

TERMS OF SERVICE

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INTRODUCTION

These Terms of Service (the "**Terms**") are a legal agreement between you and Simple Energy, Inc. ("**Simple Energy**", "**we**", "**our**", or "**us**") governing your access to and use of the Company's websites (the "**Sites**") and the online and offline services which Company agrees to provide to you in connection with the Sites (the "**Services**"), which may include Rebates-as-a-Service (RaaS) and other tools, resources, and information that makes energy efficiency a fun, social activity. The Sites and Services may be provided to you on behalf of your energy service provider (your "**ESP**").

You represent and certify that you are of legal age to form a binding contract and are not a person barred from receiving Services under the laws of the United States or other applicable jurisdictions. To register as a user of the Services you must be 18 years or over. In the event that you are agreeing to this Terms on behalf of a third party entity, you represent and warrant that you have sufficient right to bind such third party to these Terms, in which case, all references to "you" in these Terms shall be references to such third party.

BY CLICKING APPLY REBATES OR BY OTHERWISE ACCESSING THE SITE OR USING ANY OF THE SERVICES YOU AGREE TO BE BOUND BY THESE TERMS.

In the case of inconsistencies between these Terms and information included in any other materials related to the Sites or the Services (e.g., promotional materials and mailers), these Terms will always govern and take precedence.

1. Services.

1.1 Activities.

The Services may include a variety of energy efficiency tools, resources, access to products, and activities. In connection with the Services, we may promote certain energy efficiency activities (each, an "Activity"), some of which may be subject to additional guidelines, rules or terms ("Additional Terms"). For example, we may offer sweepstakes, rewards points or other contests of skill on a Site that are subject to "Official Rules". If there is any conflict between these Terms and the Additional Terms, the Additional Terms take precedence in relation to that Activity. Before you participate in any Activity or earn any type of rewards, you should always read the Official Rules.

1.2 Rebates-as-a-Service.

- **(a) Generally.** The Services may include "**Rebates-as-a-Service**", Simple Energy's online Rebates-as-a-Service that allows users to purchase certain products listed on the Sites ("**Products**"). Some Products may be available for sale directly on the Sites ("**Direct Purchase**"). Some purchases must be completed using a link to the manufacturer of the Products or a third-party retailer that we've partnered with ("**Merchant**"). These purchases are referred to as ("**Merchant Purchases**").
- **(b) Rebates.** Certain Products purchased through Rebates-as-a-Service may be eligible for a rebate ("**Rebate**"). Whether or not the purchase qualifies for a Rebate depends on a number of factors ("**Rebate**

Requirements"), which may include, without limitation, (i) your ESP, (ii) whether you have previously earned a rebate for a similar product, (iii) where you use the Product purchased, (iv) whether you intend to use the Product in your primary residence, and (v) whether you participate in certain qualifying programs such as demand response management programs. The Rebate Requirements for each available Rebate are described on the Sites. Simple Energy may rely on your confirmation that you meet the Rebate Requirements. You understand and agree that if Simple Energy applies a Rebate and subsequently learns that the Rebate Requirements have not been met, then Simple Energy may charge you the amount of the Rebate that was applied to the transaction ("**Charge-back**"). You further agree that Simple Energy shall have no liability to you or any third party arising from its application of a Charge-back.

1.3 Availability.

Simple Energy uses reasonable efforts to ensure that the online features of the Services are available 24 hours a day, 7 days a week. However, there will be occasions when the Services will be interrupted for maintenance, upgrades and emergency repairs or due to failure of telecommunications links and equipment that are beyond the control of Simple Energy. Simple Energy will use reasonable commercial efforts to minimize such disruption where it is within the reasonable control of Simple Energy. You agree that Simple Energy shall not be liable to you for any unavailability, modification, suspension or discontinuance of the Services. You are responsible for obtaining access to the Services and understand that such access may involve third party fees (such as Internet service provider or airtime charges). You are responsible for those fees. In addition, you must provide and are responsible for all equipment necessary to access the Services.

