

## **REAL SIMPLE ENERGY TERMS OF SERVICE**

Real Simple Energy, Inc. (“Real Simple Energy” or “RSE” or “us” or “we” or “RSE’s”) provides this Site (as defined below) and products and services, as applicable, available on this site (the “Services”), subject to these Terms of Service. By accessing and/or using RealSimpleEnergy.com (the “Site”), you acknowledge that you have read, understood, and agree to be bound by these Terms of Service. You must be 18 years of age or older to use this Site.

RSE may change, modify, or otherwise alter these Terms of Service in RSE’s sole discretion at any time, with or without notice to you. By using this Site after any such changes have been made, you agree to comply with, and to be bound by, the modified Terms of Service and all such changes.

RSE operates solely as a service provider by providing prospective buyers access to pre-screened energy offers that meet certain conditions.

The price and other terms remain subject to service agreements between you and the third-party provider. RSE cannot guarantee the rates and/or services provided by the third-party vendor.

Notwithstanding the foregoing, under no circumstances shall RSE be required to issue refunds hereunder.

### **SERVICES**

We reserve the right, but are not obligated, to limit the sales of our products or services to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis. All descriptions of products, services, or product pricing are subject to change at any time without notice, at the sole discretion of us. We reserve the right to discontinue any product at any time. Any offer for any product or service made on this site is void where prohibited.

We do not warrant that the quality of any products, services, information, or other material purchased or obtained by you will meet your expectations, or that any errors in the Service will be corrected.

We grant you a limited, personal, non-exclusive, non-transferable license to use our Services.

### **YOUR WARRANTIES AND REPRESENTATIONS**

Whenever you order or purchase a service or product, as applicable, through this site you are warranting to us and the applicable service provider that you are at least 18 years of age and possess the legal authority to enter into the transactions made available through this site and will use this service or product in accordance with all Terms of Service herein and as set forth in this site. You agree to be financially responsible for your use of and all transactions made in connection with services and products ordered or purchased through this site. Without limitation, any speculative, false or fraudulent purchase, order, reservation or notification to any service provider through this site is prohibited. You agree that you will be completely responsible for all charges, fees, duties, taxes and assessments arising out of the purchases and orders you make through this site. You agree that answers to any questions RSE asks in attempt to provide a Service are truthful. RSE reserves the right to amend the price of a Service due to answers that are materially misrepresented.

In addition to other prohibitions as set forth in the Terms of Service, you are prohibited from using the Site or its content: (a) for any unlawful purpose; (b) to solicit others to perform or participate in any unlawful acts; (c) to violate any international, federal, provincial or state regulations, rules, laws, or local ordinances; (d) to infringe upon or violate our intellectual property rights or the intellectual property rights of others; (e) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or

disability; (f) to submit false or misleading information; (g) to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Service or of any related website, other websites, or the Internet; (h) to collect or track the personal information of others; (i) to spam, phishing, pharm, pretext, spider, crawl, or scrape; (j) for any obscene or immoral purpose; or (k) to interfere with or circumvent the security features of the Service or any related website, other websites, or the Internet. We reserve the right to terminate your use of the Service or any related website for violating any of the prohibited uses.

#### **LACK OF CONTRACT FOR ENERGY SERVICES**

RSE is the provider of the Service and is not a party to any electricity contract concluded pursuant to the Service. RSE is not responsible or liable to you in any way, including, without limitation, any disputes arising out of the contract between users and third-party energy service providers.

Each energy transaction shall be consummated directly between the user and third-party energy provider, and RSE has interest as a broker/agent only. You may use the Service to obtain offers from Retail Electric Providers ("REPs") for energy services. You may be required to accept or agree to additional Terms of Service when you submit an inquiry to the REP site available to you through RSE. By clicking on any button indicating an acceptance or agreement to terms ("Submission"), you understand that you are agreeing to the stated Terms of Service of that Submission and that you are inquiring as to energy service offers through RSE to the participating REPs.

