

COMMERCIAL ELECTRICITY SERVICE AGREEMENT

This **COMMERCIAL ELECTRICITY SERVICE AGREEMENT**, including all of the Attachments, Schedules, and Exhibits attached hereto and incorporated herein for all purposes (collectively, the "*Agreement*"), is entered into by and between Direct Energy, LP ("*DE*"), a Texas limited partnership, and Denton ISD ("*Customer*"). DE and Customer may hereinafter be referred to individually as a "*Party*" or collectively as the "*Parties*".

SECTION 1: RETAIL ELECTRIC SALES AND SERVICES

1.1 Appointment (a) Scope. Customer appoints DE as its Retail Electric Provider ("*REP*") for the ESI ID(s) included in the Offer Sheet(s) as part of this Agreement. Specifically, upon execution of an Offer Sheet, Customer authorizes DE to: (i) act as Customer's REP for all purposes; and (ii) provide all the services required of a REP including, without limitation, procuring, scheduling and causing to be delivered electricity throughout the Term of this Agreement to each of the ESI ID(s), subject to the terms and conditions of this Agreement. Other than those duties specified in this Agreement, this appointment does not impose any other duties on DE.

(b) Offer for Electric Service. From time to time, Customer shall receive in connection with this Agreement one or more offer sheets reflecting various pricing and term options related to the electric service provided hereunder (each referred to as an "Offer Sheet" or an "Attachment B"). Such Offer Sheets may be transmitted to Customer via facsimile, hand-delivery, or electronically. Customer shall execute and return one Offer Sheet prior to the expiration date, and to the facsimile number, set forth therein. Such Offer Sheet shall constitute an offer by Customer to DE. The Offer Sheet shall be deemed accepted by DE and this Agreement shall be effective upon the earlier to occur of (a) DE notifying Customer in writing of DE's acceptance of Customer's offer or (b) any action by DE to purchase a physical or financial hedge for all or a portion of the electric energy covered by the Offer Sheet (the "Effective Date"). Upon acceptance of the Offer Sheet by DE, the Offer Sheet shall constitute a part of and be deemed incorporated into this Agreement. Customer shall have no obligation to purchase and DE shall have no obligation to provide electricity unless and until an Offer Sheet is executed by Customer and deemed accepted by DE.

1.2 Agreement to Purchase. Upon execution of an Offer Sheet, Customer agrees to purchase and receive from DE throughout the Term, all of Customer's electricity requirements for each of the ESI ID(s) except as otherwise provided in this Agreement. If DE should fail to deliver sufficient quantities of electricity to the TDSP for delivery to Customer or should fail to schedule the delivery of sufficient quantities of electricity (collectively, a "Scheduling Failure"), the Parties recognize and agree that (i) the TDSP, in accordance with its responsibilities and its tariff, is obligated to deliver sufficient electricity to satisfy Customer's needs and (ii) DE shall settle with ERCOT, at no additional cost or expense to Customer, with respect to the purchase of electricity necessary to cover any Scheduling Failure.

1.3 Term. (a) Expected Start Date. DE will provide retail electric service to each ESI ID during the period beginning on the Expected Start Date set forth in the Offer Sheet until the final meter reading that occurs on or after DE has provided retail electric service in connection with such ESI ID for the number of full calendar months set forth in the Offer Sheet (such period, the "*Term*"). Customer and DE agree that the Term may include a partial calendar month in addition to the number of months set forth in the Offer Sheet as a result of variations in the timing of the Expected Start Date as described in this Section 1.3.

(b) Delayed Actual Start Date. DE will use commercially reasonable efforts to cause the Actual Start Date for each ESI ID to occur on the Expected Start Date set forth in the Offer Sheet. If the Actual Start Date for an ESI ID occurs more than twenty (20) days after the Expected Start Date set forth in the Offer Sheet, Customer shall provide DE with evidence of the amount of electricity purchased by Customer from its current REP in connection with such ESI ID(s) during the period on and after the twenty-first (21st) day after the Expected Start Date until the Actual Start Date (the "*Delayed Start Date Period*"), and the total amount paid by Customer to its current REP for the electricity it purchased during the Delayed Start Date Period (the "*Delayed Start Date Electricity Amount*"). DE agrees to calculate and provide a credit against future purchases under this Agreement to Customer in the positive amount, if any, equal to (a) the Delayed Start Date Electricity Amount minus (b) the amount that Customer would have paid to DE pursuant to this Agreement during the Delayed Start Date Period for the amount of electricity purchased by Customer during such period in connection with such ESI ID(s).

1.4 Renewals. If service continues beyond the Term on a month-to-month basis, the ESI ID(s) will continue to be served under the same terms as this Agreement except that the Energy Price will be the greater of: (i) the Energy Price as set forth in Section 2.1 below, or (ii) the aggregate weighted average of the Market Rate (as defined herein) as determined for all of the ESI ID(s) and their applicable Congestion Zones and Settlement Intervals,

for as long as service continues. If Customer has not switched from DE to another supplier at the expiration of the Term, DE shall serve Customer at the rate set forth in this Section.

