**NEW HAMPSHIRE RESIDENTIAL & SMALL COMMERCIAL TERMS OF SERVICE**
For Electric Supply Service
Direct Energy Services, LLC

****NOTE: This Agreement includes a mandatory arbitration, class action waiver, and waiver of jury trial provision. You should review this provision at the end of this agreement to understand your rights in the event of a dispute.****

**1. Terms of Service.** These Terms of Service together with the Disclosure 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"). "Disclosure Summary" means, as applicable, either the section of the enrollment consent form/letter of authorization entitled *`Disclosure Summary'* or the Schedule A accompanying these Terms of Service entitled *`Disclosure 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 7 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 Department of Energy (the "NH DOE") 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 Disclosure Summary. The NH DOE 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:
https://www.energy.nh.gov/consumers/choosing-energy-supplier

**Preferred Form of Communication:** You will receive a copy of this Agreement and future notices based upon your preferred form of communication for receipt of information (which may include, but not limited to: electronic-mail or written correspondence delivered by U.S. mail). If a preferred form of communication is not selected, you shall receive all information via written correspondence delivered by U.S. mail.

**3. Term of Agreement.** The Initial Term (as defined in the Disclosure 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 Disclosure Summary. This Agreement will be effective during the Initial Term and through any Renewal Periods (as defined in Section 6) subject to the cancellation provisions of Sections 7 through 9 below.

**4. 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.

**5. 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 Disclosure 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 NH DOE. You may receive one bill ("Utility Consolidated Billing") from the applicable local distribution utility ("LDU") which includes Direct Energy's generation supply charges as well as the LDU's delivery charges. Alternatively, you may receive two (2) separate bills ("Supplier Billing" or "Dual Billing"), one bill from Direct Energy for Customer's supply charges, and one bill from the LDU for the delivery and distribution charges, and, if applicable, a Minimum Usage Fee, and any other charges incurred in accordance with this Agreement. In both cases, Direct Energy's fees will be reflected separately as itemized charges on Customer's invoice. Customer bill is subject to adjustment for any missed billing or computation errors, such as meter misreads. Customer's payment will be due by the date specified on the invoice.

**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.** If you fail to pay it on time, you could be subject to interest and late charges imposed by the Utility, collection activity that could affect your personal credit rating, and your service could be disconnected. Your Utility may offer you budget, levelized or other payment plans. If you fail to pay the charges on your account or fail to meet any agreed upon payment arrangement, you are subject to disconnection of your service from your LDU, pursuant to the electric utility tariff. Further, if you fail to pay your bill, or fail to meet any agreed-upon payment arrangement, Direct Energy may cancel this Agreement upon fourteen (14) calendar days' advance written notice. Such disconnection and/or cancellation will not relieve you of your payment obligations, including any applicable early cancellation fee, or your payment obligations to the LDU for service to the date of such disconnection and/or cancellation. If your service with Direct Energy is terminated for non-payment, you must pay your balance owed, plus any collection fees including all

legal fees and costs, which may be in addition to any fees and costs imposed by the LDU. When applicable, we reserve the right to offset the balance owed from your security deposit (if applicable) or any credit balance(s) reflected on your account.]

**6. 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.

*(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:

- publicly 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. To obtain your next month's variable price please visit our website at https://www.directenergy.com/future-pricing/new-hampshire-future-variable-pricing. There is no price cap or price floor for variable rates. You will not know the variable price until the first bill after renewal is issued. It may take one or more billing cycles for a price variation to become effective. To view the maximum and minimum variable rate charged in the last 12 months visit http://www.directenergy.com/historical-pricing or call 1-866-334-8084.

*(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 Disclosure Summary provided to you at that time.

**7. Your Right to Rescind or Cancel Service.** You have the right to rescind this contract for a certain period of time. This is called your "Right to Rescind" period, which means you will not be responsible for any charges for our service until after this period expires. You get more time to rescind if you were enrolled at your residence by an in-person solicitor and/or received your contract in the mail. The timing is as follows: i) if you received your terms of service electronically, you have five (5) business days from receipt to rescind; ii) if you received your terms of service by first class mail, you have six (6) business days from the postmarked date of the letter transmitting your terms of service to rescind; iii) if you were enrolled at your residence by an in-person solicitor and received your terms of service electronically, you

have ten (10) business days to rescind; iv) if you were enrolled at your residence by an in-person solicitor and received your terms of service by first class mail, you have eleven (11) business days to rescind from the postmarked date of the letter transmitting your terms of service.

