

EMAP POLICY

ELECTRONIC MINIMUM ADVERTISED PRICE POLICY + ADVERTISING AND MARKETING POLICY EFFECTIVE AS OF SEPTEMBER 1, 2023

Simply Good Foods USA, Inc. (“SGF”) has unilaterally adopted this EMAP Policy (this “Policy”) effective as of September 1, 2023 (the “Policy Effective Date”). This Policy: (a) is applicable to each Retailer and (b) consists of (i) a policy regarding electronic minimum advertised price (the “EMAP Policy”) and (ii) a policy dealing with advertising and marketing (the “A&M Policy”). The EMAP Policy applies to offers of certain SGF Products, while the A&M Policy, unless otherwise noted, applies to all SGF Products. (Various terms are defined throughout this Policy and in Section 8 hereof.)

1. Definition of Retailer. For purposes of this Policy, “Retailer” (in the plural, “Retailers”) means (a) an individual or entity (other than SGF) that advertises, promotes and sells (or any thereof) to potential and actual retail customers (“customers” and, in the singular, “customer”) located in the United States of America (“U.S.” or “USA”) one or more products offered by SGF regardless of brand (each a “SGF Product” and, in the plural, “SGF Products”), whether doing so directly or through another party that does such things as advertise or fulfill orders on behalf of such individual or entity or (b) is an Authorized Distributor, but only to the extent, if any, that such distributor performs as a Retailer and such performance is not the subject of Disapproval Notice.

2. Purpose of this Policy. SGF has a premium image for excellence and innovation earned through extensive product and market development activities. Some Retailers have taken or may take advantage of these facts by advertising SGF Products as loss leaders, promoting unfair discounts or misusing SGF Intellectual Property or references to the company or its products. In an effort to help safeguard the reputation of SGF, ensure the long-term viability of its brands and protect the investment of those Retailers that provide valuable services to customers, SGF has adopted this Policy.

3. The EMAP Policy.

(a) The EMAP Products. The EMAP Policy establishes an electronic minimum advertised or offer price (“EMAP” and referring to either the singular or the plural or both, “EMAP(s)”) for each of the SGF Products specified in the Retailer Policies or by SGF Notice (individually, an “EMAP Product” and collectively, the “EMAP Products”), including without limitation the Retailer Policies consisting of the price list(s) or product list(s) provided or otherwise made available to Retailers by SGF Notice (individually and collectively, the “EMAP Products List”). In addition, the EMAP(s) specified by SGF for an EMAP Product may vary depending upon where the Price Information appears to which it applies.

(b) Offering Prices Only. Each Retailer remains free to sell at any price(s) it chooses, as the EMAP Policy applies only to each offer for one or more of the EMAP Products containing Price Information made in or using Electronic Content by or on behalf of a Retailer (collectively, “Electronic Marketing”) and not to actual sales prices. *When applied to websites, Price Information appearing or otherwise conveyed both outside the cart (or other container) and in the cart (or other container) is subject to the EMAP Policy, but Price Information provided at checkout is not covered by it.*

(c) Things Not Considered Electronic Marketing. The following are not considered to be Electronic Marketing and, therefore, are not subject to the EMAP Policy:

(i) **Conventional Advertising:** Each offer made in or through newspapers, magazines, rotos, direct mail, catalogs, radio, television, signage and each other medium so designated by SGF (“Conventional Advertising”), except to the extent that any or all Conventional Advertising appears in or as Electronic Content (for example, a print ad or roto is not covered by the EMAP Policy, unless it appears in Electronic Content, which occurs if some or all of it is posted on a website);

(ii) **Certain Means:** Each offer made: (A) by live face-to-face interaction at the brick-and-mortar facility of a Retailer or (B) in direct response to a specific customer inquiry through individualized live telephone communication or individualized live email, but (1) if such ability is promoted, only the terms “call for price” or “email for price” may be used and (2) none of the following (or the substantive equivalent) can be used to transmit Price Information: recordings, electronic chat, automated call(s) or automated “bounce-back” email; and

(iii) **Other:** Each other thing deemed not to be Electronic Marketing by SGF Notice.