1.5 Modifications to ESI IDs. (a) Notice of Changes to ESI IDs. The Parties will work together in good faith during the Term to reasonably accommodate and assist Customer with the management of its electricity needs. Customer shall provide written notice to DE of a proposed change of any of the following during the Term of this Agreement that occur as a result of an operational decision made by Customer related to the opening, closure, or sale of a facility owned or leased by Customer: (i) when Customer desires to add one or more new, metered ESI IDs to a particular Offer Sheet made part of this Agreement; (ii) when Customer desires to delete one or more ESI IDs from a particular Offer Sheet made part of this Agreement, or (iii) when Customer otherwise seeks to modify the ESI ID information set forth in an Offer Sheet made part of this Agreement. Customer's notice to DE shall include a revised list of ESI IDs reflecting all proposed changes to Customer's ESI ID(s). DE shall use commercially reasonable efforts to promptly take all actions necessary to implement Customer's proposed changes to its ESI IDs, including providing all required notices to ERCOT in accordance with the procedures set forth in this Section 1.5 as well as the entire Agreement.

(b) Addition/Deletion Allowance. DE shall calculate the total, aggregate expected usage of all of the members of a particular TASB Pool identified on an Offer Sheet (the "TASB Pool Expected Usage") based upon the originally forecasted usage for all of members of the particular TASB Pool. As members of the particular TASB Pool add or delete ESI IDs in accordance with this Section 1.5, DE shall calculate on an ongoing basis the total, aggregate, net effect of such ESI ID changes to the total aggregated usage of all of the members of a particular TASB Pool ("the TASB Pool Revised Expected Usage"). Customer shall be permitted to add an ESI ID at the Energy Price contained in the applicable Offer Sheet or delete an ESI ID without a liquidation payment if all of the following conditions are met: (i) any addition is a new, metered ESI ID not previously served by another REP and/or any deletion is due to a closure, sale or lease of the facility, and (ii) in DE's reasonable judgment, the addition or deletion of Customer's ESI ID(s) does not result in the TASB Pool Revised Expected Usage (including Customer's proposed ESI ID addition or deletion) being greater than 105% or less than 95% of the TASB Pool Expected Usage ("the TASB Pool Addition/Deletion Allowance"). If Customer's proposed ESI ID addition or deletion does not meet all of these conditions, then DE will provide written notice to Customer and work with Customer in good faith to consider the impact of and costs related to Customer's proposed ESI ID changes. In such event, DE shall offer in writing an Amendment to an Offer Sheet which includes a new Energy Price for the quantities of electricity that are in excess of the TASB Pool Addition/Deletion Allowance and/or a calculation of the Customer Early Termination Fee for ESI ID deletions that are outside of the TASB Pool Addition/Deletion Allowance. Customer understands and acknowledges that the TASB Pool Addition/Deletion Allowance is affected by all TASB Pool members and that the percentages set out in this paragraph apply to the TASB Pool in its entirety, not to Customer's individual usage.

(c) Reporting. Amendments to an Offer Sheet that add or remove Customer's ESI ID(s) as a result of changes made pursuant to this Section 1.5 that are outside the TASB Pool Addition/Deletion Allowance shall be provided to Customer by DE and shall include any new Energy Price or Customer Early Termination Fee. Customer shall indicate its acceptance of such Amended Offer Sheet by executing the Amended Offer Sheet. Upon execution, such Amendments will be deemed incorporated into this Agreement and effective on the Effective Date of each ESI ID(s) added to this Agreement and the date on which retail electric service for any ESI ID removed from this Agreement is transferred to another REP, as applicable. DE shall make available to Customer and TASB periodic reports regarding the regulatory and billing status of any changes to the ESI ID(s) of a TASB Pool identified on an Offer Sheet.

SECTION 2: RETAIL ELECTRIC ENERGY SERVICE CHARGES

2.1 Energy Price. The Energy Price for Actual Usage shall be as specified on an Offer Sheet.

2.2 Additional Pass-Through Charges. Customer acknowledges that the Energy Price(s) and Monthly Customer Charge do not include Delivery Charges, Non-Recurring Charges, or Taxes, which will be passed through and identified separately on Customer's bill with no mark up. All charges are exclusive of Taxes.

2.3 Tax Exempt Status. If Customer is exempt from the payment of any Taxes, it will provide DE with all required exemption certificates. Until Customer does so, DE is not allowed to and shall not recognize any exemption and it will not be required to refund or credit previously paid Taxes unless the taxing entity sends the refund to DE. DE will, however, assign to Customer any applicable claims for refund.

2.4 Price Redetermination ("Blend & Extend"). Either DE, TASB or Customer may request to renegotiate the Energy Price set forth in Section 2.1 to reflect then-current market conditions subject to a mutually

agreeable extension of the Term of this Agreement. This section 2.4 shall not be construed as requiring either Party to modify the Terms of this Agreement as to the Energy Price or Term, and any such modifications of the Energy Price or Term shall not be effective unless evidenced in writing and executed by both Parties.

SECTION 3: BILLING AND PAYMENT

3.1 Billing And Payment. DE will invoice each Customer account on a monthly basis on a consolidated basis for all ESI IDs. A summary bill for all accounts and detailed information for each account shall be provided. Customer will remit payment within thirty (30) days of receiving the invoice or later if authorized by Texas Government Code Section 2251.021. The invoice amount will be based on actual data provided by ERCOT and the TDSP. If ERCOT or the TDSP does not provide actual data in a timely manner, DE may use estimated data to calculate Customer's invoice and, upon receipt of actual data, reconcile the charges and adjust them as needed in subsequent invoices.

