <https://www.hivehome.com>. If you cancel this Agreement after the Rescission Period, but within the Initial Term, then you will be required to pay us an early cancellation fee and/or device cost recovery fee in the amount set forth in your Customer Disclosure Statement. A confirmation email from Hive will be sent to you to validate your order shortly after the start of your plan. Once you have confirmed your Hive order, please allow 4-6 weeks from the start date of your plan for delivery of your Hive products. You cannot return

your Hive products to avoid the early cancellation fee and/or device cost recovery fee.

11. Smart and Bright Plan. If you are purchasing a Hive plan, you are agreeing to purchase from Direct Energy a product that includes electric and/or natural gas service and includes 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 Hive products, you must have high speed, 'always on' 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. Hive Heating & Cooling may also collect usage data that may be shared between Centrica Connected Home US Inc. and Direct Energy and/or its affiliates and trusted third parties. For more information about Hive products, please visit <https://www.hivehome.com>. If you cancel this Agreement after the Rescission Period, but within the Initial Term, then you will be required to pay us an early cancellation fee and/or device cost recovery fee in the amount set forth in your Customer Disclosure Statement. A confirmation email from Hive will be sent to you to validate your order shortly after the start of your plan. Once you have confirmed your Hive order, please allow 4-6 weeks from the start date of your plan for delivery of your Hive products. You cannot return your Hive products to avoid the early cancellation fee and/or device cost recovery fee.

12. Connect to Comfort Plan. If you are purchasing a Hive plan, you are agreeing to purchase from Direct Energy a product that includes electric and/or natural gas service and includes one (1) Hive Hub and one (1) Hive Active Thermostat. To utilize the full features of Hive products, you must have high speed, 'always on' 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. Hive Heating & Cooling may also collect usage data that may be shared between Centrica Connected Home US Inc. and Direct Energy and/or its affiliates and trusted third parties. For more information about Hive products, please visit <https://www.hivehome.com>. If you cancel this Agreement after the Rescission Period, but within the Initial Term, then you will be required to pay us an early cancellation fee and/or device cost recovery fee in the amount set forth in your

Customer Disclosure Statement. A confirmation email from Hive will be sent to you to validate your order shortly after the start of your plan. Once you have confirmed your Hive order, please allow 4-6 weeks from the start date of your plan for delivery of your Hive products. You cannot return your Hive products to avoid the early cancellation fee and/or device cost recovery fee.

13. Take Control of Your Business Plan. If you are purchasing a Hive plan, you are agreeing to purchase from Direct Energy a product that includes electric and/or natural gas service and includes one Hive Hub and one Hive Active Thermostat. To utilize the full features of Hive products, you must have high speed, 'always on' 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. Hive Heating & Cooling may also collect usage data that may be shared between Centrica Connected Home US Inc. and Direct Energy and/or its affiliates and trusted third parties. For more information about Hive products, please visit <https://www.hivehome.com>. Please also see the Hive website for the terms and conditions for use of Hive products, which you are deemed to accept by registering your account and using your Hive products. **If applicable, Hive redemption credits must be redeemed within 90 days of the energy plan start date. Unused Hive redemption credit(s) will automatically expire. If you cancel this Agreement after the Rescission Period, but within the Initial Term, you will be required to pay us an early cancellation fee and/or device cost recovery fee in the amount set forth in your Customer Disclosure Statement.** A confirmation email from Hive will be sent to you to validate your order shortly after the start of your plan. Once you have confirmed your Hive order, please allow 2-3 weeks from your confirmation for delivery of your Hive products. You cannot return your Hive products to avoid the early cancellation fee and/or device cost recovery fee.

14. Power on Command Plan. If you are purchasing a Power on Command Plan, you are agreeing to purchase from Direct Energy a product that includes electric and/or natural gas service and an Amazon product. To utilize the full features of an Amazon Echo Dot, you must have high speed, 'always on' Wi-Fi internet service (dial up and mobile internet access is not compatible). You cannot return your Amazon Echo

Dot to avoid the early cancellation fee and/or device cost recovery fee. Please allow 4-6 weeks for delivery of your Amazon Echo Dot upon start of your service with Direct Energy.