(d) Violations of the EMAP Policy. Although *each Retailer remains free to establish its own resale prices*, such Retailer violates the EMAP Policy by (i), knowingly or negligently, directly or indirectly through another party on behalf or for the benefit of such Retailer, using one or more forms of Electronic Marketing to offer any or all of the EMAP Products at a Net Adjusted Price less than the corresponding EMAP established by SGF from time to time and made available by SGF Notice or (ii), as provided in the EMAP Policy, being deemed to have violated it. The EMAP(s) for offers made to customers located in the USA will be in USA dollars, while those made to customers in Canada will be in Canadian dollars. For purposes of this Policy, “Net Adjusted Price” means the price at which an EMAP Product is offered by or for the benefit of a Retailer to a customer after (A) applying each discount, deduction, rebate, allowance, coupon and the substantive equivalent (a “Financial Incentive” and, in the plural, “Financial Incentives”) regardless of source, whether given or taken at the time of offer, sale or otherwise and considered by SGF to be part of such offer and (B), as described in Section 3(e) of this Policy, excluding certain taxes, shipment and service charges.

(e) Exclusions from Net Adjusted Price. Except as otherwise provided in the EMAP Policy, the following are excluded from the calculation of Net Adjusted Price for each Retailer:

(i) **Financial Incentives Initiated by SGF.** Each offer referring to or applying a Financial Incentive will not be considered part of Net Adjusted Price if such incentive is furnished by SGF or its designee(s): (A) directly to a customer (such as, but not limited to, a coupon or rebate offer in an ad placed by SGF in a national publication) or (B) to such Retailer for provision to and use by a customer (including without limitation an electronic coupon or rebate offer sponsored by SGF on such Retailer’s website);

(ii) **Gift Cards:** Each offer referring to or applying one or more Gift Cards, as long as such use is in a transaction separate from the purchase or award of such card(s). Any or all Gift Cards offered or furnished with the purchase of one or more of the EMAP Products will not be considered a discount.);

(iii) **Free/Discounted Shipping.** Free or reduced-price shipping ("**Free/Discounted Shipping**") may be offered by such Retailer without it being considered to be a discount when offered in connection with a potential or actual purchase that includes at least one of the EMAP Products, provided that, as determined by SGF: (A) such offer applies to all other products in the category or categories in which each such EMAP Product resides (such as nutrition bars), (B) the value thereof (if described) is reasonable and (C) each relevant EMAP Product is offered at no less than its EMAP(s); and

(iv) **Taxes/Certain Charges.** If to be paid or paid by a customer, all applicable taxes and all shipping, delivery, insurance and similar charges are excluded (However, if such Retailer offers to pay or pays any or all of such taxes and such charges that otherwise would be paid by a customer (except for Free/Discounted Shipping), the amount so offered by such Retailer will be considered a discount.).

(f) Treatment of Bundles. Unless a Bundle offered by a Retailer using Electronic Marketing (i) originates from SGF, (ii) is authorized on the price list(s) from SGF prior to such offer or (iii) otherwise has been expressly approved by SGF Notice to such Retailer, to calculate whether offering such Bundle violates the EMAP Policy: (A) if such Bundle only consists of two (2) or more of the same or different items of the EMAP Products, there is a violation if the aggregate price of such Bundle is less than the sum of the EMAP of each such item included in such Bundle and (B), for each other Bundle, (1) the relevant EMAP for each item of the EMAP Products included in such Bundle will be subtracted from the aggregate price for such Bundle and (2) if the difference is less than the fair market value (as determined by SGF) of the contents of such Bundle other than such item(s), there is a violation. The fair market value for each EMAP Product provided for free or at a reduced price with the purchase of a different EMAP Product will be its EMAP. (For example, assume a protein bar product has a EMAP of \$34.99. When a Bundle that consists of that item and a stainless steel hydration bottle from another manufacturer is offered by such Retailer for \$36.99, the EMAP of \$34.99 for the EMAP Product is subtracted from \$36.99, leaving \$2. If the fair market value of the bottle is more than \$2, the EMAP Policy has been violated.)