3.2 Late Fees, Interest on Overdue Payments, Invoice Disputes. If Customer fails to remit all undisputed amounts on or before the due date, interest will accrue on any due and unpaid amounts from the date the monies were owed at a rate of one percent (1%) per month, or the highest rate permitted by law, whichever is less. If Customer in good faith disputes some portion of an invoice it will provide DE, within twenty (20) days of the invoice date, a written explanation specifying the amount in dispute and the reason for the dispute. If timely notice is not given, all amounts will be owed by the due date. Notwithstanding the above, if Customer notifies DE of a dispute with an invoice, regardless of whether Customer has already paid the invoice, DE shall make available to Customer, during normal business hours, records in DE's possession reasonably necessary for Buyer to determine the accuracy of the invoice; provided, however that neither party may request any adjustment or correction of any invoice unless written notice of such dispute is given within twelve (12) months after the due date of such invoice. In all cases, DE and Customer will use good faith efforts to resolve any dispute. In the event the Parties are unable to resolve the dispute within ten (10) days of the notice date, either Party may begin legal proceedings to resolve the dispute. Any amounts determined owed will be paid within three (3) days after the decision.

3.3 Aggregator Fee. Customer acknowledges and agrees that DE is responsible for paying to TASB or its assignee ("*Aggregator*") a monthly amount equal to Customer's actual monthly usage (kWh) x \$0.0015/kWh (the "*Aggregator Fee*"), during the Term of this Agreement. The Energy Price does not include the Aggregator Fee and Customer authorizes DE to include the Aggregator Fee as a separate line item on its invoice to Customer. After May 31 of each year during the Term, DE shall reconcile the Aggregator Fee paid by Customer during the period from June 1 of the prior year through May 31 ("*Reconciliation Period*") and shall determine and notify TASB if Customer paid an Aggregator Fee in excess of \$10,000 during the Reconciliation Period. The Aggregator shall issue a refund to Customer of any amount of the Aggregator Fee in excess of \$10,000.00 paid by Customer during the Reconciliation Period.

3.4 Billing Guarantee. DE shall issue a bill to Customer for every ESI ID at least one time per month. If DE fails to issue a bill within 90 days of any scheduled meter read, DE hereby irrevocably waives its right to bill Customer for any energy consumed at that ESI ID for the meter read cycle that should have been billed. DE shall adjust or true-up each bill no more than twice and such adjustment shall be issued within one hundred and twenty (120) days of the initial issue date. reconcile

3.5 REP Services Fee. Customer acknowledges and agrees that, pursuant to this Agreement, DE is including a fee ("*REP Services Fee*") equal to Customer's actual monthly usage in kilowatt-hours times \$0.175 cents/kWh or [kWh x \$0.175 cents/kWh]. This REP Services Fee is included in the Energy Price and shall not be listed as a separate line item on the invoice to the Customer.

SECTION 4: CUSTOMER INFORMATION, CREDIT AND DEPOSITS

4.1 Customer Information. By entering into this Agreement and appointing DE as Customer's agent, Customer authorizes DE to obtain from Customer's TDSP, and does further authorize Customer's TDSP to release to DE, certain information that DE may need to provide Customer's electric service, including Customer's address, telephone number, account numbers, historical usage information, and historical payment information.

4.2 Deposits and Other Security. Either Party ("*Providing Party*") may be required by the other Party ("*Requesting Party*") to provide a deposit (or additional deposit if an initial deposit was also required), letter of credit, or other form of credit assurance reasonably acceptable to the Requesting Party ("*collectively, Performance Assurance*") within three (3) business days of the request, during the Term of this Agreement if: (i) the Requesting Party determines

in its reasonable discretion that there has been a material adverse change in the Providing Party's (or its parent company) credit status or financial condition (including , if applicable, its credit or bond rating being lower than BBB- from Standard and Poor's or Baa3 from Moody's Investor Service); or (ii) Customer has been delinquent in paying the electric bill more than twice during the past 12 months. Any Performance Assurance, less any outstanding balance owed from one Party to the other Party, will be returned to the Providing Party no later than twelve (12) months after (1) the Providing Party's credit or financial condition returns to its condition as of the date of execution of this Agreement or to a credit or bond rating of BBB-, whichever occurs earlier and (2) the Providing Party has paid all outstanding balances and makes all payments within the dates set forth in this Agreement.

SECTION 5: EARLY TERMINATION

5.1 Cancellation for Material Change to Program, Market, Usage, or Equipment. In the event a judicial decision, order, new law or regulation, or change in any Applicable Law alters the fundamental market structure in ERCOT (including the imposition of any installed capacity charge) and requires a change in the method by which prices are calculated under this Agreement or materially and directly affects either Party's ability to perform its obligations hereunder (not including economic expectations), then either Party shall have the right to provide written notice to TASB and the other Party regarding such detrimental change. The Parties shall negotiate in good faith a modification to the terms of this Agreement to address the financial impact of the detrimental change. If the Parties are unable to negotiate a modification to this Agreement within thirty (30) days after receipt by a Party of such notice, then either Party shall have the right to terminate this Agreement. In connection with such termination, the Parties will calculate the Customer Early Termination Fee and the DE Early Termination Fee. If the Customer Early Termination Fee is a positive number, Customer will pay DE such amount; if the DE Early Termination Fee is a positive number, DE will pay Customer such amount. Notwithstanding the above, if ERCOT implements a wholesale market based upon nodal pricing, the Parties agree that such detrimental change shall be limited to only the incremental difference (positive or negative) between the Electricity Related Charges and (i) the Electricity Related Charges implemented in the nodal market and (ii) any new charges imposed by ERCOT as part of the implementation of the nodal market protocols or other ERCOT protocols as they may be revised from time to time.