15. Billing. Our electric service, daily fee, and other charges will appear in your service bill from your LDU. Your LDU calculates and determines your usage and charges. Your LDU bills will specify when payments are due, and you agree to pay your bill as required by your LDU. Your payments may be pro-rated in accordance with procedures adopted by the NYPSC. Additionally, if your LDU is Central Hudson, you may be offered a billing cycle ending either monthly or every other month. If you receive residential service, your LDU may offer budget, levelized, or other payment plans, as provided in New York's Home Energy Fair Practices Act ("HEFPA"). The LDU's measurement of electricity will be definitive for the purpose of calculating your charges under this Agreement. This determination may include any combination of actual meter reading usage, usage estimations or pro-rated usage.

16. Your Right of Rescission and Termination by You. Residential and Small Commercial customers may rescind this Agreement within three (3) business days after receiving a copy of it ("Rescission Period") without an early cancellation fee and/or device cost recovery fee. Thereafter, Residential and Small Commercial customers may terminate service under this Agreement at any time during the Initial Term; provided, however, such customer will be required to pay us the early termination fee and/or device cost recovery fee as set forth in the Customer Disclosure Statement immediately, but in no event no later than ten (10) days after the date you receive an oral or written notice requesting payment. The early termination fee will not to exceed (a) one hundred dollars for any contract with a remaining term of less than twelve months; (b) two hundred dollars for any contract with a remaining term of twelve months or more.

To terminate service under this Agreement, contact us at our Customer Service Contact Center (see Section 30 for contact information). If you terminate service with us, your service will be switched to the LDU at the end of the next switching cycle following your request for termination.

17. Termination by Us. We can terminate this Agreement for any of the following reasons by providing you fifteen (15) days' advance written notice:

(a) fraudulent or misrepresented information was used to secure this Agreement; (b) you rescind your information release authorization provided in Section 21 below; (c) we determine that your credit is inadequate; (d) you change your physical address or location; (e) a court or administrative agency takes action that renders ineffective any material provision of this Agreement, prohibits material performance under the Agreement, or otherwise constitutes a material adverse change for us; (f) a Force Majeure Event that materially impacts our service; or (g) you breach this Agreement. If terminated, your service will switch to the LDU no later than the end of the second following billing cycle. After the end of the Initial Term, we may terminate this Agreement at any time for any reason, and if we do, your service will cease no later than the end of the second following billing cycle.

18. Effect of Termination. Upon termination, you may either select another energy service company or return to your LDU service. A final bill will be sent for charges through the date your service ends within twenty (20) calendar days after the final scheduled meter reading by your LDU (or, if access to your meter is unavailable, an estimate of your usage will be used for the final bill, which will be true-up when the final meter reading is performed). Upon your request for termination, we will provide you with a termination verification number.

19. Transfer. If you relocate within the LDU service territory, this Agreement will continue for the remainder of the Term for services at your new location. You are responsible for (1) calling your LDU (see the Customer Disclosure Statement for contact information) to inform them of your request to transfer your LDU service to another location; (2) obtaining your new account information from your LDU; and (3) contacting us using the information in Section 30, to provide your new account information and location to complete the transfer of service. You understand that this Agreement will automatically terminate if you relocate outside the LDU service territory, or if the requested service location is not served by the LDU. You must provide to us, at the address provided in Section 30, written proof of your new location outside the LDU service territory. In connection with your relocation in accordance with this Section 19, you will not be charged an early cancellation fee; however, if you are enrolled in our Comfort & Control Plan, Direct Energy will have the right to charge you the device cost recovery fee per thermostat set forth in the Customer Disclosure Statement.