**8. 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).

**9. 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 15 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.

**10. 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 NH DOE. The contact information for both Direct Energy and the NH DOE is set forth in Section 15 below.

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

**12. 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 NH DOE 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.

**13. 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.

**14. 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.

**15. 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 Disclosure Summary for your Utility's contact information.

**The NH DOE:** You may contact the New Hampshire Department of Energy and Consumer Services, with questions about your rights and responsibilities or otherwise, as follows: (a) call: 1-603-271-3670; 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: 1-603-271-6076; or (d) email: energy-info@energy.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 Disclosure Summary, contacting the New Hampshire Department of Energy and Consumer Services, 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.

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

**17. 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.

**18. Your Authorization to Release Your Information for Use and Sharing.** By entering into this contract, you authorize us to act on your behalf under your utility's tariffs in accordance with the rules and regulations of the state public utility commission ("PUC") where you take service. You further acknowledge that this contract provides authorization for your local utility to release all information regarding your energy supply account(s) to us so we can provide the services described herein. This information may

include, but is not limited to, usage information, billing determinants, bill cycle, budget billing status, address, account type, tax exemption status, rate service class, load profile, demand data, meter number, special account exceptions, public assistance status, existence of medical emergencies or disability, tax status and eligibility for economic development or other incentives, standard service status, electronic interval data when available, credit information when applicable, and all other data and information permitted by law to be disclosed to us to provide our services.

We also obtain information about you as outlined in our privacy policy (posted on our website) such as when you voluntarily provide personal information to us, use our website or mobile applications, or when we add information about you to your account profile from publicly available sources.

We will maintain the confidentiality of your personal information including your name, address, telephone number, email, account numbers, energy usage and historic payment information as required by applicable PUC regulations as well as federal and state laws.

Our use and sharing of your information will be consistent with the purposes and uses disclosed in our privacy policy, as amended from time to time and posted on our website. Your information may be disclosed if required by law, such as pursuant to a lawfully issued subpoena or other legal process. Further, you understand that your information may be disclosed to an affiliate or a third-party to provide services or products to you, and any disclosure of such information will be made under confidentiality obligations not to disclose such information and to use it solely for the purpose of providing services to you or improved products to us. This authorization also allows us to contact you about our other products and services and to share information about your account with any designated rewards partner or with any affiliate, third-party vendor or marketing partner we use to provide services and rewards to you. We reserve the right to share your information with our affiliates and marketing partners, to the extent permitted by law and/or as authorized when you provide your consent.

If you do not wish for us to use or share information about your account in the manner described above, you may cancel this contract by calling us at our contact information listed herein.

**19. 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 NH DOE 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.

**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.

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

https://www.directenergy.com/nh/customer-support

This information is updated periodically following the requirements of the New Hampshire Department of Energy.

**21. MANDATORY ARBITRATION, CLASS ACTION WAIVER, AND WAIVER OF JURY TRIAL:** TO THE FULLEST EXTENT PERMITTED BY NEW

HAMPSHIRE LAW, AND IN ADDITION TO THE RIGHT YOU ALWAYS ENJOY TO COMPLAIN TO THE NEW HAMPSHIRE PUBLIC UTILITY COMMISSION, ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS CONTRACT, SHALL BE FINALLY RESOLVED BY ARBITRATION BEFORE THE AMERICAN ARBITRATION ASSOCIATION ("AAA") CONDUCTED UNDER THE AAA COMMERCIAL RULES AND THE CONSUMER-RELATED DISPUTES SUPPLEMENTARY PROCEDURES (INCLUDING MASS ARBITRATION PROVISIONS, THE PAYMENT OF FEES, CONDUCT OF THE PROCEEDINGS AT A REASONABLY CONVENIENT LOCATION UNDER REASONABLE TIME LIMITS) available at adr.org, OR, AT THE ELECTION OF EITHER PARTY, BROUGHT IN SMALL CLAIMS DIVISION OF THE CIRCUIT COURT OF NEW HAMPSHIRE ("SMALL CLAIMS COURT"), IF THE DISPUTE OR CLAIM IS WITHIN THE SCOPE OF ITS JURISDICTION. VISIT THIS WEBSITE TO LEARN MORE ABOUT HOW TO FILE A CLAIM IN SMALL CLAIMS COURT: https://www.courts.nh.gov/our-courts/circuit-court/district-division/small-claims

