

OHIO RESIDENTIAL & SMALL COMMERCIAL TERMS AND CONDITIONS

Natural Gas Supply Service
Direct Energy Services, LLC

1. Agreement to Purchase Natural Gas. Direct Energy will supply your natural gas as delivered by your Natural Gas Utility (“NGU”). These Terms and Conditions 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”). “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 and Conditions entitled ‘*Rate Plan Summary – Schedule A to Terms and Conditions.*’

2. Term of Agreement and Credit. Subject to Direct Energy’s acceptance of this Agreement and acceptance by your NGU, you hereby appoint Direct Energy as your exclusive limited agent to fulfill the terms of this Agreement. The “Initial Term” of this Agreement is set forth in the Rate Plan Summary. Your service under this Agreement will begin on your meter reading date as determined by your NGU tariff. Direct Energy’s intent is to send an electronic enrollment request to your NGU within three (3) business days following your enrollment with Direct Energy unless a later date is agreed to. Your NGU will deliver your natural gas, and provide billing and other services to you. After the end of the Initial Term, this Agreement will continue as set forth in Section 7. You understand that as part of Direct Energy’s process of qualifying you for this Agreement, Direct Energy may investigate 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 natural gas service to you at the time of application, or refuse a requested rate plan change.

3. Pricing, Billing and Payment Terms. You will pay Direct Energy for your service at the rates for both the Initial Term and during the “Renewal Period” (as defined in Section 7) as set forth in the Rate Plan Summary (subject to any change contemplated by Section 7). You will also pay gas distribution/transportation charges to your NGU. During the Initial Term, your service rate will include a monthly administrative fee (“Admin Fee”), if applicable, the amount of which is set forth in your Rate Plan Summary. The Admin Fee covers administrative costs for the procurement and management of your natural gas generation service. The Initial Term and Renewal Period rate is exclusive of all applicable NGU related taxes and charges (including the applicable Transition Rider or similar charge, if applicable) as applicable. Your NGU will send you a monthly bill that will include your NGU’s charges, Direct Energy’s charges, and any other charges incurred in accordance with this Agreement. **Depending upon the date of the meter read, your bill from the NGU 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 NGU’s designated billing period days will have prorated charges based on a 30-day average for the applicable rate.** You will pay your bill in accordance with the NGU’s billing and payment terms. If you are

claiming tax-exempt status, you are responsible for providing Direct Energy with your Ohio tax exemption certificate, as it has been filed with the Ohio Department of Taxation.

4. Failure to Pay. Under the Initial Term or during the Renewal Period, in the event that you fail to pay your bill or fail to meet any agreed-upon payment arrangement, you are subject to disconnection and cancellation of this Agreement and service from your NGU, pursuant to its policies and practices. If you fail to pay your bill, or fail to meet any agreed-upon payment arrangement, Direct Energy may also cancel this Agreement upon fourteen (14) days’ advance written notice. Such disconnection and/or cancellation will not relieve you of your payment obligations to Direct Energy, including any applicable early cancellation fee or device cost recovery fee, or your NGU, for service to the date of such disconnection and/or cancellation. You have the right to request without charge up to twenty-four (24) months of payment history for services rendered by Direct Energy.

5. Right of Rescission and Early Cancellation Policy. Your NGU will send you a written notice confirming your decision to enroll with Direct Energy. You have the right to rescind your enrollment, without an early cancellation fee or device cost recovery fee, within seven (7) business days after the postmark on the NGU enrollment confirmation notice (“Rescission Period”). You can do this by contacting your NGU at the toll-free telephone number set forth in the Rate Plan Summary or in writing at the address also set forth therein. If you intend to rescind your enrollment during the Rescission Period, you agree to contact Direct Energy first, at the toll-free telephone number set forth in Section 18, immediately prior to calling your NGU to initiate rescission. Thereafter, you may cancel service under this Agreement at any time during the Initial Term, subject to paying Direct Energy an early cancellation fee and/or device cost recovery fee per Hive Active Thermostat, if any, as set forth in the Rate Plan Summary. You agree to pay any such fee to us immediately, but in any event no later than ten (10) days after the date you receive an oral or written notice requesting payment. During the Renewal Period, there is no early cancellation fee or device cost recovery fee. If you are relocating, please refer to Section 6. Otherwise, to cancel your service, you must contact Direct Energy by telephone or in writing using the contact information set forth in Section 18.

6. Cancellation or Transferring Service as a Result of Relocating. Direct Energy and you will have the right to cancel this Agreement if you relocate to a service location that is: (a) outside your NGU’s service territory; (b) not served by your NGU; or (c) outside Direct Energy’s service territory. If this Agreement is cancelled pursuant to the preceding sentence, you will not be charged an early cancellation fee; however, if you are enrolled in our Connect to Comfort Plan, Direct Energy will have the right to charge you the device cost recovery fee per Hive Active Learning Thermostat in the amount set forth in the Rate Plan Summary. Before you relocate you must first call Direct Energy Customer Service at the toll-free telephone number set forth in Section 18, and then your NGU at the toll-free telephone number set forth in the Rate Plan Summary. However, if you relocate within your NGU’s service territory, your service will transfer and this Agreement will automatically continue for the remainder of the Initial Term, if any, and automatic Renewal Period of this