(g) The EMAP Policy Exemptions. A Retailer does not violate the EMAP Policy by offering any or all of the EMAP Products at a Net Adjusted Price that is less than the applicable EMAP(s), as long as such Retailer: (i) has received SGF Notice expressly approving in advance the participation of each of the EMAP Products eligible for one or more of the following promotional or program exemptions (collectively, the "**Eligible Products**" and the "**EMAP Policy Exemptions**," respectively) and (ii) complies with the terms and conditions of such approval specified or otherwise expressly approved by SGF Notice in advance, as well otherwise is in compliance with this Policy:

(A) **Special Programs.** One or more special programs (if any) designated by SGF ("**Special Programs**"), which may include without limitation "tent-pole" programs lasting no longer than forty-eight (48) hours unless SGF has explicitly approved an exception for a longer duration;

(B) **Store-wide, Site-wide or Category-wide Promotions.** A storewide, site-wide or category-wide promotion involving a Financial Incentive, provided that: (1) such incentive may be applied to [a] all or almost all of the products offered by such Retailer or [b], in the case of a category-wide sale (such as nutrition bars), [i] such sale is no longer in duration than seven consecutive (7) days and [ii] no fewer than two (2) brands in the category other than that or those of SGF (individually, a "**Non-SGF Brand**") are included in such sale, unless such SGF brand(s) is or are such Retailer's only brand(s) in such category or such Retailer has only one (1) Non-SGF Brand in such category and it is included in such promotion and (2) application of such incentive takes the Net Adjusted Price for each of the Eligible Products to no less than the Promotional EMAP(s), if any (For purposes of this Policy, "**Promotional EMAP(s)**" means the EMAP(s) designated by SGF for a specific promotion or program); and

(C) **Subscription Programs.** The offer of a Financial Incentive that is part of an ongoing subscription replenishment program (collectively, "**Subscription Programs**") offered or furnished by such Retailer to customers, provided that the application of such Financial Incentive takes the Net Adjusted Price for each EMAP Product included in the Eligible Products to no less than [a] the Promotional EMAP(s) or [b], if not so supplied, ninety-five percent (95%) of its then-current EMAP(s).

(h) Changes Relevant to the EMAP Policy. SGF, at any time, may vary one or more of the EMAP(s) for a EMAP Product or add or delete any or all of the EMAP Products, which may, among other things, be based on whether such product(s) is or are offered under or subject to one or more select SGF program(s) or any other SGF policy or in any other situation announced by SGF from time to time. SGF will endeavor to provide prior notice of each new EMAP or such change in the EMAP Products, generally not less than five (5) days in advance. While SGF will communicate each EMAP and such change by SGF Notice (including without limitation through the EMAP Products List) or the Retailer Policies, each Retailer is responsible for making sure that it is aware of each EMAP Product and its appropriate EMAP in each circumstance.

4. The A&M Policy.

(a) Use of SGF Intellectual Property or References to SGF Products. A Retailer violates the A&M Policy if any advertisement, promotion or other marketing vehicle (regardless of the medium used, whether Conventional Advertising, Electronic Content or otherwise) used or done by or on behalf of such Retailer (i) includes any or all SGF Intellectual Property or mentions, uses, depicts or otherwise refers to any or all SGF Products and (ii) does not conform to (A) the SGF Usage Policies or (B) any or all of the following provided or otherwise made available to such Retailer: (1) SGF Notice that furnishes direction or express approval and (2) Disapproval Notice.

(b) Restrictions under the A&M Policy. Except as expressly authorized, directed or approved by SGF Notice or otherwise permitted by this Policy, with respect to any or all items of SGF Products or to the extent limited to the EMAP Products as provided herein, a Retailer (knowingly or negligently, directly or through another party on behalf or for the benefit of such Retailer) engaging in any or all of the following conduct (or the substantive equivalent thereof) in connection (directly or indirectly) with offering or sale of any or all SGF Products (or, if so indicated, just the EMAP Products) will be deemed to be in violation of the A&M Policy:

(i) **Promotion and Sale.** Advertising, promoting or selling in any or all of the following ways:

(A) **Business Names.** Using any business name(s) or store front(s) other than the following (individually and collectively, "**SGF-Approved Name(s)**"): (1) such Retailer's full business name or (2) such name(s) expressly approved in advance by SGF in writing; provided that such use is not the subject of Disapproval Notice;

