Direct Energy Services, LLC ~ Toll-Free Phone: 1-800-764-0232
PO Box 180, Tulsa, OK 74101-0180
www.directenergy.com csdirectenergy@directenergy.com

# MASSACHUSETTS

## Terms of Service

Natural Gas and Electricity Generation Services
Direct Energy Services, LLC

**1. Agreement.** Direct Energy will supply your natural gas and/or electric generation service as delivered by your Natural Gas Utility ("NGU") and/or Electric Utility ("EU"). These Terms of Service together with the Contract Summary, constitute the agreement ("Agreement") between you and Direct Energy Services, LLC ("Direct Energy").

**2. Agreement to Purchase Natural Gas and/or Electric Generation Service.** This Agreement serves as the agreement for natural gas and/or electric generation service to be provided to you by Direct Energy. Subject to Direct Energy's acceptance of this Agreement and acceptance and enrollment by your NGU and/or EU, you agree to become a Direct Energy customer and appoint Direct Energy as your limited agent to perform the necessary tasks associated with your natural gas and/or electric generation service and fulfill the terms of this Agreement. You authorize Direct Energy to obtain information from your NGU and/or EU that includes your billing history, payment history, historical and future natural gas and/or electricity usage, meter readings, and characteristics of natural gas and/or electricity service. You affirm to Direct Energy that you have provided Direct Energy with your correct and complete name, address, and contact information and that you do not have any outstanding balance with Direct Energy. Direct Energy agrees to sell, and you agree to purchase and accept, the quantity of natural gas and/or electricity delivered to you, as measured and/or estimated by your NGU and/or EU, all in accordance with the terms of service set forth in this Agreement. Your natural gas and/or electricity will be delivered to you by your NGU and/or EU. Direct Energy is licensed by the Massachusetts Department of Public Utilities Commission (the "Commission") as an "alternative gas supplier" and a "Competitive Supplier" to sell natural gas and electric generation service in Massachusetts.

**3. Term of Agreement.** After you sign this Agreement, the term of this Agreement will begin on the next available meter read date that your natural gas and/or electric generation supplier is changed to Direct Energy by your NGU and/or EU. The "Initial Term" of your service will begin on the start date of the next monthly billing cycle as determined by your EU and/or NGU and will continue for the number of monthly billing cycles set forth in the Contract Summary. When the Initial Term or Introductory Period expires, our service will continue on a month-to-month basis without your or our affirmative consent and despite any monthly changes in prices or term and conditions until either of us cancels the contract.

**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. Time of Use Product.** If you are purchasing a Time of Use Product, e.g., our Free Day Plan, you are agreeing to purchase from Direct Energy a time of use product whereby you will be charged for electric generation service at varying rates depending on the time of day and/or day of the week as set forth in detail in the Contract Summary. To be eligible to enroll in a Time of Use Product, e.g., our Free Day Plan, you must have a smart meter. If you are not certain if you have a smart meter, please contact your EU or Direct Energy at the information provided in Section 16. If you enroll (or attempt to enroll) in a Time of Use Product, e.g., our Free Day Plan, 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). By enrolling in a Time of Use Product, e.g., our Free Day Plan, you authorize your EU to provide Direct Energy access to your thirty (30) minute interval smart meter usage data on a daily and/or monthly basis as may be requested by Direct Energy ("Interval Data Authorization"). If you rescind your Interval Data Authorization while you receive electric generation service from Direct Energy under a Time of Use Product, e.g., our Free Day Plan, then Direct Energy will have the right to cancel this Agreement and charge you an early cancellation fee in the amount set forth in the Contract Summary.

**6. Pricing, Billing and Payment Terms.** During the Initial Term, you will pay Direct Energy for your natural gas and/or electric generation service at the price set for the Initial Term as set forth in the Contract Summary. The Initial Term and/or introductory rate is for natural gas and/or electric generation service and excludes taxes and regulated charges from the utility, including but not limited to, delivery and distribution charges. The prices for natural gas and electricity suppliers, such as Direct Energy, are set competitively and are not regulated by the Commission. As to your billing and payment terms, your NGU and/or EU will send you a monthly bill (or on such other frequency as it may determine) that will include your NGU's and/or EU's charges and Direct Energy's charges. That bill will contain, among other charges, Direct Energy's natural gas and/or electric generation service price multiplied by the amount of natural gas and/or electricity you used during the billing cycle, as measured and/or estimated by your NGU and/or EU. Your EU and/or NGU may estimate your usage. However, your EU and/or NGU is required to make an actual reading at least every other billing cycle and its procedure for estimated readings must be approved by the Commission. The bill will clearly indicate if it is an estimated reading by use of the word "ESTIMATE" in close proximity to the estimated amount. Your EU and/or NGU also offers payment arrangements to residential customers with past due balances and provides a Third-Party Notification program. **Depending on the date of the meter read date, your bill from the EU 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 EU's designated billing period days will have prorated**

**charges based on a 30-day average for the applicable rate.** For additional information regarding these products, please contact your EU and/or NGU by the date specified on the bill. In the event that you fail to pay your bill or fail to meet any agreed upon payment arrangement, Direct Energy may terminate this Agreement after providing you with fifteen (15) days' written notice. Such termination will not relieve you of your payment obligations to Direct Energy for service to the date of such termination.

