

ecobee Air Filters  
Terms of Service

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The Site is offered and available to users who are 18 years of age or older (or otherwise of legal age to enter into a binding agreement in your jurisdiction of residence) and who reside in the United States or Canada. If you are agreeing to be bound by these Terms of Service on behalf of your employer or another entity, you must have the full legal authority to bind your employer or such entity to these Terms of Service. By using the Site, you represent and warrant that you meet all of the foregoing eligibility requirements, and that all information provided by you to ecobee is truthful, accurate and complete. If you do not meet all of these requirements, you must not access or use the Site.

Please also consult ecobee’s Privacy Policy (available online at [ecobee.com/legal/privacy-policy](http://ecobee.com/legal/privacy-policy)) for a description of our privacy practices and policies with respect to information collected on the Site. **By using the Site, or by clicking to accept or agree to these Terms of Service when this option is made available to you, you accept and agree to be bound and abide by our Privacy Policy.** If you do not want to agree to ecobee’s Privacy Policy, you must not provide us any personal information.

The Site is hosted in either the United States or Canada and the Air Filter subscription services are provided from the United States. It is possible that certain information will be stored on servers in multiple other countries on the “cloud” or other similar distributed hosting platforms. If you are a user accessing the Site or services from the European Union, Asia or any other region with laws governing personal data collection, use, and disclosure that differ from United States laws, you are expressly and knowingly consenting to the transfer of your personal information to the United States and other jurisdictions as indicated above, and to ecobee’s use of your personal information in accordance with ecobee’s Privacy Policy.

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### **1. Ownership and Use of the Site**

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### **3. Product Information: Limitation on Quantities**

In the event a product or service is listed at an incorrect price due to typographical, import or other error or an error in pricing information received from our suppliers, ecobee shall have the right to refuse or cancel any orders placed for product listed at the incorrect price. ecobee shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and your account or other payment method charged. If you have already been charged for the purchase ecobee shall immediately issue a credit to your account in the amount of the incorrect price. ecobee also reserves the right to limit quantities purchased by users and to revise, suspend, or terminate an event or promotion at any time without notice (including after an order has been submitted and/or acknowledged). ecobee and Service Provider do not guarantee that all products described on the Site will be available. ecobee may make changes to information about availability or other product attributes without notice.

### **4. Access to Site; Indemnification**

ecobee reserves the right to withdraw or amend this Site, and any service or material it provides on the Site, in its sole discretion without notice. ecobee will not be liable if for any reason all or any part of the Site is unavailable at any time or for any period.

An ecobee user name and password are required for access to some parts the Site. This ecobee user name and password will be the same as the ones you use with your ecobee devices, web portal and mobile apps You agree to protect the confidentiality of your user ID and password, and not to share or disclose your user ID or password to any third party. If you permit any other person to use your account, you will be responsible for their activities while using the Site. You agree to notify ecobee immediately of any unauthorized access to or use of your user name or password or any other breach of security. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

Your access to the Site may be revoked by ecobee at any time with or without cause.

You agree to defend, indemnify and hold harmless ecobee and Service Provider and its affiliates, and each of their respective licensors, service providers, employees, agents, officers and directors, from and against all third party claims, liabilities, damages, judgments, awards, losses, costs and expenses (including attorneys' fees) against or incurred by the foregoing indemnitees arising out of any use or access of the Site through your user ID or any breach of these Terms of Service.

### **5. Terms of Sale**

#### **A.**

ecobee sells air filters (the "Product(s)") from the Site to end-user customers who purchase the Products directly or who purchase one or more subscriptions to receive regular shipments of the Products ("Subscriptions") only for their own personal or internal business use. You may not purchase Products or Subscriptions for further distribution or resale. All Subscriptions and all rights and privileges conferred are personal and non-transferable.

#### **B. Pricing**

Pricing for Products and Subscriptions can be found on ecobee's current pricing page located on the Site. ecobee reserves the right to change prices for Products and Subscriptions at any time, and does not provide price protection or refunds in the event of promotions or price decreases.

#### **C. Payment Methods; Recurring Charges Associated with Subscriptions and Subscription Cancellation Policy**

ecobee accepts payment by credit card ("payment cards") only. You agree to pay all fees charged to your account based on ecobee's fees, charges, and billing terms shown in your account. You are responsible for providing complete and accurate billing, shipping and contact information and updating this information in your subscription settings upon any changes to such information. You are also responsible for paying any sales and use taxes that may apply to your purchase of Products or Subscriptions based on the address that you provide as the shipping address when you purchase Products or Subscriptions, and you authorize ecobee or the third party payment processing service provider engaged to charge your payment card for any such taxes and fees. All payments shall be made by payment card in advance prior

to shipping the Products. If you do not pay on time or if your payment card cannot be charged for any reason, ecobee reserves the right to either suspend or terminate your account, cancel your order and/or Subscription, and/or terminate these Terms of Service (in addition to, and not in lieu of, ecobee's other rights under these Terms of Service, at law or in equity). All sales and payments will be in US Dollars for US residents and in Canadian dollars for Canadian residents unless otherwise stated.