(B) Electronic Content. Employing Electronic Content (online, texting, social media or otherwise) in any fashion (1) to offer or sell while failing to clearly and conspicuously indicate where feasible (as determined by SGF) such Retailer's SGF-Approved Name(s), street address, telephone number and email address(es); (2) unless and only to the extent each business name, storefront, website, marketplace and platform used for such purpose by such Retailer [a] does not appear on the Prohibited Websites/Platforms List, if any, and [b] is expressly approved in advance by SGF in writing for such use and which approval is not the subject of Disapproval Notice; or (3) by giving the impression (as determined by SGF) that any or all of such storefronts, websites, marketplaces or platforms is or are sponsored or operated by SGF;

(C) Geographic Limitations and Currency. Outside the USA (except to the extent any or all advertising and promotion efforts cannot be reasonably restricted geographically, but this exception does not apply to sales made to anyone located outside the USA) or using anything other than USA dollars for offers and sales to customers located in the USA;

(D) Packaging. Except for the additional packaging reasonably necessary for shipping, in anything other the original packaging and without (1) relabeling; (2) repackaging, including without limitation the separation of combined products or multipacks or the creation of new combined products or multipacks (other than Bundles permitted by this Policy); (3) altering, obscuring or removing labels, serial or lot numbers or other written information accompanying such products; or (4) taking other similar or substantively equivalent action(s);

(E) Combinations. Combining any or all SGF Products with one or more items other than SGF Products with the intent or result of creating the impression that such item(s) are supplied by, endorsed by or otherwise associated with SGF; and

(F) Prohibited Terms. Using (A) the terms "lowest price," the "lowest prices," "prices too low to show," "make an offer," "best offer," "call for discount," "email for discount," "call for coupon code," "email for coupon code," "add to cart [or other container] for discount," "discount available at checkout" or "see price at checkout"; (B) except for the use of "call for price" or "email for price" as permitted by Section 3(c)(ii) of this Policy, (1) an invitation or other indication to click, rollover, visit a location (such as a website or store) or otherwise communicate to obtain a price, coupon or discount or (2) any express or implied representation(s) prior to checkout that one or more prices below the EMAP(s) are available; (C) any form of low-price guarantee or price matching; or (D) the substantive equivalent of any or all of these terms or concepts;

(ii) Resale. Selling, supplying or drop shipping to or on behalf of another: (A) for resale, other than in the case of bona fide, permitted returns of one or more items of SGF Products by such Retailer to SGF or one or more of the Authorized Distributors and (B) to anyone other than customers permitted by SGF, including without limitation selling to the Restricted Accounts;

(iii) Responsibility. With respect to dealings by such Retailer with customers of such Retailer, failing to assume sole responsibility for and legal compliance with all privacy matters, terms of use, terms of sale, contractual obligations, fulfillment, taxes, returns, representations and product claims, except for those product claims regarding SGF Products (A) originating from SGF or expressly approved by SGF for use by such Retailer and (B) unchanged and properly used by such Retailer;

(iv) Out-of-Date Elements. In each advertising, promotional, sales and other vehicle of any kind employed by or on behalf of such Retailer that in any way uses, refers to, depicts or describes any or all (A) SGF Intellectual Property and (B) items of SGF Products, failing to use or refer to the then-current version(s) thereof designated by SGF (including, but not necessarily limited to, trademarks, trade names, service marks, trade dress, copyrights, logotypes, Domains, images (product and otherwise), artwork, designs and copy), except that, as determined by SGF, relevant non-current version(s) may be used, if necessary, to accurately depict the offer or sale of one or more Discontinued Products or other non-current items so designated by SGF Notice;

(v) EMAP Descriptions. In or related to the offer or sale of any or all of the EMAP Products, stating or implying that it is or they are subject to the EMAP Policy or any policy or practice affecting minimum advertised or minimum retail or resale price;

(vi) Auctions. Offering or selling any or all of the EMAP Products in an auction environment, such as, but not limited to, on an online auction site (such as, but not limited to, eBay) or any site using an auction, make-an-offer or best-offer format, except that such Retailer may offer or sell on such site as long as (A) it does so in that or those portion(s) other than the auction environment of such site and (B) such site is not the subject of Disapproval Notice provided to such Retailer;

