



## BIZRESCUELOCK 12 TERMS AND CONDITIONS

**We Are Committed To Your Satisfaction:** If you are not completely satisfied with XOOM Energy Delaware's BizRescueLock 12 plan for any reason, please contact our Customer Care Center at 1-888-997-8979 or by sending an email to [customercare@xoomenergy.com](mailto:customercare@xoomenergy.com). If we are unable to resolve your concern to your full satisfaction, you may terminate this Agreement, in accordance to the terms contained herein.

**Service & Term:** XOOM Energy Delaware, LLC ("XOOM" or "Company") agrees to act as your exclusive electric power supplier. The Initial Term of this Agreement will begin on the date your BizRescueLock 12 plan enrollment is processed by your local utility following your acceptance into the BizRescueLock 12 program and will continue for twelve (12) months as set forth in your Contract Summary.

**Acceptance into the Program:** These terms and conditions are subject to your acceptance into the program by both XOOM Energy and your local utility. You will be promptly notified if you are not accepted into the program.

**Local Utility Services:** XOOM Energy is an independent retail marketer of electricity and is not affiliated with your local utility. Your local utility will continue to deliver your electricity, read your meter, send your bill, and make necessary repairs. Your local utility will also respond to emergencies and provide other basic utility services as required. XOOM Energy is not an agent of your local utility and your utility will not be liable for any of XOOM's acts, omissions, or representations.

**Price:** Your rate for electricity purchases will be a fixed price of \$0.0859 per kWh, plus taxes and fees, if applicable, as set forth in your Contract Summary which is incorporated into this Agreement. You are responsible for all XOOM Energy supply charges, which are included in your XOOM Energy supply price, and all other applicable utility charges and taxes, which are not included in your price. You will continue to be responsible for all charges assessed by your local utility for all services it provides, including any other fees or taxes specifically associated with services it continues to provide during the term of this Agreement.

**Renewal Notice, Notification of Changes:** Subject to governing law, XOOM energy can renew this Agreement with new or revised terms. No later than forty-five (45) days prior to the end of the Initial Term, XOOM Energy will send you a renewal notice describing your renewal options, in the event XOOM Energy elects to renew this Agreement. This Agreement may automatically renew at the fixed price or variable price then in effect as specified in the renewal notice. XOOM Energy reserves the right, with thirty (30) days' notice, to amend this Agreement to adjust its service to accommodate any change in regulations, law, tariff or other change in procedure required by any third party that may affect XOOM Energy's ability to continue to serve you under this Agreement.

**Termination by XOOM:** XOOM Energy may cancel or terminate the Agreement early for any reason, or no reason, without penalty, with thirty (30) days advance written notice. Termination becomes effective when the local utility processes of XOOM's cancellation request. You shall be obligated to pay for the electricity supply service provided by XOOM pursuant to this agreement prior to the date cancellation becomes effective, including any applicable local utility late fees, and other fees and charges. Should XOOM terminate the Agreement, you will be returned to your local electric utility's default electricity supply service unless you choose a different supplier. Should an early cancellation occur, you may utilize the dispute resolution procedures identified in this Agreement.

**Termination by Customer:** You may terminate this Agreement at any time. However, if you terminate before the expiration of the Initial Term or before the expiration of any renewal term, a Cost Recovery Fee will apply in



accordance with the Cost Recovery Fee section below. To terminate, please contact XOOM's Customer Care Center at 1-888-997-8979 or by email at [customercare@xoomenergy.com](mailto:customercare@xoomenergy.com). If you terminate this Agreement, you will be returned to your local electric utility's default electricity supply service unless you choose a different supplier.

**Customer Rescission:** You may cancel your acceptance of the Agreement with XOOM Energy by calling XOOM's Customer Care Center at 1-888-997-8979 or by email at [customercare@xoomenergy.com](mailto:customercare@xoomenergy.com). You have three (3) business days from the start of your rescission period to rescind this Agreement without penalty. The start of the rescission period will depend on your method of enrollment as follows: (1) for written contracts, the rescission period will begin when you sign the contract; (2) for electronic enrollments, the rescission period will begin when you submit your enrollment; and (3) for telephone enrollments, the rescission period will begin when you receive the copy of your contract and contract summary (by electronic mail or U.S. Mail).