5.2 Cancellation by Customer for Insufficient Appropriations. If, during Customer's annual appropriations determination, the applicable governmental authorities do not allocate sufficient funds to allow Customer to continue to perform its obligations under this Agreement ("*Appropriations Failure*"), then Customer shall have the right to terminate this Agreement upon thirty (30) days advance written notice to DE. Upon expiration of such notice period, Customer shall have the right to terminate this Agreement in full or as to any ESI ID(s) provided that Customer has paid all amounts due to DE under this Agreement, including a Customer Early Termination Fee.

5.3 Customer Early Termination Fee. Except in connection with the closure of a facility associated with an ESI ID pursuant to Section 1.5, or in connection with a Force Majeure Event, if at any time during the Term of this Agreement Customer cancels this Agreement and refuses to accept delivery of electric supply from DE for any or all ESI ID(s), DE shall have the right to charge Customer an Early Termination Fee equal to an amount determined by multiplying the Expected Usage for the remainder of the Term for each ESI ID Customer cancels or refuses to accept delivery of electric supply by the positive difference, if any, between the Energy Price as set forth in Section 2.1 and the current wholesale market price for energy plus all Electricity Related Charges for similarly situated customers ("*Customer Early Termination Fee*"). In the event that the Customer Early Termination Fee is charged due to a termination of the Agreement due to an Event of Default by Customer under this Agreement, then the Customer Early Termination Fee shall also include DE's reasonable costs, including attorney and consultant fees, incurred in liquidating quantities of electricity purchased for Customer. Customer and DE agree that the provisions set forth in Section 3 relating to Billing and Payment shall apply to the billing, due date, and collection of any Customer Early Termination Fee. Due to the fluctuating market price of electric supply, Customer agrees that the Customer Early Termination Fee herein is a reasonable estimate of the damages due DE for the failure to accept electric supply, and as such is not punitive in nature. This Customer Early Termination Fee shall not apply to any Customer termination of this Agreement for any Force Majeure Event or any other cancellation or early termination allowed to be made without penalty under this Agreement.

5.4 DE Early Termination Fee. Except as otherwise provided or excused in this Agreement, including any Force Majeure Event, if at any time during the Term of this Agreement DE cancels this Agreement and refuses to provide delivery of electric supply to Customer for any or all ESI ID(s), Customer shall have the right to charge DE an early termination Fee equal to an amount determined by multiplying the Expected Usage for the remainder of the Term for each ESI ID DE cancels or refuses to provide delivery of electric supply by the positive difference, if any, between (a) the current wholesale market price for energy plus all Electricity Related Charges for similarly situated customers ("*DE Early Termination Fee*") and (b) the Energy Price as set forth in Section 2.1. In the event that The DE Early Termination Fee is charged due to a termination of the Agreement due to an Event of Default by DE under this

Agreement, then the DE Early Termination Fee shall also include Customer's reasonable costs, including attorney and consultant fees, incurred in replacing quantities of electricity purchased from DE. In addition, if the Agreement is terminated due to an Event of Default by DE, then the current wholesale market price for energy shall include the cost of service from the Provider of Last Resort or the Affiliated REP incurred by Customer while obtaining a competitive replacement supply of electricity for a period of no more than 60 days. Due to the fluctuating market price of electric supply, DE agrees that the DE Early Termination Fee herein is a reasonable estimate of the damages due Customer for the failure to deliver the electric supply, and as such is not punitive in nature. This DE Early Termination Fee shall not apply to any DE termination of this Agreement for any Force Majeure Event or any other cancellation or early termination allowed to be made without penalty under this Agreement.

SECTION 6: NOTICES AND PAYMENT

6.1 General Notice. Except as otherwise required by Applicable Law, all notices to be provided under this Agreement shall be deemed to have been duly delivered if hand delivered or sent by United States, certified or registered mail, return receipt requested, postage prepaid, facsimile, or by overnight delivery service. Notice by facsimile or hand delivery shall be effective on the day actually received, notice by overnight United States mail or courier shall be effective on the next business day after it was sent, and notice by U.S. Mail shall be effective on the second day after it was sent. Notices shall be sent to the addresses noted below, or any other address the Party provides to the other Party in writing:

- a. If to Customer:
Denton ISD
1307 North Locust
Denton, TX 76201
- b. If to DE:
Direct Energy, LP
P.O. Box 630826
Irving, TX 75063
Attn: General Counsel

Any notice required to be provided to TASB under this Agreement as a non-party to this Agreement shall be sent to Texas Association of School Boards, Inc. c/o Jeff Clemmons; P.O. Box 400; Austin, Texas 78767.

6.2 Payments. Payments shall be sent to the addresses noted below, or any other address the Party provides to the other Party in writing:

- a. If to Customer:
Denton ISD
1307 North Locust
Denton, TX 76201
- b. If to DE:
Direct Energy, LP
P.O. Box 22149
Tulsa, OK 74121-2149

SECTION 7: DEFINITIONS

7.1 Definitions. In addition to the terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, such capitalized terms shall have the meanings set forth in this Section 7.1. All other capitalized terms used herein but not otherwise defined herein shall have the same meaning as defined in the following documents, with any conflicting definitions contained in such documents being applied herein in the following priority: PURA, the PUCT Substantive Rules, and the ERCOT Protocols.