1.4 Registration.

You may access online features of the Services through your account on the Sites (your "**Account**"). You may log into your Account using a unique username and password. You are responsible for safeguarding your password and you agree not to disclose your password to any third party. You are solely responsible for any activities or actions taken under your username, whether or not you have authorized such activities or actions. You agree that the information that you provide to Simple Energy about yourself upon registration of your Account, in connection with Rebate Requirements, and at all other times, ("**Customer Data**") will be true, accurate, current and complete, and you further agree that you will maintain and promptly update the Customer Data to ensure that it remains true, accurate, current and complete. You may not impersonate any other person or use a username or password that you are not authorized to use. Simple Energy reserves the right to require you to change your password for any reason at any time. If you become aware of any unauthorized use of your Account, you agree to notify Simple Energy immediately at [add service email].

1.5 Licenses.

Subject to these Terms, Simple Energy grants you a personal, limited, revocable, non-exclusive and non-transferable license to access and use the Sites and Services. This license is exclusive to you and you may not sub-license the use of the Sites. Simple Energy expressly retains all ownership rights, title and interest in and to all aspects of the Services and the Sites, including, but not limited to, all current and future patents, copyrights, trademarks, trade secrets, know-how, and other proprietary rights included or embodied in the Sites. You may not modify the Sites or Services, create derivative works of the Sites or Services, or reverse engineer, reverse compile, reverse assemble or do any other operation with the Sites or Services that would reveal any source code, trade secrets, know-how or other proprietary information. This license shall not be construed or interpreted as granting or providing rights to you to use, reproduce, modify, distribute, perform, display, possess or control the source code or any other aspect of the Sites. You may not remove or modify any notice of confidentiality, trade secret, trademark or copyright encoded or embodied in the Sites or displayed by, on, or in the Sites. You may use the Sites only while these Terms remain in

effect. Under no circumstances shall you have any rights of any kind in or to the Sites after any termination or expiration of your agreement to these Terms for any reason.

2. User Content and Submissions.

2.1 Your Energy Usage Data.

Certain aspects of the Services rely on access to data about energy consumption at your home your ("**Energy Usage Data**"). As a part of the registration process, we will provide instructions about how you can authorize Simple Energy to access this Energy Usage Data from your ESP. Some ESPs cannot share Energy Usage Data. If your ESP cannot share Energy Usage Data with Simple Energy, or if you do not wish to have your ESP share your Energy Usage Data with Simple Energy, your use of certain aspects of the Services may be limited. In all cases, our access to, and use of, your Energy Usage Data will be governed by our Privacy Policy, which can be viewed by clicking on the Privacy Policy link that appears at the bottom of each page of the Sites or by visiting this sites ("[Privacy Policy](#)").

2.2 Copyright in Your Content.

In connection with your access to, or use of, the Sites or the Services, you may make available certain information, data, text, software, music, sound, photographs, graphics, video, messages, or other materials ("**Content**"). Simple Energy does not claim ownership rights in any such Content that you make available. By submitting your Content and accepting the consideration set forth in these Terms, you unconditionally grant to Simple Energy a non-exclusive, perpetual, irrevocable, worldwide, fully-paid, transferable right and license, with the right to sub-license through multiple levels of sub licensees, under all of your intellectual property rights in the Content, to (a)reproduce, create derivative works of, distribute, publicly perform, publicly display, digitally transmit, and otherwise use the Content in any medium or format, whether now known or hereafter discovered and (b)exercise any and all other present or future rights in the Content. As between you and Company, you remain the owner of all Content that you make available in connection with the Services. You represent and warrant to Simple Energy that you are the owner of the copyright to the Content or that you have written permission from the copyright owner to use such Content. In addition, you warrant that all moral rights in any Content have been waived. You agree to indemnify and hold Simple Energy harmless for any violation of this provision.

2.3 Submissions

You may not use, store, or make available any of the following material in connection with your access to or use of the Sites or Services, nor may you obtain any such materials using the Sites or Services:

- **(a)** Any threatening, obscene, pornographic or profane material or any other material that could give rise to any civil or criminal liability under applicable law;
- **(b)** Any material that could infringe rights of privacy, publicity or copyrights without the permission of the owner of these rights and the persons (or their parents or legal guardians, where applicable) whose likenesses are displayed in the material; or
- **(c)** Any material sent from an anonymous or false address.

2.4 Review of Content and Materials.

While Simple Energy does not and cannot review all material on the Sites, and is not responsible for its content, Simple Energy reserves the right to remove, delete, move, or edit Content that it, in its sole discretion, deems abusive, defamatory, obscene, in violation of the law, including but not limited to copyright or trademark law, or otherwise unacceptable. Simple Energy will not be liable for the Content of any submission. You agree to indemnify and hold Simple Energy harmless for any violation of this provision.

