



SIMPLEFLEX TERMS AND CONDITIONS

We Are Committed To Your Satisfaction: If you are not completely satisfied with XOOM Energy Delaware's SimpleFlex plan for any reason, please contact our Customer Care Center at 1-888-997-8979 or by sending an email to 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 Term of this Agreement will begin with your first meter read by your local utility following your acceptance into the SimpleFlex program and will continue on a month-to-month basis.

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

Local Utility Services: XOOM 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 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 energy purchases will be a variable rate, per kWh, that may change on a monthly basis, plus taxes and fees, if applicable. Your monthly variable rate is based on XOOM's actual and estimated supply costs which may include prior period adjustments, inventory and balancing costs plus an adder. You are responsible for all charges and all other applicable utility charges, which are not included in your rate. You may also be requested to pay a monthly administrative fee. Your price also does not include your local utility's charges, for which you are responsible. XOOM's monthly price(s) are posted on the XOOM website, www.xoomenergy.com

Termination by XOOM: XOOM 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 upon the processing of XOOM's cancellation request by the local utility. 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, fees or 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 cancel your acceptance of the Agreement with XOOM by calling XOOM's Customer Care Center at 1-888-997-8979 or by sending an email to customercare@xoomenergy.com. You have ten (10) days from the day your local utility sends the confirmation letter to rescind this Agreement with XOOM without penalty.

Relocation: When moving to an address within your local utility's service territory, XOOM will make every effort to transfer your service to your new service address, provided that you notify XOOM within fifteen (15) days of your move. If a transfer of service is not successful or you move to a location outside your local utility's service territory, you may cancel this Agreement at no cost to you upon providing a thirty (30) day written notice to XOOM. Failure to notify XOOM of your move will be considered a cancellation of this Agreement in accordance with its terms.

Credit, Payment and Collection: Your bill 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 follow all regulatory requirements 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 regulatory guidelines 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 apply any early termination fee to any deposit you have provided 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 or 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 will charge a \$35 return check fee for all returned checks. XOOM 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. You will also be responsible for all costs, including legal fees, associated with the collection of amounts owed to XOOM.

Customer Service, Dispute Resolution: If you have a question about your XOOM charges or service you may contact XOOM's Customer Care Center at 1-888-997-8979 during our service hours which are posted at xoomenergy.com; by sending a letter to: XOOM Energy Delaware, LLC, 344 South Poplar Street, Hazleton, PA 18201 or by sending an email to 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. 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.

Assignment: This Agreement or any XOOM obligations hereunder are assignable by XOOM.

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 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.

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 constitutes the entire Agreement, including the Enrollment form and/or Welcome letter, and understanding between you and XOOM with respect to its subject matter and superseding all prior written and oral Agreements and representations made with respect to the subject matter.