1. "*Actual Start Date*" means the date an ESI ID is energized or the date the ESI ID is switched from another REP to DE pursuant to the terms of this Agreement.

2. "*Actual Usage*" means the actual amount of electric energy (in kWh) used at the ESI ID(s) as determined by the TDSP.

3. “*Aggregator*” shall have the meaning given in Section 3.3.
4. “*Aggregator Fee*” shall have the meaning given in Section 3.3.
5. “*Agreement*” shall have the meaning given in the introductory paragraph.
6. “*Applicable Law*” shall have the meaning given in Section E.11(c) of Attachment A to this Agreement.
7. “*Appropriations Failure*” shall have the meaning given in Section 5.2.
8. “*Code*” shall have the meaning given in Section A.3 of Attachment A to this Agreement.
9. “*Consumer Protection Rules*” shall have the meaning given in Section B.3 of Attachment A to this Agreement.
10. “*Customer*” shall have the meaning given in the introductory paragraph.
11. “*Customer Early Termination Fee*” shall have the meaning given in Section 5.3.
12. “*DE*” shall have the meaning given in the introductory paragraph.
13. “*DE Early Termination Fee*” shall have the meaning given in Section 5.4.
14. “*Delayed Start Date Electricity Amount*” shall have the meaning given in Section 1.3(b).
15. “*Delayed Start Date Period*” shall have the meaning given in Section 1.3(b).
16. “*Delivery Charges*” means those charges or credits from the TDSP pursuant to its tariff, including, but not limited to: Transmission and Distribution Charges, System Benefit Fund Charge, Nuclear Decommissioning Charge, Competitive Transition Charge, Standard Customer Metering Charge, Customer Charge, Merger Savings and Rate Reduction Credit, Excess Mitigation Credit and Utility Imposed Reactive Power Charges.
17. “*Disclosing Party*” shall have the meaning given in Section C.1 of Attachment A to this Agreement.
18. “*Expected Start Date*” means the expected date of the first reading of the meter on an ESI ID provided to DE by the TDSP after the TDSP and ERCOT shall have timely performed any required enrolment and cancellation procedures necessary to switch Customer’s REP to such ESI ID to DE, as shown on an Offer Sheet.
19. “*Electricity Related Charges*” includes, unless noted elsewhere otherwise: Ancillary Services Charge, Congestion, ERCOT Administrative Fee, Delivery Loss Charge, Transmission Loss Charge, Renewable Energy Credit Charge, Residential Energy Credit Charge, Unaccounted For Energy Charge, Qualified Scheduling Entity Charge, Imbalance Settlement Charge.
20. “*ERCOT*” means the Electric Reliability Council of Texas.
21. “*ERCOT Protocols*” means the document adopted, published, and amended from time to time by ERCOT, and initially approved by the PUCT, to govern electric transactions in the ERCOT Region, including any attachments or exhibits referenced in the document, that contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards, and criteria of ERCOT, or any successor document thereto.
22. “*ESI ID(s)*” means the Electric Service Identifiers for of the property service addresses identified on the Offer Sheet to this Agreement, as such list may be modified from time to time as provided in Section 1.5.
23. “*Event of Default*” shall have the meaning given in Section D.1 of Attachment A to this Agreement.
24. “*Expected Usage*” shall have the meaning given in Section 1.5.
25. “*Energy Price(s)*” means the rates per unit of measure specified on Section 2.1 and includes all Electricity Related Charges.
26. “*Force Majeure Event(s)*” shall have the meaning given in Section B.5 of Attachment A to this Agreement.

27. “*kWh*” means kilowatt hour.

28. “*Market Rate*” means one hundred thirty percent (130%) of the MCPE determined for any delivery period plus any Replacement Reserve Charges (“RPRS”) incurred by DE from ERCOT, or, if mutually agreed to between TASB and DE, a fixed price for a specified period that reasonably reflects current market prices as of the time any extension occurs.

29. “*MCPE*” or “*Market Clearing Price of Energy*” means the highest price associated with a Congestion Zone for a Settlement Interval for Balancing Energy deployed during the Settlement Interval as those terms are defined in the ERCOT Protocols.

30. “*Non-Recurring Charges*” means any charges imposed by the TDSP or other third parties on a non-recurring basis for services, repairs or additional equipment needed for Customer’s electric service.

31. “*Offer Sheet*” shall mean the document described in Section 1.1(b) of this Agreement.

32. “*Party*” or “*Parties*” shall have the meaning given in the introductory paragraph.

33. “*Pricing Period*” means a calendar month or partial calendar month during which service was provided under the terms of this Agreement.

34. “*Pricing Period Usage*” means the amount of electric energy (in kWh) used at the ESI ID(s) during a given Pricing Period. For an ESI ID equipped with an interval data recorder (IDR), Pricing Period Usage will be determined from the interval data provided by the TDSP. For an ESI ID not equipped with an IDR, Pricing Period Usage equals Average Daily Usage multiplied by the number of days in the Usage Period that occur in a given Pricing Period.

35. “*PUCT*” means Public Utility Commission of Texas.

36. “*Receiving Party*” shall have the meaning given in Section C.1 of Attachment A to this Agreement.