3. Pricing and Payment.

3.1 Generally.

The fees for the Services are posted on the Sites. Fees are subject to change without notice. You agree to pay Simple Energy in advance the applicable fees for the Services provided by Simple Energy under these Terms. Simple Energy will bill your credit card for all fees. You will provide Simple Energy with accurate and complete billing information including legal name, address, telephone number, and credit card or debit card billing information. If such information is false or fraudulent, Simple Energy reserves the right to terminate your use of the Services and your access to the Sites in addition to seeking any other legal remedies. Simple Energy is not responsible for any charges or expenses (e.g., for overdrawn accounts, exceeding credit card limits, etc.) resulting from charges billed by unauthorized parties. Each charge will be considered valid unless disputed by you in writing within thirty (30) days after the billing date. No adjustments will be made for disputed charges made more than thirty (30) days after the billing date. All fees will be paid in U.S. dollars and are due as set forth on the Sites. Simple Energy's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you will be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on Simple Energy's income.

3.2 Direct Purchases.

If you make Direct Purchase, Simple Energy will bill your credit card via a payment service provider (PSP) for the retail price of the product. By submitting a Direct Purchase transaction, you agree to be bound by the terms of use and privacy for the PSP found here <https://www.shopify.com/legal/terms-payments-us>. Your selected payment will be charged for a Direct Purchase at the time the order is placed. All Products purchased via Direct Purchase are made pursuant to a shipment contract. This means that the risk of loss and title for such items pass to you upon our delivery of the applicable Product to the carrier. If you purchase a Product via Merchant Purchase, your purchase is subject to the policies provided by the applicable Merchant with whom you complete the transaction.

3.3 Pricing

Except where otherwise noted, the prices displayed for Products represent the full retail price listed on the Product itself suggested by the manufacturer or supplier of the Product. The prices for Products listed for sale via Direct Purchase are subject to change without notice and may not reflect the current price in every market on any particular day. When a Product is listed for sale via Merchant Purchase, the final retail price will be provided by the applicable Merchant.

3.4 Returns and Refunds.

Products sold via a Merchant Purchase are subject to the return and refund policies of the applicable Merchant with whom you complete the transaction, and in no event shall Simple Energy or your ESP, if applicable, be responsible for any returns, refunds, or exchanges. If you purchase Products via Direct Purchase, please refer to the return policy located on the website. SIMPLE ENERGY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE PRODUCTS OR FOR THE CONDUCT OF ANY MERCHANT.

4. Third Party Software and Linking.

Although we may make software, hyperlinks, and other products of third-party companies available to you, your use of such products is subject to the respective terms and conditions imposed by the third party owning, manufacturing or distributing such products, and the agreement for your use will be between you and such third party. Simple Energy makes no warranty with regard to the products or websites of any other entity. Simple Energy has no control over the content or availability of any third-party software or website. In particular, (a) Simple Energy makes no warranty that any third-party software you download or web site you visit will be free of any contaminating or destructive code, such as viruses, worms or Trojan horses and (b) Simple Energy notifies you that it is your

responsibility to become familiar with any web site's privacy and other policies and terms of service, and to contact that site's webmaster or site administrator with any concerns.

5. Suspension and Termination.

Simple Energy reserves the right to suspend or terminate your access to and use of the Sites and Services, at any time, without notice, for any reason, including but not limited to (a) your breach of these Terms, any Additional Terms, or any other policies or guidelines set forth by Simple Energy, or (b) conduct that Simple Energy believes is harmful to other users of the Sites or Services, or the business of Simple Energy or other third party information providers. Further, you agree that Simple Energy shall not be liable to you or any third party for any termination of your access to the Sites or Services. Simple Energy reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that Simple Energy shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Services.

6. Privacy.

Simple Energy respects the privacy of its users. Simple Energy collects, uses and discloses information about you, including your Energy Usage Data, in accordance with the Simple Energy Privacy Policy. You understand and agree that, notwithstanding any measures taken to prevent unauthorized disclosure, use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to confidential information. Accordingly, Simple Energy cannot and does not guarantee the privacy, security or authenticity of any information so transmitted over or stored in any system connected to the Internet.