#### **AGENCY DESIGNATION**

If you select certain services on the Site that require an agency authorization, you authorize Real Simple Energy, Inc. acting through its managers, officers, or employees, to (i) access your account(s) with each Retail Electric Provider ("REP") with whom you have an account; (ii) obtain copies of your payment history, billing history, and update or modify your payment information to allow us to collect fees for the payment of services on your behalf that we collect from you with each REP with whom you have an account; (iii) obtain copies of your historical usage information from your current or past REP; (iv) communicate with a REP on behalf of you; and (v) negotiate one or more service agreements on behalf of you for retail electric service; and (vi) switch you from one REP to another REP on behalf of you. By selecting our agency services, you hereby appoint Real Simple Energy, Inc. as your agent with limited power of attorney to act on your behalf in obtaining the information described above and negotiating the agreement(s) described herein.

#### **AGENCY AUTHORIZATION - SMART METER TEXAS**

By selecting the services on this Site that require our access to your Smart Meter, you authorize Real Simple Energy, Inc. acting through its managers, officers, or employees, to (i) access or create Customer's account(s) with Smart Meter Texas, [www.smartmetertexas.com](http://www.smartmetertexas.com); (ii) initiate a 3rd Party Energy Data Agreement for as a period at least as long as you are a customer of Real Simple Energy, Inc., enabling Real Simple Energy Inc. to view and download your energy usage, meter, and premise information, which is available in 15-minute daily or monthly intervals; (iii) update or modify your Smart Meter Texas account profile for the sole purpose of allowing Real Simple Energy Inc. to administer the 3rd Party Energy Data Agreement; (iv) and communicate with Smart Meter Texas on your behalf. By selecting the pertinent services, you hereby appoint Real Simple Energy, Inc. as your agent with limited power of attorney to act on your behalf in obtaining the information described above.

#### **AUTHORIZATION**

You acknowledge that by purchasing the relevant services, you are allowing us to sign paperwork, electronically or otherwise, on your behalf as an authorized representative.

## **LINKING POLICY**

RSE grants revocable permission to link to publicly available (i.e., non-password protected) portions of the Site; provided, however, that any link to the Site: (a) must not frame or create a browser or border environment around any of the content on the Site or otherwise mirror any part of the Site; (b) must not imply that RSE is endorsing or sponsoring it or its products, unless RSE has given it prior written consent; (c) must not present false information about, or disparage, tarnish, or otherwise, in RSE's sole opinion, harm RSE or its products or services; (d) must not use any RSE trademarks without the prior written permission from RSE; (e) must not contain content that could be construed as distasteful, offensive or controversial or otherwise objectionable (in RSE's sole opinion); and (f) must be owned and controlled by you or the person or entity placing the link, or otherwise permit you to enable such link subject to these Terms. By linking to the Site, you agree that you do and will continue to comply with the above linking requirements. Notwithstanding anything to the contrary Terms, RSE reserves the right to prohibit linking to the Site for any reason in RSE's sole and absolute discretion.

## **PAYMENT TERMS**

When you provide credit card or other types of payment information to us, you represent that you are the authorized user of the card, and agree to notify us of any changes to the relevant account number, expiration date, and billing address, or if the card expires or is canceled.

## **PAYMENTS FOR ENERGY USAGE**

Any and all payments we collect from you that are then paid to the energy providers are not revenues of RSE and you acknowledge that we are paying those fees to the proper entities on your behalf when instructed by you. Payments we make on your behalf to entity are not refundable by us. You are responsible at all times for payments to the energy providers and at no time do we assume any payment obligations on your behalf except for monies we have received from you for that purpose. Your failure to pay us or the energy providers may result in collection efforts by the energy providers for all amounts due.

## **COPYRIGHT AND TRADEMARK NOTICES**

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## **FEEDBACK**

Any comments, etc. sent to RSE, including but not limited to feedback data, such as questions, comments, suggestions or the like regarding the content of any such documents shall be deemed to be the property of RSE. RSE's use of such feedback will comply with RSE's Privacy Policy, which is set forth on the Site, and applicable laws. RSE shall have no additional obligations with respect to such feedback and shall be free to reproduce, use, disclose, exhibit, display, transform, create derivative works and distribute the Feedback to others without limitation.