37. “*Reconciliation Period*” shall have the meaning given to it in Section 3.3.

38. “*REP*” shall have the meaning given in Section 1.1.

39. “*REP Services*” shall mean the account management, invoicing and collection, and customer service functions associated with the provision of retail electricity to Customer by DE.

40. “*REP Services Fee*” shall have the meaning given in Section 3.5

41. “*TASB*” means the Texas Association of School Boards, Inc.

42. “*TASB Energy Cooperative*” means an administrative agency of cooperating governmental entities created pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, of which Customer is a member.

43. “*TASB Pool*” means the aggregation pool of independent school districts and other entities organized and administered by TASB of which Customer is a member for the ESI IDs included in this contract. The name of the specific TASB Pool is included in the Offer Sheet (after the Customer name).

44. “*Taxes*” means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind levied by a duly-constituted taxing authority and all penalties, fines, and additions to tax, and interest thereon that are directly related to the services provided under this Agreement, but does not include the System Benefit Fund fee and fees and charges imposed by ERCOT. By way of example only: Sales Tax, Miscellaneous Gross Receipts Tax, PUCT Assessment Fees and Franchise Fees.

45. “*Term*” shall have the meaning given in Section 1.3(a).

46. “*TDSP*” or “*Transmission and Distribution Service Provider*” means an entity regulated by the State of Texas, which transmits or distributes electric energy.

Attachments: Attachment A
Attachment B

Terms and Conditions of Service
Sample Offer Sheet

CUSTOMER: Denton ISD	DE: Direct Energy, LP, by its general partner, Direct Energy GP, LLC
By:	By:
Printed:	Printed:
Title:	Title:
Date:	Date:

Terms and Conditions of Service Attachment A

These Terms and Conditions of Service form an integral part of the Commercial Electricity Service Agreement between Customer and DE. In addition to the terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, such capitalized terms shall have the meanings set forth in Section 7.1 of this Agreement. Customer should thoroughly review the entire Agreement, including these Terms and Conditions of Service, before executing this Agreement.

A. REPRESENTATIONS AND WARRANTIES

A.1 Customer's Representations and Warranties. As a material inducement to entering into this Agreement, Customer hereby represents and warrants to DE as follows: (a) it is a duly organized entity and is in good standing under the laws of Texas; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in any contract to which it is a party or any Law applicable to it; (c) the performance of this Agreement shall be duly authorized by all necessary action and shall not violate any of the terms or conditions in any contract to which it is a party; (d) as of the date sales of electricity by DE to Customer pursuant to this Agreement commence, Customer shall have all regulatory authorizations necessary for it to legally perform its operations and such performance shall not violate any of the terms or conditions in any contract to which it is a party or any law applicable to it; (e) this Agreement constitutes a legal, valid, and binding obligation of Customer enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending; (f) there are no bankruptcy, insolvency, reorganization, receivership, or other similar proceedings pending or being contemplated by it, or to its knowledge threatened against it; (g) there are no suits, proceedings, judgments, rulings, or orders by or before any court or any government authority that could materially adversely affect its ability to perform the Agreement; and (h) as of the Effective Date and throughout the Term of this Agreement, there is no other contract for the purchase of electricity by Customer for the ESI ID(s), or, if such a contract presently exists, that it will terminate prior to the delivery of electricity to Customer under this Agreement.

A.2 DE's Representations and Warranties. As a material inducement to entering into this Agreement, DE hereby represents and warrants to Customer as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform the Agreement; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Law applicable to it; (c) the performance of the Agreement shall be duly authorized by all necessary action and shall not violate any of the terms or conditions in its governing documents or any contract to which it is a party; (d) as of the date sales of electricity by DE to Customer pursuant to the Agreement commence, DE shall have all regulatory authorizations necessary for it to legally perform its operations and such performance shall not violate any of the terms or conditions in its governing documents, any contract to which it is a party, or any law applicable to it; and (e) the Agreement constitutes a legal, valid, and binding obligation of DE enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending.

A.3 Forward Contract. The Parties acknowledge and agree that (i) this Agreement constitutes a forward contract within the meaning of the United States Bankruptcy Code ("*Code*"); (ii) DE is a forward contract merchant; and (iii) either Party is entitled to the rights under, and protections afforded by, the Code.

B. DISCLAIMERS OF WARRANTIES; LIMITATION OF LIABILITIES

B.1 LIMITATIONS OF LIABILITY. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES. DE WILL NOT BE LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. EXCEPT FOR THE DE EARLY TERMINATION FEE DUE IF DE DEFAULTS, THE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF ALL DOLLARS PAID BY CUSTOMER TO DE (IF CUSTOMER) OR RECEIVED BY DE (IF DE) PURSUANT TO THIS AGREEMENT. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

B.2 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

B.3 WAIVER OF CUSTOMER PROTECTION RULES AND CONSUMER RIGHTS. THE PARTIES FURTHER ACKNOWLEDGE THAT THE CUSTOMER PROTECTION RULES ADOPTED BY THE PUBLIC UTILITY COMMISSION (AS CONTAINED IN ITS SUBSTANTIVE RULES 25.471 ET SEQ.) ("*CUSTOMER PROTECTION RULES*") SHALL NOT APPLY TO THIS AGREEMENT EXCEPT FOR THE FOLLOWING RULES: 25.481, 25.485 (b), (d), and (e), and 25.495. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER HEREBY EXPRESSLY WAIVES THE CUSTOMER PROTECTION RULES TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. CUSTOMER FURTHER HEREBY WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES--CONSUMER PROTECTION ACT, SECTION 17.41, ET. SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. CUSTOMER REPRESENTS AND WARRANTS TO DE THAT: (a) CUSTOMER IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO DE; (b) CUSTOMER IS REPRESENTED BY LEGAL COUNSEL THAT WAS NEITHER DIRECTLY NOR INDIRECTLY IDENTIFIED, SUGGESTED OR SELECTED BY DE; AND (c) CUSTOMER VOLUNTARILY CONSENTS TO THIS WAIVER AFTER CONSULTATION WITH ITS LEGAL COUNSEL.