(vii) General Offers. Making a general offer which contains no specific Price Information applicable to one or more of the EMAP Products (such as, but not limited to, "Save 20% on nutrition bars," "Save 15% on Quest Products" or "Buy \$40 in nutrition products and receive \$5 back"), but, as part of or as the result of such offer, any EMAP Product or combination of the EMAP Products is or could be offered below its or their EMAP(s) (collectively, "**General Offers**"), except that no such inference will be made if such offer clearly and conspicuously (as determined by SGF) expressly excludes each such EMAP Product from such offer;

(viii) Gun Jumping. Advertising, promoting or selling prior to the release or usage date(s) specified by SGF for one or more (A) new or other products or product combinations or (B) special promotions (which may include without limitation a special promotional price or prices authorized by SGF) for any or all products or product combinations;

(ix) Sign-up Discounts. Except as permitted in connection with Subscription Programs in Section 3(g)(i)(3) of this Policy, each offer of a Financial Incentive applicable to any or all of the EMAP Products for (A) sign-up by a customer (whether email or text sign-up, new customer sign-up or lapsed customer sign-up), (B) referral of a customer or (C) the substantive equivalent of any or all of these concepts (collectively, "**Sign-up Discounts**");

(x) Strike-Throughs. In connection with the offering or sale of any or all of the EMAP Products, showing a strike-through of any price(s), regardless whether one or more other prices are shown;

(xi) ASINs and UPCs. For any or all SGF Products, doing one or more of the following: (A), such Retailer alone or with anyone other than SGF or its designee(s), creating or assisting in or otherwise cooperating in the creation of new Amazon Standard Identification Numbers ("**ASINs**"), Universal Product Codes ("**UPCs**") or the substantive equivalent and (B) using one or more ASINs, UPCs or the substantive equivalent for any or all SGF Products other than that or those obtained by SGF or its designee(s) and approved for use used by such Retailer;

(xii) **Domains.** Using any or all SGF Intellectual Property and any variant(s) thereof as or as part of one or more Domains or the substantive equivalent employed by or for the benefit of such Retailer, regardless whether such use is in connection with the offering or sale of any or all SGF Products;

(xiii) **Questioning Rights.** Questioning or challenging the rights claimed by SGF or its designee(s) in or to SGF Intellectual Property or assisting in any way(s) any other(s) in doing so;

(xiv) **Certain Purchases.** Purchasing any or all SGF Products other than from SGF, one or more of the Authorized Distributors or, in the case of bona fide returns from customers only, such customers;

(xv) **Modifications/Counterfeits.** Offering or selling one or more products that are modified, gray market or counterfeit version(s) of any or all SGF Products, unless, in the case of modifications only, each such modification is expressly approved in advance by SGF Notice;

(xvi) **Fines and Penalties.** Imposing one or more fines or penalties or taking one or more other retaliatory measures (whether financial, non-financial or a combination) against SGF or any or all of the Authorized Distributors for or associated with enforcement of this Policy regardless of the vehicle(s) used therefor, such as, but not limited to deductions, chargebacks or billbacks;

(xvii) **Prohibited Behavior.** Failing to comply with any or all of the Retailer Policies or engaging in (as determined by SGF): (A) false, deceptive or misleading advertising, promotion or sales practices; (B) any conduct that is or could be detrimental to the reputation or integrity of any or all of such Retailer, the Authorized Distributors, SGF and SGF Products; and (C) any tactic(s) which SGF determines is or are intended to circumvent application or operation of this Policy; and

(xviii) **Audit Compliance.** Failure to promptly provide information requested by SGF or otherwise cooperate with SGF in auditing compliance by such Retailer or others with this Policy or otherwise, which audit(s) may include without limitation one or more representatives of SGF during normal business hours (A) appearing at the place(s) of business of such Retailer and examining books and records related to such compliance and (B) interviewing relevant personnel.