**7. Renewal; Notice of Change to Agreement.** Upon completion of the Initial Term or Introductory Period, this Agreement will automatically renew on a month-to-month basis ("Renewal Period") at a variable price per kWh for electricity and/or per Therm for natural gas with no early cancellation fee, or at a new fixed rate depending on the rate plan selected. In the latter instance, a renewal notice containing information about the renewal terms and your cancellation rights will be mailed prior to the end of the Initial Term. **To the extent you purchased our Renewable Energy Plan at the time of enrollment, during the Renewal Period, the product you purchase from Direct Energy will not be a Renewable Energy product.** 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 or 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 electricity and 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.

You may obtain next month's variable price by calling Direct Energy using the contact information set forth in Section 16 below. If the plan renews to another fixed rate, Direct Energy will send you a notice thirty (30) days in advance of the price change and you will not be charged an early termination fee. If you are enrolled in a Fixed-Rate Plan, Direct Energy will send you a notice of renewal at least thirty (30) days but not more than sixty (60) days prior to the renewal date apprising you of any proposed changes in terms and conditions of this Agreement and your right to renew, terminate, or renegotiate this Agreement. While taking service during the Renewal Period, you may cancel or terminate this Agreement without penalty as long as you provide Direct Energy with thirty (30) days' notice. If you do cancel, but do not choose an alternate supplier, your generation service will revert back to your utility, which could take up to forty-five (45) days, and you will not be charged an early cancellation fee from Direct Energy.

**8. Your Right to Rescind and Early Cancellation Policy.** You have the right to rescind this Agreement, without paying an early cancellation fee, prior to midnight on the third calendar day following your receipt of a copy of the Agreement. After the three (3) calendar day rescission period you may cancel the Agreement at any time during the Initial Term by contacting Direct Energy at 1-800-764-0232 or 1-844-814-9425 (Residential Door-to-Door customers only) or in writing using the contact information set forth in Section 16 below, or by contacting your NGU and/or EU at the number set forth in the Contract Summary. After the three (3) calendar day rescission period you may cancel service under this Agreement at any time during the Initial Term, subject to paying Direct Energy an early cancellation fee, if any, as set forth in the Contract Summary. Such termination will not relieve you of your payment obligations to Direct Energy for service to the date of termination. You understand that the termination will be effective with your next meter read date or not less than thirty (30) days after such request is received by Direct Energy. If you are relocating, please refer to Section 9. If you are subject to an early cancellation fee, you have the right to cancel this Agreement, without penalty, within ten (10) business days after the date of the first bill issued to you by contacting Direct Energy at 1-800-764-0232 or 1-844-814-9425 (Residential Door-to-Door customers only)or in writing using the contact information set forth in Section 16, or by contacting your NGU and/or EU using the contact information in the Contract Summary provided.

**9. Relocation/Other Rights of Termination.** You should notify both your NGU and/or EU and Direct Energy of a change in your residence/service location at least thirty (30) days before such change. A final meter read will be made at your old address and your account will be finalized with your NGU and/or EU and Direct Energy. Your Agreement will terminate if: (a) you move outside the state of Massachusetts; (b) you move to an area not served by Direct Energy; (c) applicable to natural gas customers, if you move to a location where you do not require natural gas service. If you change your residence/service location within your NGU's and/or EU's service territory, then you may have the option of entering into a new natural gas and/or electricity supply contract with Direct Energy for your new residence/service location. Direct Energy's contact information is set forth in Section 16 below. When you cancel, you will be responsible to pay for Direct Energy's service through the date that you are switched to another supplier or returned to service from your NGU and/or EU. When you terminate pursuant to this Section 9, you will not be charged an early cancellation fee.

**10. Direct Energy's Right to Cancel Service.** Direct Energy can cancel the Agreement if: (a) you provide or have provided fraudulent or misrepresented information; (b) you rescind any information release authorization provided to us, including any authorization under Section 2 or Section 18 of the Agreement; (c) we determine that your credit is inadequate; (d) you change your address or location for electric and/or natural gas generation service; (e) a court or administrative agency takes action that renders ineffective any material provision of the Agreement, prohibits material performance under the Agreement, or otherwise constitutes a material adverse change for us; (f) a Force Majeure Event (as defined below) occurs that materially impacts our ability to perform our obligations under this Agreement; (g) you fail to pay in full, all charges for electricity and/or natural gas generation service within forty-eight (48) days of receipt of a bill; or (h) you otherwise breach the Agreement. If Direct Energy cancels the Agreement, it will give you written notice at least ten (10) days prior to the cancellation date, except in the case of failure to pay,

in which case cancellation may be immediate. You will not be charged any early cancellation fees if the Agreement is cancelled under (e) or (f) above.