B.4 UCC/Disclaimer of Warranties. Customer and DE acknowledge and agree that the electricity delivered hereunder is a "good" as that term is understood in the Texas B&CC (UCC §2.105). The Parties further agree that the rules promulgated therein, to the extent that they can be, are waived and they do not apply to this Agreement, except as provided for herein. If there is any conflict between the UCC and this Agreement, the Parties acknowledge that this Agreement will control. The Parties understand and acknowledge that neither Party controls nor physically takes possession of the electric energy prior to delivery to Customer's ESI ID(s). Therefore, neither Party will be responsible to the other for any damages associated with failing to deliver the electric energy nor for any damages it may cause prior to delivery to Customer's ESI ID(s). The electric energy will be delivered to Customer's ESI ID(s) where it will be deemed in possession and in control of Customer. THE ELECTRICITY SOLD UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE LOCAL DISTRIBUTION UTILITY AND WILL BE SUPPLIED FROM A VARIETY OF SOURCES. DE MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND DE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Further, Customer agrees and acknowledges that DE EXPRESSLY NEGATES ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OF WARRANTY WITH RESPECT TO CONFORMITY, TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

B.5 Force Majeure. DE will make commercially reasonable efforts to provide electric service, but does not guarantee a continuous supply of electricity. DE does not generate electricity nor does it transmit or distribute electricity. Certain causes and events out of the control of DE and Customer ("*Force Majeure Event(s)*") may result in interruptions in service or the ability to accept electricity. If either Party is unable to perform its obligations, in whole or in part, due to a Force Majeure Event, then the obligations of the affected Party (other than the obligation to pay any amounts owed to DE that relate to periods prior to the Force Majeure Event) shall be suspended to the extent made necessary by such Force Majeure Event. Therefore, neither Party shall be liable to the other Party for damages caused by Force Majeure Events, including acts of God, acts of any governmental authority (including the PUCT or ERCOT), accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, non-performance by the local distribution utility changes in laws, rules, or regulations of any governmental authority (including the PUCT or ERCOT), or any cause beyond such Party's control. The Parties agree that an Appropriations Failure and a Scheduling Failure shall not be considered a Force Majeure Event.

C. CONFIDENTIALITY AGREEMENT

C.1 Confidentiality. DE acknowledges that Customer is a governmental body subject to public information laws, including Chapter 552 of the Texas Government Code. Subject to such laws that may require disclosure of information, and upon the written request of a Party (in such capacity, the "*Disclosing Party*"), the other Party (in such capacity, the "*Receiving Party*") shall keep confidential and not disclose any Confidential Information which is disclosed to the Receiving Party by the Disclosing Party except for disclosures to Authorized Parties or as required by law. For purposes hereof, "*Confidential Information*" means the terms of this Agreement and any other information in written or other tangible form which is marked as "Confidential" when it is disclosed to the Receiving Party, except that Confidential Information shall not include information which (i) is available to the public, (ii) becomes available to the public other than as a result of a breach by the Receiving Party of its obligations hereunder, (iii) was known to the Receiving Party prior to its disclosure by the Disclosing Party, or (iv) becomes known to the Receiving Party thereafter other than by disclosure by the Disclosing Party. The provisions of this Section shall apply regardless of

fault and shall survive termination, cancellation, suspension, completion or expiration of this Agreement for a period of two (2) years. Customer agrees that DE may provide TASB with any information requested by TASB about Customer's account and billings.

D. DEFAULT AND REMEDIES

D.1 Events of Default. An event of default ("*Event of Default*") means: (a) the failure of Customer to make, when due, any payment required under this Agreement if such payment is not made within five (5) business days after receipt of written notice (facsimile or electronically are valid forms of notice for this paragraph) from DE; or (b) any representation or warranty made by a Party proves to be false or misleading in any material respect; or (c) the failure of any Party to perform its obligations under this Agreement and such failure is not excused by Force Majeure; or (d) the defaulting Party (i) makes an assignment or any general arrangement for the benefit of creditors; or (ii) files a petition or otherwise commences, authorizes or acquiesces to a bankruptcy proceeding or similar proceeding for the protection of creditors, or have such petition filed against it and such petition is not withdrawn or dismissed within 20 business days after such filing; or (iii) otherwise becomes insolvent; or (iv) is unable to pay its debts as they fall due; or (v) fails to establish, maintain or extend Credit in form and in an amount acceptable to DE when required. If an Event of Default listed in subsection (d) above occurs, a Default will be deemed to have automatically occurred prior to such event.