20. Assignment. You are responsible for payment to us. You may not assign or delegate this Agreement to anyone without our prior written consent. We may assign or delegate this Agreement to anyone, and that includes transferring our financial interest in your account. If such an assignment is made, and if required by law, we will provide written notice no later than thirty (30) calendar days prior to the transfer date. The notice shall include details of the assignment and your right to choose another supplier or to return to full utility service. After assignment, Direct Energy will have no further obligations under this Agreement.

21. Information Release Authorization. You authorize us to obtain and review information regarding your credit, consumption and billing history from any credit or payment reporting agency. We may also obtain and review the following information from the LDU: public assistance status, existence of medical emergencies, status as to whether you have a medical emergency or are elderly, blind or disabled, and data applicable to cold weather periods under New York PSL Section 32(3), information pertaining to New York PSL Section 33, tax status and eligibility for economic development or other incentives. This authorization will remain in effect during the Term of this Agreement. You may rescind this authorization at any time by notifying us at our Customer Service Contact Center (see Section 30 for the contact information). If you do so, we can cancel this Agreement (see Section 17 above). We, and any of our affiliates, agents or representatives, may use this information, along with information you provide, to review your creditworthiness, eligibility for services, and to properly serve you. Such information may be disclosed to a third-party if: (a) required by law; (b) such disclosure is to a third-party service provider under confidentiality obligations not to disclose such information and to use it solely for the purpose of providing services to us; or (c) as provided below. You understand that we may refuse to offer service to you as allowed by law. You also understand that we may report payment activity on your account with us to any credit reporting agency. Your acceptance of this Agreement is an authorization for release of this information.

22. Consumer Protections. Residential and non-residential service is governed by this Agreement and the applicable regulations and orders of the NYPSC. Residential service is additionally governed by HEFPA, which deals, among other matters, with the time and form of the Final Termination Notice and Final

Suspension Notice, physical termination and suspension of service, ending termination and suspension of service, restoration of service, deferred payment agreements, billing adjustments, multiple and two-family dwellings, persons receiving social services assistance and special procedures for medical emergencies, the elderly, blind or disabled, and during cold weather. You may obtain additional information about consumer protections at our Customer Service Contact Center or the NYPSC (see Section 30 for the contact information). The NYPSC monitors complaints against all energy companies. An excessive number of complaints may result in an energy service company no longer being eligible to supply electricity in New York State.

23. Dispute Resolution. If there is a billing dispute or a disagreement involving our service, the parties will attempt to resolve the dispute. In order to resolve a dispute, you should first contact our Customer Service Contact Center (see Section 30 for the contact information). We will work to resolve your inquiry fairly and efficiently. We will provide an acknowledgment to you within two (2) days, and will respond to you within five (5) days with the results of our investigation, and we will provide a written report if requested. If we do not resolve the dispute related to your residential service within forty-five (45) days, you have the right to seek NYPSC review as described in Section 22 above. And if your dispute concerns non-residential service, you may submit your dispute to small claims court or any other court of competent jurisdiction.

24. Confidentiality. If you are not receiving service for residential use, the parties will keep the terms and conditions of this Agreement confidential, except as may be required to provide service or to meet the requirements of any regulatory body.

25. Title. All electricity sold under this Agreement shall be delivered to a location considered the "Point of Delivery", which for electricity shall be at the New York Independent System Operator load bus (located outside of the municipality where you reside), and shall constitute the point at which title transfers and the sale occurs. We shall indemnify and hold you harmless from all taxes, royalties, fees or other charges incurred with respect to the electricity before title passes.

26. Warranty. This Agreement, including any attachments, makes up the entire Agreement between the parties. WE MAKE NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND WE

EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

27. Force Majeure. A Party claiming Force Majeure will be excused from its obligations under this Agreement as long as it provides prompt notice of the Force Majeure and uses due diligence to remove its cause and resume performance as promptly as reasonably possible. During a Force Majeure, you will not be excused from your responsibility for Balancing Charges nor from your responsibility to pay for services received. "Force Majeure" means occurrences beyond a Party's reasonable control, including, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of terrorism, civil disturbances, explosions, breakage, shortage and/or unavailability of transmission facilities. The inability of a Party to make payments is not a Force Majeure event.

