

## PENNSYLVANIA RESIDENTIAL & SMALL COMMERCIAL TERMS AND CONDITIONS

Natural Gas Supply Service

Direct Energy Services, LLC

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

**2. Agreement and Appointment of Agent.** This is an agreement for Direct Energy Services, LLC to be your exclusive agent and supplier for natural gas supply service. Direct Energy Services, LLC, is licensed by the Pennsylvania Public Utility Commission ("PUC") to provide natural gas supply service. Our PUC license number is A-125135.

**3. Contract Duration.** The duration of this Contract will begin on the meter read date that your natural gas supplier is changed to Direct Energy by the Natural Gas Distribution Company ("NGDC") and continue for the number of billings cycles set forth in the Contract Summary ("Contract Duration"). When the Contract Duration ends, you will receive two (2) separate notices. If you do not cancel the Contract or switch to another provider before the expiration of your contract, your service will continue on a month-to-month basis, as described in the Contract Summary and in Section 7. This Agreement will be effective during the Contract Duration and through any of the subsequent service periods, subject to the cancellation provisions of Sections 5 through 8 below.

**4. Commodity Charge, Billing and Payment.** You will pay for your service at the rates for both the Contract Duration and during the "Renewal Period" (as defined in Section 7) as set forth in the Contract Summary (subject to any change contemplated by Section 7). You will also pay gas distribution/transportation charges and all applicable NGDC related taxes and charges. You will pay your bill in accordance with the NGDC's billing and payment terms. The PUC regulates distribution prices and services. The price for the commodity charge includes our estimated total state taxes and a monthly administrative fee ("Admin Fee"), if applicable, the amount of which is set forth in your Contract Summary. The Admin Fee covers administrative costs for the procurement and management of your natural gas generation service. This price excludes Pennsylvania state and local sales tax, if applicable. If you believe that your non-residential service is exempt from Pennsylvania sales tax, you must provide us with a valid, properly executed sales tax exemption certificate. The exemption will be effective only after processed by your NGDC. **Depending upon the date of the meter read, your bill from the NGDC 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 NGDC's designated billing period days will have prorated charges based on a 30-day average for the applicable rate.**

**5. Right of Rescission.** You may cancel this agreement without fees or penalties of any kind within three (3) business days after receiving this notice ("Rescission Period"). To cancel this agreement, mail or deliver a signed and dated copy of the enclosed Rescission Notice to Direct Energy, to the information listed in Section 18, and include your name, address, phone number and account number. You may also cancel this agreement by contacting Direct Energy by phone at the information listed in Section 18.

**6. Cancellation.** If you do not pay Direct Energy's charges when due, we may cancel this agreement by providing ten (10) days written notice to you. We may also cancel this agreement by providing the notice required by the PUC and your NGDC for discontinuance of service by suppliers of natural gas supply service. This agreement is cancelled if your NGDC returns you to NGDC supply and distribution service, which will occur if you move. If you cancel this Agreement for any reason, including without limitation, due to relocation, Direct Energy will have the right to charge you the early cancellation fee in the amount set forth in the Contract Summary. Cancellation does not relieve you of your payment obligations to Direct Energy for service provided to you up to the date of the cancellation. We will follow applicable rules for cancellation of service and for the return of your service to your Supplier of Last Resort. Cancellation will become effective as soon as applicable rules permit. The cancellation will occur either on your next meter reading date or the second meter reading date following our receipt of your notice of cancellation, depending on how many days advance notice of cancellation you provide to us prior to your next meter reading date. To cancel your service under this Agreement, contact Direct Energy at the information in Section 18.

**7. Notice of Change in Terms and Conditions.** If you have a fixed duration contract that will be ending, or whenever Direct Energy wants to change the contract, you will receive two separate notices before the contract ends or the changes happen. You will receive the first notice 60-75 days before, and the second notice 45 days before the expiration date or the date the change becomes effective. These notices will explain your options. If you do not respond to these two (2) advanced notifications, the proposed changes will take effect automatically. If we are billing you directly for our services, then we will provide the notices as a bill message, a bill insert, or in a separate corresponding mailing. If the NGDC is billing our charges for us, then we will provide the notices in separate corresponding mailings. We will explain your options to you in these two (2) advance notifications.

After the Contract Duration, 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. During the Renewal Period, you receive service on a month-to-month basis as set forth in the Notifications. 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 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. During the Renewal Period, there is no limit as to how much your variable rate may increase or decrease from one month to the next month. For all these reasons, historical pricing is not indicative of present or future pricing.

**8. Assignment.** You may not assign this agreement without our prior written consent. We may assign this agreement to a third party or to an affiliate, without your consent, by sending you advance written notice at least sixty (60) days before the effective date of the assignment. After assignment, Direct Energy will have no further obligations under this Agreement.

**9. 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.

**10. Representations and Warranties.** WE MAKE NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY MADE IN THIS AGREEMENT, AND WE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**11. Force Majeure.** We will make commercially reasonable efforts to supply natural gas, but that does not guarantee a continuous supply of natural gas. Certain causes and events out of our control ("Force Majeure Event(s)") may result in interruptions in your service. We will not be liable for any service interruptions caused by a Force Majeure Event. Because we do not transport or distribute natural gas, we will not be liable for damages caused by a Force Majeure Event, including any events or circumstances (a) that are beyond our reasonable control, (b) that we are unable to prevent, avoid or overcome through the exercise of diligent efforts, and (c) that are not the result of our failure or negligence, including but not limited to fire, explosion, flood, landslide, earthquake, hurricane, tornado, lightning, named tropical storm, acts of God, epidemic, civil unrest, insurrection, war, blockade, riot, sabotage, embargo, military or government usurped power, emergency conditions, acts of terrorism or problems attributed to acts of terrorism, required maintenance work, inability to access the local

distribution utility system, non-performance by your NGDC (including but not limited to a facility outage on your NGDC's gas distribution lines), or changes in laws, rules or regulations of any governmental authority (including but not limited to the PUC).