D.2 Remedies upon an Event of Default. If an Event of Default shall have occurred and be continuing, the non-defaulting Party, upon written notice to the defaulting Party, shall have the right (a) to commence an action to require the defaulting Party to remedy such default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof; (b) to exercise such other rights and remedies as it may have at equity or at law, subject however to the Limitations on Liabilities above; and (c) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an early termination of this Agreement has been declared and notice thereof pursuant to this Agreement given. If Customer is responsible for the occurrence of an Event of Default and it fails to cure within ten (10) days of written notice (does not apply to default for non-payment), in addition to any other remedy, DE may (i) terminate this Agreement and switch Customer to the Affiliated REP or the Provider of Last Resort; and (ii) charge Customer the Customer Early Termination Fee pursuant to Section 5 of this Agreement. Notwithstanding the above, DE may not disconnect or order disconnection of service to Customer unless the following events have all occurred: (1) Customer has an Event of Default for nonpayment under Section D.1(a) above, (2) DE gives Customer a thirty (30) day written disconnection notice; and (3) Customer does not pay all undisputed outstanding payments owed by the end of the thirty (30) day notice period. If DE is responsible for the occurrence of an Event of Default and it fails to cure within ten (10) days of written notice, in addition to any other remedy, Customer may charge DE the DE Early Termination Fee pursuant to Section 5 of this Agreement.

E. MISCELLANEOUS PROVISIONS

E.1 Disclaimer. This Agreement shall not constitute, create, or otherwise recognize the existence of a joint venture, association, partnership, or other formal business entity of any kind among the Parties and the rights and obligations of the Parties shall be limited to those set forth in this Agreement.

E.2 Headings. The descriptive headings of the Articles and Sections of this Agreement are inserted for convenience only and are not intended to affect the meaning, interpretation or construction of this Agreement.

E.3 Waiver. Except as otherwise provided in this Agreement, any failure of a Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver shall not operate as a waiver of, or estoppel with respect to any subsequent failure of the first Party to comply with such obligation, covenant, agreement, or condition.

E.4 Assignment. Customer may not assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of DE, which shall not be unreasonably withheld. DE may, to the fullest extent allowed by law: (a) transfer, sell, pledge, encumber or assign the revenues or proceeds hereof in connection with any financing or other financial arrangement; (b) transfer or assign this Agreement to an affiliate of DE; (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of DE with an operating capability and financial condition substantially similar to DE as of the execution date of this Agreement; and/or (d) transfer or assign this Agreement to a certified REP with an operating capability and financial condition substantially similar to DE as of the execution date of this Agreement. In the case of (b), (c), or (d), any such assignee shall agree in writing to be bound by these Terms and Conditions of Service. Upon any such assignment, Customer agrees that DE shall have no further obligations under this Agreement.

E.5 No Third-Party Beneficiaries. The Parties do not intend that this Agreement confer any rights or remedies on any person or party other than the Parties, their successors and permitted assigns; provided, however, that the Parties recognize that TASB shall receive the Aggregator Fee.

E.6 Severability. If any of the provisions of this Agreement is held to be unenforceable or invalid by any court or regulatory authority of competent jurisdiction, the Parties shall, to the extent possible, negotiate an equitable adjustment to the provisions of this Agreement, with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby.

E.7 Entire Agreement; Amendments. This Agreement constitutes the entire understanding between the Parties, and supersedes any and all previous understandings, oral or written, with respect to the subject matter hereof. This Agreement may be amended only upon mutual agreement of the Parties, which amendment shall not be effective until reduced to writing and executed by the Parties.

E.8 Further Assurances. The Parties hereto agree to promptly execute and deliver, at the expense of the Party requesting such action, any and all other and further instruments and documents which may be reasonably requested in order to effectuate the transactions contemplated hereby.

E.9 Emergency, Outage and Wire Service. In the event of an emergency, outage or service need, Customer must call the TDSP for the service area of the ESI ID experiencing the emergency, outage or service need.

E.10 Customer Care. Customer may contact DE Customer Care if Customer has specific comments, questions, disputes, or complaints toll free at 1--866-547-2722, Monday to Friday 7:00 a.m. – 5:00 p.m. CST. DE shall assist and cooperate with Customer regarding communications with a TDSP relating to service to any ESI ID identified on The Offer Sheet.

E.11 Governing Law.

a. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas applicable to contracts made and to be performed in the State of Texas, without regard to the conflict of laws provisions thereof.

b. The Parties agree that all disputes between them which arise under this Agreement and which are not settled shall be decided by a court of competent jurisdiction and the Parties submit to the jurisdiction of the courts of the State of Texas.

c. Subject to the provisions of E.11.a. above, this Agreement shall be subject to, and in the performance of their respective obligations under this Agreement the Parties shall comply with, all applicable federal, state and local laws, regulations and requirements (including the rules, regulations and requirements of quasigovernmental and regulatory authorities with jurisdiction over the Parties, including ERCOT) (collectively, "*Applicable Law*").

E.12 No Presumption Against Drafting. Both Parties contributed to the drafting of this Agreement. The rule of construction that any ambiguity is construed against the party who drafted this Agreement shall not be applied to this Agreement.

E.13 Counterparts; Facsimile Copies. This Agreement may be executed in counterparts, all of which shall constitute one and the same Agreement and each of which shall be deemed to be an original. A facsimile copy of either Party's signature shall be considered an original for all purposes under this Agreement along with any amendments pursuant to E.7 above, and each Party shall provide its original signature upon request.