IN EITHER CASE, WE ENCOURAGE YOU TO CONTACT US TO ATTEMPT TO RESOLVE THE DISPUTE INFORMALLY WITHOUT UNDUE DELAY OR EXPENSE OF ARBITRATION OR COURT PROCEEDINGS.

BY ENTERING INTO THIS CONTRACT, YOU ARE GIVING UP YOUR RIGHTS TO SEEK REMEDIES IN COURT, OTHER THAN IN SMALL CLAIMS COURT, AND THE RIGHT TO A JURY TRIAL.
THE ABILITY TO CONDUCT DISCOVERY IN ARBITRATION IS LIMITED AND THE ARBITRATOR'S DECISION IS SUBJECT TO VERY LIMITED REVIEW BY COURTS. ARBITRATORS CAN AWARD THE SAME DAMAGES AND RELIEF THAT A COURT CAN AWARD. THE AAA SHALL HAVE THE POWER TO RULE ON ANY CHALLENGE TO ITS OWN JURISDICTION OR TO THE VALIDITY OR ENFORCEABILITY OF ANY PORTION OF THIS ARBITRATION PROVISION.

THE PARTIES AGREE THAT ALL CLAIMS INCLUDING STATUTORY, STATE OR FEDERAL CLAIMS, SHALL BE MADE SOLELY ON AN INDIVIDUAL BASIS, AND THAT THIS CONTRACT DOES NOT PERMIT CLASS, COLLECTIVE, OR REPRESENTATIVE ACTIONS, EITHER IN ARBITRATION OR THROUGH A COURT PROCEEDING. AAA MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE, CLASS, OR MASS ARBITRATION PROCEEDING. IN THE EVENT THIS PROHIBITION IS DEEMED INVALID OR UNENFORCEABLE, THEN ARBITRATION SHALL PROCEED USING A BELLWETHER PROCESS AS DESCRIBED IN THIS PARAGRAPH. SPECIFICALLY, IF TWENTY (20) OR MORE CONSUMERS INITIATE AN ARBITRATION RAISING SIMILAR CLAIMS, AND COUNSEL FOR THESE CLAIMANTS ARE THE SAME OR COORDINATED, THE CLAIMS SHALL PROCEED IN ARBITRATION IN A COORDINATED PROCEEDING. COUNSEL FOR THE CONSUMERS AND OUR COUNSEL SHALL EACH SELECT FIVE (5) CLAIMS TO PROCEED FIRST IN ARBITRATION IN A BELLWETHER PROCEEDING. THE REMAINING CASES SHALL NOT BE FILED OR PROCEED IN ARBITRATION UNTIL THE FIRST FIVE (5) HAVE BEEN RESOLVED. IF THE PARTIES ARE UNABLE TO RESOLVE THE REMAINING CLAIMS AFTER THE CONCLUSION OF THE BELLWETHER PROCEEDING, EACH SIDE MAY SELECT ANOTHER FIVE (5) CLAIMS TO PROCEED TO ARBITRATION FOR A SECOND BELLWEHTER PROCEEDING. THIS PROCESS MAY CONTINUE UNTIL THE PARTIES ARE ABLE TO RESOLVE ALL OF THE CLAIMS, EITHER THROUGH SETTLEMENT OR ARBITRATION.

JUDGMENT ON THE ARBITRATOR'S AWARD CAN BE ENTERED IN ANY COURT HAVING JURISDICTION. THIS AGREEMENT EVIDENCES A TRANSACTION IN INTERSTATE COMMERCE, AND THUS THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THIS PROVISION. THIS ARBITRATION PROVISION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.