**12. Limitations of Liability.** LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE WILL BE LIMITED IN THE MANNER DESCRIBED IN THIS SECTION. NEITHER YOU NOR DIRECT ENERGY WILL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. OUR LIABILITY WILL BE LIMITED TO A MAXIMUM OF THE TOTAL INCOME EARNED BY DIRECT ENERGY FOR THE PAST SIX (6) MONTHS UNDER THIS AGREEMENT AFTER DEDUCTING ALL COSTS OF SERVICES INCURRED BY DIRECT ENERGY IN PROVIDING SERVICE TO YOU UNDER THIS AGREEMENT. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. YOU WAIVE ANY RIGHT TO ANY REMEDIES OTHER THAN THOSE PROVIDED IN THIS SECTION.

**13. Governing Law.** This agreement is governed by the laws of the Commonwealth of Pennsylvania.

**14. Dispute Resolution.** We will attempt to resolve any questions you may have about this written disclosure statement or our charges. If we do not resolve your questions to your satisfaction after you have contacted us as provided in Section 18 below, you may contact the PUC as provided in Section 19 below.

**15. ARBITRATION AND WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY PENNSYLVANIA LAW, 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, OR, AT THE ELECTION OF EITHER PARTY, BROUGHT AS A SMALL CLAIMS ACTION, IN THE MAGISTERIAL DISTRICT COURT OF PENNSYLVANIA OR PHILADELPHIA MUNICIPAL COURT, JUDICIAL SYSTEM OF PENNSYLVANIA ("SMALL CLAIMS COURT"), IF THE DISPUTE OR CLAIM IS WITHIN THE SCOPE OF ITS JURISDICTION.

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. THE ARBITRATOR CAN AWARD THE SAME DAMAGES AND OTHER RELIEF THAT A COURT CAN AWARD. JUDGMENT ON THE ARBITRATOR'S AWARD CAN BE ENTERED IN ANY COURT HAVING JURISDICTION.

THE PARTIES AGREE THAT ALL CLAIMS INCLUDING STATUTORY, STATE OR FEDERAL CLAIMS, MAY BE MADE SOLELY ON AN INDIVIDUAL BASIS, AND THAT THIS CONTRACT

DOES NOT PERMIT CLASS 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 OR CLASS PROCEEDING.

IF YOU FILE FOR ARBITRATION, THE AAA RULES LIMIT THE FEES AND COSTS THAT YOU WILL PAY TO THE AAA AND ARBITRATOR. YOU WILL STILL BE RESPONSIBLE FOR YOUR OWN LEGAL FEES AND COSTS, AS IF YOU WERE IN COURT, BUT THE ARBITRATOR MAY AWARD YOU THOSE FEES TO THE EXTENT AUTHORIZED BY LAW. THE ARBITRATION WILL BE HELD IN PENNSYLVANIA IN A LOCATION DETERMINED BY THE ARBITRATOR. THE ARBITRATOR SHALL HAVE THE POWER TO RULE ON ANY CHALLENGE TO HIS OR HER JURISDICTION OR TO THE VALIDITY OR ENFORCEABILITY OF THIS ARBITRATION PROVISION, AS WELL AS THE CLASS ACTION WAIVER SET OUT ABOVE.

COPIES OF THE AAA CONSUMER ARBITRATION RULES AND ADDITIONAL INFORMATION ABOUT ARBITRATION ARE AVAILABLE AT THE AAA'S WEBSITE: [HTTPS://WWW.ADR.ORG/RULES](https://www.adr.org/rules).

AAA MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. IF A COURT OR THE AAA DETERMINES THAT THE PRECEDING SENTENCE PROHIBITING CLASS ARBITRATION IS INVALID OR UNENFORCEABLE, THEN THE REMAINING PORTIONS OF THIS ARBITRATION PROVISION WILL REMAIN IN FORCE.

THIS ARBITRATION PROVISION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

**16. Shopping Information.** Shopping for a gas supplier is available at [www.PaGasSwitch.com](http://www.PaGasSwitch.com) or other successor media platform as determined by the Commission, by calling the Commission's telephone number at 1-800-692-7380, and at [www.oca.state.pa.us](http://www.oca.state.pa.us).

**17. Energy Assistance Programs.** Information regarding energy assistance programs can be obtained at <http://www.puc.state.pa.us> or by contacting your NGDC. Please see your Contract Summary for applicable contact information.

**18. To Contact Direct Energy.** If you have a question or disagreement concerning this written disclosure statement or our charges, you may call our Customer Service Contact Center at: 1-888-734-0741 or 1-844-814-9426 (Residential Door-to-Door customers only), Monday through Friday 8:00 a.m. - 8:00 p.m. EST and Saturday 8:00 a.m. - 5:00 p.m. EST (contact center hours are subject to change without prior notice). You may also contact us through our website at: [www.directenergy.com](http://www.directenergy.com). You may also write to us at: PO Box 180, Tulsa, OK 74101-0180.

**19. To Contact the PUC.**

To contact the PUC's Utility Choice Hotline number, call 1-888-782-3228. To write to the PUC: Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.