By purchasing a Subscription, you acknowledge that ecobee will automatically and continuously ship the selected Products to you on a regular basis at the intervals shown in your subscription settings, as authorized by you during the Subscription sign-up process, and will charge your payment card with the corresponding fees and applicable sales and or similar taxes at the time of each such Product shipment. ecobee may submit these recurring charges to your payment card without further authorization from you until you terminate this authorization by cancelling your Subscription or by notifying ecobee that you wish to change your payment method. To cancel a Subscription your payment method, please use the self-serve tools provided on the Site or contact ecobee Customer Support at 1-877-932-6233 and provide your account information. You may change your payment method using the self-serve tools provided on the Site. For your convenience and continuous Subscription benefits, if your payment card reaches its expiration date and you do not edit your payment card information or cancel your Subscription, you authorize ecobee to continue billing that payment card on file including extending the expiration date until it is notified by you or the payment card company that the account is no longer valid.

#### **D. Shipping and Refunds Policy**

Any Products purchased from our Site will be shipped by a third party carrier. As a result, title and risk of loss for such merchandise will pass to you upon our delivery to the carrier. Shipping and delivery dates are only estimates and cannot be guaranteed. We are not liable for any delays in shipments. Please contact ecobee Customer Service if you need any help regarding your shipment.

If you are unsatisfied with the Products for any of the following reasons we will refund your purchase price, less the original shipping and handling costs, provided you request a refund within 30 days of your delivery:

- Your package is lost in transit
- Your package is damaged in transit
- Your package was never received
- You receive different filters than what you ordered

A valid proof of purchase will be required. Refund requests must be made directly to ecobee Customer Service. ecobee cannot control when or how a specific payment card company processes a chargeback transaction. You are responsible for contacting your payment card company if you have questions about the status of the chargeback. After 30 days, ecobee will be unable to issue refunds for orders we have already processed. Except as stated above, all purchases are final, and all payments once completed are non-refundable.

#### **E. Miscellaneous**

The actual color or appearance of a Product may differ from the color or appearance you will see on Site due to your computer system and mobile device, and ecobee cannot guarantee any color, texture or detail of actual Products you see when viewing Site will be accurate.

You agree that your order is an offer to buy under these Terms of Service all Products or Subscriptions listed in your order. ecobee reserves the right, without prior notice, to limit the order quantity on any Products or Subscriptions, to refuse service to any customer, or to cancel any order, including after it is submitted. Your receipt of an order confirmation from ecobee does not signify acceptance of your order, nor does it constitute confirmation of ecobee's offer to sell.

ecobee will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms of Service, for any failure or delay in its performance under these Terms of Service when and to the extent such failure or delay is caused by or results from acts or circumstances beyond its reasonable

control, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to ecobee's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

#### **6. Submissions / Uploads to the Site**

If you submit or upload any information or files to the Site ("Submissions"), you agree not to (1) post or transmit anything that is defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent, pornographic, or harmful, or that could encourage criminal or unethical behavior, (2) submit or upload anything that violates the copyright or intellectual property rights of any person or entity, (3) post or transmit a virus or any other harmful component, or (4) contact other Site users through unsolicited e-mail, telephone calls, mailings or any other method of communication. ecobee shall have the irrevocable license and right to use Submissions for its business purposes. You are responsible for making sure all Submissions that you originate or require are properly backed up so you have ready access thereto in the event of loss, corruption or interruption. You agree to defend, indemnify and hold harmless ecobee and its affiliates, and each of their respective licensors, service providers, employees, agents, officers and directors, from and against all third party claims, damages and expenses (including reasonable attorney's fees) against or incurred by the foregoing indemnitees arising out of any Submissions you post or allow to be posted to the Site.

#### **7. Disclaimer of Warranties**

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SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU SOLELY TO THE EXTENT PROHIBITED BY LAW.

#### **8. Dispute Resolution; Binding Arbitration; Governing Law**

PLEASE READ THIS SECTION CAREFULLY AS IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

If you have an issue with the Site, please contact ecobee support at [support.ecobee.com](mailto:support.ecobee.com) or by telephone at 1-877-932-6233.

If our support services team is unable to resolve any issues, then both parties agree that to attempt to settle any claim or controversy arising out of or relating to these Terms of Service through consultation and negotiation, in good faith and a spirit of mutual cooperation. If the parties cannot resolve the dispute within sixty (60) days, then all claims, disputes or controversies of any nature whatsoever shall be determined by final and binding arbitration to be administered by JAMS under its Comprehensive Arbitration Rules and Procedures, by a single arbitrator. The arbitrator shall be selected by mutual agreement of the parties or, if the parties cannot agree, then by striking from a list of arbitrators supplied by JAMS. The arbitration proceeding must be completed through the rendering of the award within six months of the selection of the arbitrator. The arbitration hearing shall be no longer than five consecutive business days to be equally divided between the parties. The arbitrator shall not have the power to award any punitive or exemplary damages nor attorneys' fees to either party. The award of the arbitrator shall be accompanied by a written explanation of the basis of the award. The decision of the arbitrator shall be final and binding and may be enforced in any court of competent jurisdiction.