**Relocation Outside of Your Local Utility's Service Territory:** If you move to a location outside your local utility's service territory, you may cancel this Agreement and you will not incur a Cost Recovery Fee, provided that you send XOOM written notice of your move, including your new address. Failure to notify XOOM of your move will be considered a termination of this Agreement in accordance with its terms.

**Cost Recovery Fee:** You understand and agree that in order for XOOM to offer and fulfill its fixed rate obligation to you, it has to purchase electricity in advance of usage in amounts needed to cover the full term of this Agreement. If you cancel this Agreement early, you will be responsible for paying a cost recovery fee ("Cost Recovery Fee") of \$500 as set forth in your Contract Summary which is incorporated into this Agreement. The Cost Recovery Fee is intended not as a penalty, but simply to offset the cost of selling the unused portion of your electricity to others and estimated lost revenue that XOOM may incur from such a sale, if any, and related expenses. As explained in the Relocation section above, you will not be charged a Cost Recovery Fee if: (1) you move to an address within your local utility's service territory and we are able to transfer service to your new location; or (2) you move outside of your local utility's service territory.

**Credit, Payment and Collection:** You will receive one bill each month from your local utility. Your bill will include both your local utility's charges and XOOM's supply charges, and will be based on monthly meter readings provided to XOOM by your local utility. If there is an error in your meter reading, XOOM will adjust its bill to you upon your local utility providing a corrected meter reading to XOOM. This Agreement is contingent upon a satisfactory credit review and maintenance of good credit. If you do not meet our credit standards or cannot demonstrate satisfactory credit, XOOM may require a deposit from you or may refuse to provide service. If a deposit is required, the amount shall be in compliance with any applicable Delaware statute, regulation, or other controlling authority and will be requested prior to beginning service with XOOM. XOOM will apply any cash deposit held on your behalf plus any accrued interest as determined by any applicable Delaware statute, regulation, or other controlling authority to the outstanding balance on your final bill, if applicable and any excess amount will be refunded to you. Any deposit you provide us will be held in your name in our records. We may recover any Cost Recovery Fee from any deposit you have provided to us. You represent that you are financially able and willing to fulfill the terms and conditions of this Agreement and that you have not filed, are not in the process of filing, and do not plan to begin any bankruptcy proceedings. Bills not paid by their due date are subject to a late payment fee at the greater of the rate of 1.5%, or the maximum permitted by law, based on your total outstanding balance per month. XOOM Energy will charge a \$35 return check fee for all returned checks. XOOM Energy may terminate this Agreement with thirty (30) days written notice for non-payment. In all events, you shall remain obligated to pay for all electricity received by you and any interest, fees and penalties incurred by XOOM



Energy. You will also be responsible for all costs, including legal fees, associated with the collection of amounts owed to XOOM Energy.

**Customer Service, Dispute Resolution:** If you have a question about your XOOM Energy charges or service you may contact XOOM's Customer Care Center at 1-888-997-8979 during our service hours which are posted at [www.xoomenergy.com](http://www.xoomenergy.com); by sending a letter to: XOOM Energy Delaware, LLC, 11208 Statesville Road, Suite 200, Huntersville, NC 28078 or by sending an email to [customercare@xoomenergy.com](mailto:customercare@xoomenergy.com). For questions about your local utility bill, please contact your local utility directly. XOOM will refer all complaints to a representative who will use reasonable efforts in good faith to reach a mutually satisfactory solution in accordance with 26 DE Admin. Code § 3002-3.2.2. If a resolution cannot be reached with your local utility or with XOOM, you may contact the Delaware Public Service Commission for help, toll free, at 1-800-282-8574; or in writing at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware 19904. You may also contact the Delaware Public Advocate at 820 N. French Street, 4th Floor, Wilmington, DE 19801, online at [publicadvocatedelaware.gov](http://publicadvocatedelaware.gov), or by telephone at 888-607-2427.