7. Disclaimer of Warranty.

THE SITES AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SIMPLE ENERGY MAKES NO WARRANTY THAT THE SITES OR THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE, THAT THE SITES OR OUR SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, THAT THE SITES, INCLUDING THE SERVICES WILL BE AVAILABLE, OR THAT DATA ARE SECURE FROM UNAUTHORIZED ACCESS. SIMPLE ENERGY (AND IF APPLICABLE, YOUR ESP) MAKES NO WARRANTY REGARDING ANY SOFTWARE, GOODS, SERVICES, PROMOTIONS, OR THE DELIVERY OF ANY GOODS OR SERVICES, PURCHASED, ACCESSED OR OBTAINED THROUGH THE SITES OR ADVERTISED THROUGH THE SITES. NO ADVICE OR INFORMATION GIVEN BY SIMPLE ENERGY, ITS EMPLOYEES OR AFFILIATES SHALL CREATE A WARRANTY.

8. Rules of Conduct.

Distribution of Content. You agree that you will not distribute any Content that:

- **(a)** is defamatory, abusive, harassing, threatening, or an invasion of a right of privacy of another person; is bigoted, hateful, or racially or otherwise offensive; is violent, vulgar, obscene, pornographic or otherwise sexually explicit; or otherwise harms or can reasonably be expected to harm any person or entity;
- **(b)** is illegal or encourages or advocates illegal activity or the discussion of illegal activities with the intent to commit them, including a submission that is, or represents an attempt to engage in, child pornography, stalking, sexual assault, fraud, trafficking in obscene or stolen material, drug dealing and/or drug abuse, harassment, theft, or conspiracy to commit any criminal activity;
- **(c)** infringes or violates any right of a third party including: (i) copyright, patent, trademark, trade secret or other proprietary or contractual rights; (ii) right of privacy (specifically, you must not distribute another person's personal information of any kind without their express permission) or publicity; or (iii) any confidentiality obligation;

- **(d)** is commercial, business-related or advertises or offers to sell any products, services or otherwise (whether or not for profit), or solicits others (including solicitations for contributions or donations);
- **(e)** contains a virus or other harmful component, or otherwise tampers with, impairs or damages the Sites or any connected network, or otherwise interferes with any person or entity's use or enjoyment of the Sites;
- **(f)** does not generally pertain to the designated topic or theme of the Sites;
- **(g)** violates any specific restrictions applicable to a public forum, including its age restrictions and procedures; or
- **(h)** is antisocial, disruptive, or destructive, including "flaming," "spamming," "flooding," "trolling," and "griefing" as those terms are commonly understood and used on the Internet.

8.2 Use of the Services.

You expressly agree that you are solely responsible for any and all acts and omissions that occur under your Account or password, and you agree not to engage in any unacceptable uses of the Services, which include, without limitation, use of the Services to:

- **(a)** register for the Sites and the Services if you have not acknowledged reading and agreed to abide by these Terms and the Privacy Policy;
- **(b)** interfere, disrupt or attempt to gain unauthorized access to other accounts on the Sites or any other computer network;
- **(c)** use the Sites or the Services in connection with any commercial endeavors;
- **(d)** post your personal information such as instant messaging addresses, personal URLs, physical addresses and phone numbers in any publicly viewable areas of the Sites;
- **(e)** post or give out any financial information or transmit electronically or physically any money to other users;
- **(f)** create user accounts by automated means or under fraudulent or false pretenses;
- **(g)** create or transmit unsolicited electronic communications such as spam to users or promote any products or services;
- **(h)** submit or upload any type of material that is unlawful, harmful, hateful, threatening, abusive, harassing, defamatory, offensive, obscene, pornographic, lewd, lascivious, or otherwise objectionable, as determined by Simple Energy;
- **(i)** submit or upload any content for which you do not own all applicable rights or that infringes the proprietary rights of other parties;
- **(j)** submit, engage in or upload any type of competitions or content that can cause physical or mental harm to the participants or visitors to the Sites;
- **(k)** harass, threaten or intentionally embarrass or cause harm or distress to another person or group;
- **(l)** collect and publish any information about any of our users;
- **(m)** adapt, modify or reverse engineer any portion of the Services or the Sites;
- **(n)** use any spider, robot, retrieval application, or any other device to retrieve any portion of the Sites;
- **(o)** reformat any of the pages that are part of the Sites;
- **(p)** disseminate, store or transmit viruses, worms, trojan horses or other malicious code or program;
- **(q)** encourage conduct that would constitute a criminal or civil offense;
- **(r)** violate any applicable federal, state, local or international law or regulation;
- **(s)** exploit any person, including but not limited to exploiting any child under 18 years of age;
- **(t)** invade the privacy of any person, including but not limited to submitting personally identifying or otherwise private information about a person without their consent;
- **(u)** solicit personal information from a child under 13 years of age;
- **(v)** submit false or misleading information to Simple Energy, the Sites or other users; or

