



## BIZSIMPLECLEAN 12 TERMS AND CONDITIONS

**We Are Committed To Your Satisfaction:** If you are not completely satisfied with XOOM Energy Massachusetts' BizSimpleClean 12 program for any reason, please contact us. If we are unable to resolve your concern to your full satisfaction, you may terminate this Agreement, in accordance with its terms.

**Service & Term:** XOOM Energy Massachusetts, 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 BizSimpleClean 12 program and will continue for twelve (12) months.

**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 Energy is not an agent of your local utility and your utility will not be liable for any of XOOM Energy's acts, omissions or representations.

**Price:** Your rate for electric power purchases will be a fixed price of \$0.1050 per kWh, plus taxes and fees, if applicable. 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 can renew this Agreement with new or revised Terms. XOOM will send you written notice at least (30) days before the end of the Term. The notice will specify the date by which you must advise XOOM if you do not want to renew your Agreement. If you do not advise XOOM by the specified date, this Agreement will automatically renew at the fixed rate or variable rate then in effect in accordance with the notice. XOOM reserves the right, with fifteen (15) 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's ability to continue to serve you under this Agreement.

**Termination, Moving:** You may cancel your acceptance of the Agreement with XOOM at any time within three (3) business days of your enrollment authorization and receipt of this Agreement without penalty or cancellation fee by calling XOOM at 1-888-997-8979 or by sending an email to [customercare@xoomenergy.com](mailto:customercare@xoomenergy.com). 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 when you move to an address within your local utility's service territory, 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. Failure to notify XOOM of your move will be considered a cancellation 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 electric power 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") which will be the greater of \$500, or the amount of electricity you failed to consume during the remainder of your Term, calculated on the basis of your previous consumption, multiplied by the excess, if any,



between your Fixed Price and the price XOOM can sell such electricity for at the time of termination. 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, including losses and reasonable costs incurred by XOOM for the balance of the Term as a result of maintaining, terminating, obtaining or re-establishing any hedge or related physical or financial positions applicable to this Agreement. .

**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. Based on the results of the credit check XOOM reserves the right to require a security deposit in an amount equal to the average monthly share of the service for a 12-month service period. 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. In the event you do file or begin any bankruptcy proceedings this Agreement shall terminate immediately. The Parties acknowledge and agree that this Agreement and the transaction(s) contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code. Accordingly, to the fullest extent possible, you 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” and “forward contract merchants” the provisions of Section 366 shall not apply to you or to this Agreement. 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 ten (10) 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 directly by calling 1-888-997-8979 during our service hours which are posted at [xoomenergy.com](http://xoomenergy.com); by sending a letter to: XOOM Energy Massachusetts, 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.

**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: National Grid - Nantucket Electric at 800.548.8000. IF YOU HAVE A POWER OUTAGE PLEASE CALL YOUR LOCAL UTILITY.

**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 Massachusetts Department of Public Utilities. You acknowledge that you are the local utility account holder, or a person legally authorized to execute this Agreement on behalf of the account holder for electricity service and are at least eighteen (18) years of age. You agree to authorize XOOM to obtain your credit information and you agree to authorize your local utility to release all information relating to your historical and current electricity usage, billing and payment history to XOOM or its authorized representatives. You acknowledge that XOOM has full authority to



make all rates and tariff selections necessary to meet its obligations under this Agreement.

**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 any 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 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.

**Miscellaneous:** You will promptly notify XOOM if there is any drastic change in your energy consumption. For the purpose of accounting both parties accept the quantity, quality and measurements determined by your local utility company. 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 North Carolina 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.