The procedures set forth in this Section 8 are the exclusive means for resolving any and all claims, disputes or controversies of any nature whatsoever between the parties (whether in contract, tort or otherwise, including statutory, common law, fraud (whether by misrepresentation or by omission) or other intentional tort, property or equitable claims) arising out of or relating to the Site, these Terms of Use, or the validity, scope, interpretation or enforceability of this Section 8 or of these Terms of Service, and neither party may initiate or maintain any proceeding in any court or similar tribunal relating to any dispute within the scope of this Section 8; provided that either party may seek temporary equitable relief to the extent reasonably necessary to protect its rights under these Terms of Service and either party may seek provisional remedies in aid of arbitration, in each case from a court of competent jurisdiction.

These Terms of Service and the rights the parties hereunder shall be governed by and construed in accordance with the laws the State of Illinois, exclusive of conflict or choice of law rules. The parties expressly waive and disclaim the applicability of the United Nations Convention on the International Sale of Goods to the fullest extent permitted by law. The parties acknowledge that these Terms of Service evidence a transaction involving interstate commerce. Notwithstanding the provision immediately above with respect to applicable substantive law, any arbitration conducted pursuant to the terms of these Terms of Service shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16).

YOU AND ECOBEE AGREE TO ARBITRATE IN EACH OF OUR INDIVIDUAL CAPACITIES ONLY, AND NOT AS A REPRESENTATIVE OR MEMBER OF A CLASS, AND EACH OF US EXPRESSLY WAIVES ANY RIGHT TO FILE A CLASS ACTION OR SEEK RELIEF ON A CLASS BASIS. YOU AGREE THAT ANY ARBITRATION PROCEEDING WILL ONLY CONSIDER YOUR CLAIMS. CLAIMS BY, OR ON BEHALF OF, OTHER INDIVIDUALS, WILL NOT BE ARBITRATED IN ANY PROCEEDING CONSIDERING YOUR CLAIMS. YOU AND SERVICE PROVIDER UNDERSTAND AND AGREE THAT, BECAUSE OF THIS SECTION 8, NEITHER YOU NOR SERVICE PROVIDER WILL HAVE THE RIGHT TO GO TO COURT (EXCEPT AS PROVIDED HEREIN) OR TO HAVE A JURY TRIAL OR PARTICIPATE AS ANY MEMBER OF A CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM. Except as may be required by law, neither you or ecobee or any arbitrators may disclose the existence, content or results of any claim, dispute or controversy under, arising out of or relating to these Terms of Service or any arbitration hereunder without the prior written consent of both parties, unless to protect or pursue a legal right.

Notwithstanding anything to the contrary in the foregoing, no party shall be precluded from bringing an individual claim in small claims court only, to the extent the applicable claim is within the jurisdictional limits of such court. The parties hereby agree to bring any such claim exclusively in the courts of the Province of Ontario, located in the City of Toronto, and you and ecobee hereby irrevocably submit to the exclusive jurisdiction of such courts in any such claim.

This agreement to arbitrate may be enforced by the parties to these Terms of Service and their permitted successors and assigns, and shall survive the termination or breach of these Terms of Service.

#### **9. Limitation of Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR THE SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

#### **10. Limitation of Liability Regarding Use of Site**

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#### **11. Links to Other Sites**

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#### **12. Revisions; General**

ecobee reserves the right, in its sole discretion, to terminate your access to all or part of this Site, with or without cause, and with or without notice. In the event that any of the Terms of Service are held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that these Terms of Service shall otherwise remain in full force and effect. No waiver by ecobee of any term or condition set forth in these Terms of Service shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of ecobee to assert a right or provision under these Terms of Service shall not constitute a waiver of such right or provision. These Terms of Service constitute the entire agreement between ecobee and you pertaining to the subject matter hereof.

In its sole and absolute discretion, ecobee may from time-to-time revise these Terms of Service by updating this posting. You should, therefore, periodically visit this page to review the current Terms of Service, so you are aware of any such revisions to which you are bound. Your continued use of the Site

following the posting of revised Terms of Service means that you accept and agree to the changes. The date these Terms of Service were last modified is listed at the beginning of these Terms of Service. Certain provisions of these Terms of Service may be superseded by expressly designated legal notices or terms located on particular pages within this Site. Except as expressly provided in this paragraph, no amendment to or modification of these Terms of Service will be effective unless explicitly set forth in writing and signed by an authorized representative of ecobee.

### **13. Email Subscriptions**

You may unsubscribe from ecobee's marketing and promotional emails at any time. In the event you choose to unsubscribe, ecobee may still send you transactional communications via email, such as information about your account, your Product or Subscription orders, or responses to customer service requests.

### **15. California Privacy Rights**

As of January 1, 2020, residents of California will have additional rights related to their personal information under the California Consumer Privacy Act. For more information on these rights, please visit [ecobee.com/legal/use](https://ecobee.com/legal/use) or its successor URL.

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