- **(w)** engage in any other activity deemed by Simple Energy to be in conflict with the spirit of these Terms and the Privacy Policy.

8.3 Monitoring

We cannot and do not assure that other users are or will be complying with the foregoing Rules of Conduct or any other provisions of these Terms, and, as between you and us, you hereby assume all risk of harm or injury resulting from any such lack of compliance.

9. Proprietary and Privacy Protection for Other Users' Content on the Sites.

Simple Energy hereby notifies you that all the information, content, image files, software and materials on the Sites may be protected by U.S. and international copyright and other intellectual property laws and by other applicable laws, including privacy laws. Simple Energy is unable to provide you with permission to copy display or distribute material for which you do not own the copyright or other intellectual property rights. You may not copy or distribute such material without the written consent of the owner, and you are solely responsible for any copyright or other intellectual property law violations that you may incur as a result of your activities on the Sites. Simple Energy has the absolute right to terminate your account or exclude you from any Site if you use our Services to violate the intellectual property rights or other rights of third parties. You agree to indemnify and hold Simple Energy harmless for any violation of this provision.

10. Copyright Infringement.

10.1 Claims of Copyright Infringement.

Simple Energy has adopted and implemented a policy that provides for the termination, in appropriate circumstances as determined by us in our sole discretion, of users who are infringers of copyright. Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement must be sent to the service provider's designated agent.

Notification must be submitted to the following:

Service Provider: Simple Energy, Inc.

Attn: Legal Full Address: 1215 Spruce Street, 3rd Floor Boulder, CO 80302

Email: policy@SimpleEnergy.com

10.2 Notice of Infringement.

To be effective, the notification must be a written communication that includes the following:

- **(a)** A physical or electronic signature of person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- **(b)** Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- **(c)** Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- **(d)** Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;
- **(e)** A statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

- **(f)** A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

10.3 Take down Notices.

We may give you notice that we have removed or disabled access to certain material by means of a general notice on the Sites, electronic mail to your e-mail address in our records, or by written communication sent by first-class mail to your physical address in our records. If you receive such a notice, you may provide counter-notification in writing to the designated agent that includes the information below. To be effective, the counter-notification must be a written communication that includes the following:

- **(a)** Your physical or electronic signature;
- **(b)** Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
- **(c)** A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
- **(d)** Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a Federal District Court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which Simple Energy may be found, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

11. Indemnity; Limitation of Liability.

11.1 You agree to indemnify, and hold Simple Energy, its officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, including without limitation reasonable attorney's fees and costs, arising out of or in any way connected with (a) your access to or use of the Sites or Services; (b) your violation of these Terms; (c) your violation of any third party right, including without limitation any intellectual property right or any publicity, confidentiality, property or privacy right; or (d) any claim that your use of the Sites or Services caused damage to a third party.