## **DISCLAIMERS**

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IN NO EVENT SHALL RSE BE LIABLE FOR ANY PUNITIVE, SPECIAL, DIRECT, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF USE, DATA, TIME, MONEY, PROFITS OR GOOD WILL, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA, WITHOUT REGARD TO THE FORM OF ANY ACTION, INCLUDING BUT NOT LIMITED TO CONTRACT AND TORT ACTIONS (INCLUDING LIBEL), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEN OR UNFORESEEN WITH RESPECT TO ANY USE OF THE SITE OR ANY HYPERLINKED WEBSITE, EVEN IF RSE IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER RSE NOR ANY OF ITS AFFILIATES, AGENTS OR LICENSORS WILL BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY LOSS OR INJURY RESULTING FROM USE OF THE SITE, IN WHOLE OR PART, WHETHER CAUSED BY NEGLIGENCE, CONTINGENCIES BEYOND ITS CONTROL IN PROCURING, COMPILING, INTERPRETING, REPORTING OR DELIVERING THE SITE AND ANY CONTENT ON THE SITE OR OTHERWISE. IN NO EVENT WILL RSE, ITS AFFILIATES, AGENTS OR LICENSORS BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DECISION MADE OR ACTION TAKEN BY YOU IN RELIANCE ON SUCH CONTENT OR THE SITE. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, OUR LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

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#### **INDEMNIFICATION**

BY USING THE SITE, YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS RSE AND ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, LICENSORS, AND SERVICE OR CONTENT PROVIDERS FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, EXPENSES, DAMAGES AND COSTS, INCLUDING ATTORNEYS' FEES AND COURT COSTS, ARISING OR RESULTING FROM YOUR USE OF THE SITE AND ANY VIOLATION OF THESE TERMS OF USE. IF YOU CAUSE A TECHNICAL DISRUPTION OF THE SITE OR THE SYSTEMS TRANSMITTING THE SITE TO YOU OR OTHERS, YOU AGREE TO BE RESPONSIBLE FOR ANY AND ALL LOSSES, LIABILITIES, EXPENSES,

DAMAGES AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS, ARISING OR RESULTING FROM THAT DISRUPTION.

#### **APPLICABLE LAWS**

The laws and constitution of the State of Texas govern your use of the Site, any dispute concerning the Site, the interpretation and enforcement of these Terms of Service, your rights and obligations and all actions contemplated by these Terms of Service.

#### **DISPUTES**

In connection with any litigation, without limiting RSE's right to bring an action against you in any jurisdiction, you agree to submit to the exclusive jurisdiction of and venue in the state or federal courts located in Houston, Texas. You agree to waive your right to any trial by jury for any disputes between us.

#### **FORCE MAJEURE**

RSE shall be excused from performance under these Terms of Service to the extent it is prevented from or delayed from performing, in whole or in part, as a result of an event or series of events caused by or resulting from events beyond the reasonable control of RSE

#### **ASSIGNMENT**

You may not assign these Terms of Service (or any rights, benefits or obligations hereunder) by operation of law or otherwise without the prior written consent of RSE, which may be withheld at RSE's sole discretion. Any attempted assignment that does not comply with these Terms of Service shall be null and void. RSE may assign these Terms of Service, in whole or in part, to any third party in its sole discretion, without notice to you.

#### **EFFECT OF TERMINATION/SURVIVAL OF SELECTED PROVISIONS**

Notwithstanding the expiration or earlier termination of your account on the Site, rights and obligations under these Terms of Service, which by their nature should survive, will remain in effect after termination or expiration hereof.

#### **MISCELLANEOUS**

Unless otherwise explicitly stated in the Agreement, nothing contained in these Terms of Service shall be construed as creating any agency, partnership, or other form of joint enterprise between you and RSE. The failure of RSE to insist upon strict compliance with any term or provision of these Terms of Service shall not affect the full right to require such performance at any time thereafter, and shall not be construed as a waiver with regard to any subsequent failure to comply with such term or provision.

You agree that no joint venture, partnership, employment or agency relationship exists between you and us as a result of this agreement or use of this site unless otherwise expressly agreed to on this Site. Nothing contained in this site shall be construed to prevent RSE from complying with law enforcement requests or requirements relating to your use of this Site or information provided to or gathered by RSE with respect to such use.

If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that

most closely matches the intent of the original provision, and the remainder of the agreement shall continue in effect.

You acknowledge and agree that these Terms of Service constitute the complete and exclusive agreement between you and RSE concerning your access to and use of the Site, and supersede and govern all prior proposals, agreements, or other communications, whether oral or in writing, with respect to the Site. You represent, warrant, and covenant that your access to and use of the site will comply with these Terms of Service.