Agreement. Thus, you will receive Direct Energy's service at your new location pursuant to this Agreement. If you relocate within your NGU's service territory, you must: (a) call your NGU at the telephone number in the Rate Plan Summary to inform the NGU of your request to transfer your NGU service to your new location; (b) obtain your new account information from the NGU; and (c) contact Direct Energy at the telephone number in Section 18 to provide your new account information and location to complete the transfer of service. You must provide written proof of your new location outside the NGU service territory to Direct Energy at the address provided in Section 18. If your service transfers as provided in this paragraph, you grant the NGU the right to provide Direct Energy with each account and meter number for your new service location(s). If requested by Direct Energy, you will also provide Direct Energy with this information. If service does not transfer to your new service location, this Agreement will be cancelled and you will be served under your NGU's regulated service commodity rate unless you select another natural gas supplier. If this Agreement is cancelled pursuant to the preceding sentence, you will not be charged an early cancellation fee; however, if you are enrolled in our Connect to Comfort Plan, Direct Energy will have the right to charge you the device cost recovery fee per Hive Active Thermostat in the amount set forth in the Rate Plan Summary.

7. Renewal. Upon completion of the Initial Term, this Agreement will automatically renew on a month-to-month basis unless Direct Energy sends you advance written notice of a change. Any written notice will be sent within forty-five (45) to ninety (90) days, as prescribed by the Public Utilities Commission of Ohio (the "PUCO"), and apprise you of any proposed changes in the terms and conditions of this Agreement, including your right to renew, terminate or renegotiate this Agreement. While taking service on a month-to-month basis (the "Renewal Period"), the rate for natural gas 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 gas 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 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 natural gas 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.

8. Switching. If you change your natural gas supplier, your NGU may apply a switching fee under the incumbent NGU's tariff. If you return to your NGU after switching to a competitive supplier, you may be charged a rate other than the incumbent NGU's regulated service commodity rate.

9. Assignment and Successors. This Agreement can be transferred or assigned by Direct Energy to any affiliate or another supplier upon thirty (30) days advance written notice. After assignment, Direct Energy will have no further obligations under this Agreement. You cannot transfer or assign this Agreement to another party. This Agreement is binding upon you and Direct Energy and will inure to the benefit of the parties and their respective heirs, representatives, successors and permitted assignees.

10. Privacy of Customer Information. Direct Energy will not release your social security number and/or account number(s) without your affirmative written consent except for Direct Energy's own collections and credit reporting, when assigning this Agreement to another service provider, or where such release is required by court order or other legal authority, including PUCO order or rule.

11. Warranty. DIRECT ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT. DIRECT ENERGY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. Force Majeure (Uncontrollable Forces). Direct Energy will make commercially reasonable efforts to provide gas service, but does not guarantee a continuous supply of natural gas. Certain causes and events out of the control of Direct Energy ("Force Majeure Event(s)") may result in interruptions in service. Direct Energy will not be liable for any such interruptions caused by a Force Majeure Event. Direct Energy does not transmit or distribute natural gas. Therefore, you agree that Direct Energy is not, and shall not be, liable for damages caused by Force Majeure Events, including but not limited to, acts of God, acts of any governmental authority, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the NGU (including, but not limited to, problems with its gas distribution facilities or lines), changes in laws, rules, or regulations of any governmental authority (including, but not limited to, the PUCO), or any cause beyond Direct Energy's control.

13. Liability Limit. THE REMEDY IN ANY CLAIM OR SUIT BY YOU AGAINST DIRECT ENERGY WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. BY ENTERING INTO THIS AGREEMENT, YOU HEREBY WAIVE ANY RIGHT TO ANY OTHER REMEDY. IN NO EVENT WILL DIRECT ENERGY OR ANY OF ITS AFFILIATES BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. DIRECT ENERGY IS NOT LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM: (A) INTERRUPTIONS TO, OR SHORTAGES OF, NATURAL GAS SUPPLY; OR (B) ERRORS IN THE QUANTITY, QUALITY AND

MEASUREMENT OF NATURAL GAS. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

14. Indemnification. You are responsible for, and will immediately indemnify Direct Energy 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 natural gas after it is delivered to you.

15. Dispute Resolution. You understand that Direct Energy will attempt to resolve any disagreement or complaint you may have. If your complaint is not resolved after you have called Direct Energy, or for general NGU information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll-free), or for TTY at 1-800-686-1570 (toll-free), from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov. The Ohio Consumer's Counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service).

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

17. Entire Agreement and No Third Party Beneficiaries. The terms of this Agreement constitute the entire agreement between Direct Energy and you, and supersede any prior or contemporaneous or verbal or written agreement concerning the subject matter of this Agreement. There are no third party beneficiaries to this Agreement.

18. Direct Energy Contact Information. If you have a question about or disagree with the natural gas commodity portion of your bill, you may call Direct Energy's Customer Service Contact Center at 1-888-566-9988 or 1-844-814-9393 (for 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 (hours subject to change without notice). You may also write to Direct Energy at: PO Box 180, Tulsa, OK 74101-0180. Always include your account number in your correspondence.

19. NGU Contact Information and Emergency Contact. The contact number for your NGU is set forth in the Rate Plan Summary.

20. 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.