**Assignment:** You may not assign this Agreement. This Agreement or any XOOM Energy obligations hereunder are assignable by XOOM Energy. Written notice of assignment will be provided at least thirty (30) days prior to the assignment.

**Service Complaints:** For service problems you should contact your local utility by calling: Delmarva Power at 1-800-375-7117.

**Emergency:** In the event of an emergency, such as a power outage or downed power line, you should contact Delmarva Power at 1-800-898-8042 if you are located in New Castle County. If you are located in Kent and Sussex Counties, please contact 1-800-898-8045.

**Authorization/Representation/Letter of Agency:** By entering into this Agreement, you authorize XOOM Energy to act on your behalf under your local utility's tariffs in accordance with the rules and regulations of the Delaware Public Utilities Commission. You also acknowledge you are the local utility account holder, or a person legally authorized to execute this Agreement on behalf of the account holder for electricity services and that you are at least eighteen(18) years of age. You agree to authorize XOOM to obtain your credit history to determine if your credit standing is satisfactory for obtaining electricity under this Agreement. You authorize XOOM or its authorized representatives to obtain from your local utility (and your local utility to release) your account name and number, rate classification, all information relating to your historical and current electricity usage, meter readings, billing and payment history, your address(es) and telephone number, whether you are on a special payment plan, whether you are participating in your utility's Energy for Tomorrow or Peak Management Programs, and any other information relating to the characteristics of electricity service. You further acknowledge that XOOM has full authority to make all rates and tariff selections necessary to meet its obligations under this Agreement.

**Insolvency:** You acknowledge and agree that this Agreement and the transaction(s) contemplated under this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code. To the fullest extent possible, you agree to waive the provisions afforded by Section 366 of the United States Bankruptcy Code and acknowledge that for purposes of the application of principles afforded "forward contracts" the provisions of Section 366 shall not apply to you or to this Agreement.

**Miscellaneous:** You agree to notify XOOM during enrollment if your account is a net-metered account. You also



agree to notify XOOM within three (3) days of becoming aware that your account will become a net-metered account at any time during the term of this Agreement and any renewal. Failure to timely notify XOOM that your account is subject to net-metering is a material breach of this Agreement and, as a result, XOOM reserves the right to terminate your service due to this notification failure. The termination is due to the failure to notify, not the implementation of net metering by the customer. For the purpose of accounting, both parties accept the quantity, quality and measurements determined by your local utility. Except as provided by law, you will pay all taxes or other fees due and payable with respect to customer obligations under this Agreement. This Agreement shall be governed by the laws of the state of Delaware without recourse to such states choice of law rules. There may be a delay before your local utility switches your electricity supply to XOOM. XOOM is not responsible for such delays. You are responsible for providing XOOM with current contact information, including your telephone number and email address. You also agree to receive all notices, including those specified in this Agreement, by email.

**Limitation of Liability and Warranty:** XOOM WILL NOT BE RESPONSIBLE FOR ANY SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES WHATSOEVER. XOOM DOES NOT PROVIDE ANY TYPE OF WARRANTY, EXPRESS OR IMPLIED, AND TO THE FULL EXTENT OF THE LAW, DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**Force Majeure:** XOOM will not be responsible for supplying electricity in the event of circumstances beyond its control such as events of Force Majeure, including but not limited to, acts of terrorism, sabotage, or acts of God. XOOM may cancel this Agreement if there is any change in regulation, law, pricing structure, tariff, or change in procedure required by a third party that results in XOOM being prevented, prohibited, or frustrated from carrying out the terms of this Agreement. XOOM may cancel this Agreement if your usage of electric power changes substantially.

**Entire Agreement:** This Agreement, together with the Enrollment form, Contract Summary, and/or Welcome letter, constitute the entire Agreement and understanding between you and XOOM with respect to the subject matter of this Agreement, superseding all prior written and oral agreements and representations made with respect to the subject matter.