11.2 YOU ACKNOWLEDGE THAT YOUR ACCESS TO AND USE OF THE SITES OR SERVICES AND ANY RELIANCE UPON EITHER IS AT YOUR SOLE RISK, THAT YOU ASSUME FULL RESPONSIBILITY FOR ALL COSTS ASSOCIATED WITH ALL NECESSARY SERVICING OR REPAIRS OF ANY EQUIPMENT YOU USE IN CONNECTION WITH YOUR USE OF THE SITES OR SERVICES. YOU AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL SIMPLE ENERGY OR YOUR ESP, IF APPLICABLE, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, IMAGES, DATA OR OTHER INTANGIBLES, EVEN IF SIMPLE ENERGY OR YOUR ESP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THAT RESULT FROM THE USE OR THE INABILITY TO USE THE SITES OR THE SERVICES, FROM ANY CHANGES TO THE SITES OR THE SERVICES OR FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR CONTENT. YOU SPECIFICALLY ACKNOWLEDGE THAT DOWN-TIME AND COMPUTER VIRUSES ARE RISKS INHERENT IN THE USE OF THE INTERNET AND SOFTWARE PRODUCTS, AND YOU AGREE TO ASSUME RESPONSIBILITY FOR ANY HARM OR DAMAGES OF ANY KIND OR CHARACTER WHATSOEVER RESULTING FROM THESE POSSIBLE HARMS. YOU ALSO SPECIFICALLY ACKNOWLEDGE THAT YOU MAY BE DISCLOSING SENSITIVE, PRIVATE AND CONFIDENTIAL INFORMATION ABOUT YOURSELF IN YOUR USE OF THE SITES AND THE SERVICES AND YOU AGREE TO ASSUME RESPONSIBILITY FOR ANY HARM OR DAMAGES OF ANY KIND OR CHARACTER WHATSOEVER RESULTING FROM YOUR RELEASE OF SUCH CONTENT.

11.3 IF YOU ARE DISSATISFIED WITH THE SITES OR THE SERVICES OR WITH ANY OF THESE TERMS, OR FEEL SIMPLE ENERGY HAS BREACHED THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITES AND THE SERVICES. THE TOTAL LIABILITY OF SIMPLE ENERGY TO YOU FOR ANY CLAIM ARISING FROM OR RELATING TO THESE TERMS OR USE OF THE SITES OR THE SERVICES SHALL NOT EXCEED THE AMOUNT PAID BY YOU FOR THE SERVICES. IT IS THE INTENTION OF YOU AND SIMPLE ENERGY THAT THIS PROVISION BE CONSTRUED BY A COURT AS BEING THE BROADEST LIMITATION OF LIABILITY CONSISTENT WITH APPLICABLE LAW.

11.4 SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF INCIDENTAL, CONSEQUENTIAL OR OTHER TYPES OF DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

12. General.

12.1 Modification.

Simple Energy may modify these Terms at any time. Modifications become effective immediately upon your first access to or use of the Sites or Services after the "Last Revised" date at the top of these Terms. If you have created an Account, we shall notify you of any material changes to these Terms by email sent to the address you have provided to Simple Energy for your Account. Your continued access to or use of the Sites or Services after the modifications have become effective will be deemed your conclusive acceptance of the modified Terms. If you do not agree with the modifications, do not access or use the Sites or Services.

12.2 Applicable Law and Jurisdiction.

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the use of the Sites or the Services or these Terms must be brought, if at all, within one year from the accrual of the claim or cause of action or be forever barred. You and Simple Energy agree that these Terms and any claims hereunder shall be governed by and subject to the laws of the state of Colorado, without giving effect to any principles of conflicts of law.

12.3 No Resale of Services.

You agree not to reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the Services, use of the Services, or access to the Services.

12.4 Independent Contractors.

No joint venture, partnership, employment, or agency relationship exists between you and Simple Energy as a result of these Terms or use of the Sites or the Services.

12.5 Enforcement.

If any legal action is brought to enforce these Terms, the prevailing party will be entitled to reimbursement of its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive from the other party.

12.6 Force Majeure.

Simple Energy will not be liable by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond Simple Energy's reasonable control.

12.7 Waiver

The failure of Simple Energy to enforce any right or provision in these Terms will not constitute a waiver of such right or provision unless acknowledged and agreed to by Simple Energy in writing.

12.8 Construction

The headings of Sections of these Terms are for convenience and are not to be used in interpretation.

12.9 Contact

Simple Energy is located in Boulder, Colorado. Any questions, comments or suggestions, including any report of violation of these Terms should be provided to the Administrator as follows:

By E-mail: policy@SimpleEnergy.com

By Postal Mail: 1215 Spruce St., Suite 301 Boulder, CO 80302

12.10 Entire Agreement.

These Terms constitute the entire agreement between you and Simple Energy and govern your use of the Sites and the Services, superseding any prior agreements between you and Simple Energy. The failure of Simple Energy to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, you and Simple Energy nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms shall remain in full force and effect.

"BY CLICKING APPLY REBATES OR BY OTHERWISE ACCESSING THE SITE OR USING ANY OF THE SERVICES YOU AGREE TO BE BOUND BY THESE TERMS."