**11. Natural Gas and Electric Utility's Right to Cancel Service.** If you are having trouble paying, contact your NGU and/or EU to see if it has a payment plan or other solution available to you. If you do not pay the total natural gas and/or electric service charges on your bill, your Natural Gas and/or Electric Service may be disconnected by the NGU and/or EU. You could also incur late fees. Your NGU and/or EU will give you notice in the time frame prescribed by the Commission before it disconnects your Natural Gas and/or Electric Service. The NGU and/or EU may also disconnect your natural gas and/or electric service in certain urgent situations such as: (a) the existence of a known dangerous condition; (b) where service is connected without authority by a person who has not made an application for service; (c) where service is reconnected without authority after disconnection for nonpayment; (d) where there has been tampering with equipment (after investigation); or (e) where there is evidence of theft of service (after investigation). This Agreement is automatically cancelled if the NGU and/or EU disconnects you and returns you to service from your NGU and/or EU; if such disconnection occurs, Direct Energy may charge you the early cancellation fee, if any, as set out in the Contract Summary or as applicable to any Renewal Period (excluding automatic month-to-month renewals).

**12. 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 16 below.

**13. Uncontrollable Forces.** Direct Energy will make commercially reasonable efforts to provide your natural gas and/or electric service, but does not guarantee a continuous supply of natural gas and/or electricity. Certain causes and events are out of Direct Energy's reasonable control and may result in interruptions in service. Direct Energy is not responsible for transmitting or distributing natural gas and/or 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, PJM or MISO Interconnection, LLC, the operator of the regional power grid), accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, nonperformance by the NGU and/or EU or any other cause beyond Direct Energy's reasonable control (each such occurrence a "Force Majeure Event"). In addition, you may be required to pay any additional or increased fees or charges that are generally beyond Direct Energy's reasonable control including, but not limited to, fees for switching, disconnecting, reconnecting or maintaining natural gas and/or electric service or equipment, or transmission charges, that are imposed by law, rule, regulation or tariff, or Commission rule or order. These charges or fees will be passed through to you and added to your price.

**14. Limitations of Liabilities.** LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE WILL BE LIMITED TO DIRECT ACTUAL DAMAGES. IN NO EVENT WILL DIRECT ENERGY OR ANY OF ITS AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. DIRECT ENERGY IS NOT LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM: (A) INTERRUPTIONS TO, OR SHORTAGES OF, NATURAL GAS AND/OR ELECTRICITY SUPPLY; OR (B) ERRORS IN THE QUANTITY, QUALITY AND MEASUREMENT OF NATURAL GAS AND/OR ELECTRICITY. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE.

**15. Direct Energy's Representations and Warranties; Limitation.** The electricity and/or natural gas provided under this Agreement will meet the quality standard of the NGU and/or EU and will be supplied from a variety of natural gas and/or electric generation sources, including electricity provided pursuant to any renewable energy requirements. 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.

**16. Contact Information.**

**You may contact Direct Energy in one of the following ways:** (a) call 1-800-764-0232 or 1-844-814-9425 (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: http://www.directenergy.com. Answers to frequently asked questions can be found on Direct Energy's website.

**Your Gas and/or Electric Utility**: For utility customer service, outage, service interruption or emergency, please contact your utility located on the Contract Summary.

**The Commission:** You may contact the Massachusetts Department of Public Utilities as follows: (a) call 1-617-305-3500; or (b) write to One South Station, Boston, MA 02110.

**17. 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.

**18. Credit Check.** 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 electric generation and/or natural gas service or any other service or product.

**19. Low-Income Eligibility.** A discount on your EU's distribution charges is available to qualifying residential customers. Contact your EU for eligibility requirements and an application. These distribution charges do not form part of this Agreement, and any eligibility for a discount is a matter between you and your EU.

**20. Default Generation Service.** You are not required to enter into an agreement with Direct Energy for electric and/or natural gas generation service. You may obtain Default Generation Service from your electric/natural gas utility at rates set by them from time-to-time. There is no fee for terminating or initiating Default Generation Service with your EU if it is done concurrent with a scheduled meter read.

**21. Miscellaneous Provisions.** This Agreement is subject to the laws of Massachusetts 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 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) assign 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. 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. There are no third-party beneficiaries to this Agreement.