28. Remedies and Limitations of Liability. THE ONLY REMEDY IN ANY CLAIM OR SUIT YOU BRING AGAINST US WILL BE DIRECT, ACTUAL DAMAGES YOU HAVE INCURRED. YOU WAIVE ANY RIGHT TO ANY OTHER REMEDY IN LAW OR EQUITY. NEITHER YOU NOR WE WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES. IN ADDITION TO THE PROVISION OF SECTION 27 ABOVE, WE ARE NOT LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM (A) INTERRUPTIONS TO, OR SHORTAGES OF, ELECTRICITY SUPPLY, OR (B) ERRORS IN THE QUANTITY, QUALITY AND MEASUREMENT OF ELECTRICITY. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

29. Indemnification and No Third-Party Beneficiaries. You are responsible for, and will immediately indemnify us against, any and all loss or damage resulting from (a) your failure to fully comply with this Agreement; or (b) your use or misuse of electricity after it is delivered to you. There are no third-party beneficiaries to this Agreement.

30. Contact Information.

Direct Energy - You may contact our Customer Service Contact Center at 1-866-348-4194. Our hours are 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, (hours subject to change without notice). You may also correspond in writing at: Direct Energy Customer

Service Contact Center, PO Box 180, Tulsa, OK 74101-0180. Always include your account number in your correspondence.

Your LDU - Contact information for your LDU is below, as applicable to your specific LDU:

Central Hudson Gas and Electric: 1-800-527-2714; Consolidated Edison of NY: 1-800-752-6633; Corning Natural Gas: 1-607-936-3755; National Grid (KED-NY): 1-718-643-4050; National Grid (KED-LI): 1-800-490-0045; National Grid: 1-800-892-2345; National Fuel Gas: 1-800-444-3130; NYSEG: 1-800-572-1131; Orange and Rockland: 1-877-434-4100; or Rochester Electric: 1-800-743-1701.

New York State Public Service Commission - You may contact NYPSC at 1-800-342-3377 or by writing to the NYPSC at: New York State Public Service Commission, Department of Public Service - Office of Consumer Affairs, Three Empire State Plaza, Albany, New York 12223, or through its website at: <http://www.dps.state.ny.us>. The telephone number for inquiries and complaints about alternative suppliers is 1-888-697-7728.

31. Venue and Choices of Law. Venue for any lawsuit related to this Agreement shall lie exclusively in the State of New York. Further, this Agreement shall be construed under and shall be governed by the laws of the State of New York, without regard to the application of its conflicts of law principles.

32. Taxes and Laws. Except as otherwise provided in the Agreement or provided by law, any and all taxes due and payable with respect to the performance of your obligations under this Agreement shall be paid by you. The parties' obligations under this Agreement are subject to any validly issued present and future legislation, orders, rules or regulations of a duly constituted governmental authority having jurisdiction over this Agreement or over the services to be provided herein.

33. Emergency Services. While your energy supply will be provided by Direct Energy, your energy delivery service shall continue to be provided by your LDU. In the event of an electric outage, service interruption or other emergency, you should immediately call your LDU at the contact information provided in Section 30.

30. Parties Bound. This Agreement is binding on the parties to this Agreement and their respective successors and permitted assigns.

NOTICE ABOUT YOUR ENVIRONMENTAL DISCLOSURE LABEL



Direct Energy Services, LLC ~ Toll-Free Phone: 1-866-348-4194
www.directenergy.com ~ csdirectenergy@directenergy.com

You may access Direct Energy's Environmental Disclosure label associated with your account via the link shown below:

<http://www.directenergy.com/ny/customer-support>

This information is updated periodically following the requirements of the New York State Public Service Commission.