5. The Grandfathered Conduct Exemption. Provided that a Retailer otherwise complies with this Policy, such Retailer does not violate it by conduct that, as determined by SGF, cannot reasonably be modified prior to the Policy Effective Date or the effective date of a change in the EMAP(s), the EMAP Products, the SGF Usage Policies or this Policy until such time that it is reasonable to modify such conduct (as determined by SGF) to be consistent with this Policy, as long as, if this Policy was in place at the time such conduct occurred, it complied with the then-current terms thereof (the **“Grandfathered Conduct Exemption”**).

6. Consequences of Violating this Policy. One or more of the following will occur following verification by SGF to its satisfaction that a Retailer has violated this Policy (if, in the view of SGF, the nature or severity of a violation is sufficient, the penalty for the Second or Third Violation may be applied anytime):

Violation	Consequences
(a) First Violation	SGF Notice of the First Violation will be provided, and it may request that such Retailer, remove or stop or cause to be removed or stopped such violation within the time period specified in such notice, which typically will be one of the following: (i) no later than forty-eight (48) hours later, usually for a violation involving Electronic Content or (ii) by the conclusion of the period otherwise specified by SGF (either, “Corrective Action”) (regardless whether such action is so requested, a violation has been accrued).
(b) Second Violation	Effective as of the date specified in SGF Notice of the Second Violation: <ul style="list-style-type: none"> (i) SGF may request Corrective Action (regardless whether such action is so requested, a violation has been accrued) and (ii), the authorization of such Retailer to purchase each stock-keeping unit (individually, “SKU” and, in the plural, “SKUs”) involved in the Second Violation (as determined by SGF) will be immediately revoked by SGF, so that all pending orders (even if accepted) from such Retailer will be cancelled and no new orders will be accepted from such Retailer for each such SKU.
(c) Third Violation	Effective as of the date specified in SGF Notice of the Third Violation: <ul style="list-style-type: none"> (i) SGF may request Corrective Action (regardless whether such action is so requested, a violation has been accrued) and (ii) continuing until such Retailer receives SGF Notice otherwise, if ever, the authorization of such Retailer to purchase (A) each SKU involved in the Third Violation (as determined by SGF) and (B) each other of the SGF Products designated by SGF, if any, (collectively, the “Designated Products”) will be immediately revoked by SGF, so that all pending orders (even if accepted) from such Retailer will be cancelled and no new orders will be accepted from such Retailer for any or all of the Designated Products.
(d) Additional Violations after the Third	In the event that, after the Third Violation by such Retailer, either or both of the following is or are relevant: (i) such Retailer fails to take Corrective Action in timely fashion (if it has been requested to do so); (ii) the Designated Products do not include all SGF Products or (iii) SGF provides notice to such Retailer that SGF has re-authorized such Retailer to purchase any or all of the Designated Products, then each act or failure to act of such Retailer that constitutes a violation of this Policy (or is deemed by SGF to be such a violation) will receive the same treatment as if a new Third Violation had then occurred.

7. Violations. If a Retailer fails to remove or stop, or cause to be removed or stopped, a violation within the time period specified by SGF in the notice of such violation, such failure will be a subsequent violation of this Policy. Each violation of this Policy will be aggregated with each other violation

(regardless of the SKU or SKUs involved) to determine the resulting penalty or penalties. Except as otherwise provided in this Policy, the consequences of a violation can take effect even if those for the preceding violation(s) are still running. The same act(s) or failure(s) to act may result in multiple violations. For each Retailer purchasing any or all SGF Products from one or more of the Authorized Distributors or others, this Policy will be enforced through a Do-Not-Sell List.

8. Certain Definitions. For purposes of this Policy:

- (a) the “**Authorized Distributors**” (in the singular, “**Authorized Distributor**”) means, collectively, each individual or entity designated as such by SGF Notice (unless and until such notice is provided by SGF, each individual and entity otherwise permitted by SGF to sell to such Retailer will be considered an Authorized Distributor);
- (b) “**Bundle**” (in the plural, “**Bundles**”) means a combination offered together (as determined by SGF) of (i) two or more of the same EMAP Product or different EMAP Products or (ii) one or more of the EMAP Products with either or both of the following: (A) any or all other SGF Products and (B) one or more other products or services (except for Free/Discounted Shipping that qualifies under Section 3(e)(iii) of this Policy);
- (c) “**Disapproval Notice**” means each SGF Notice and Retailer Policy that disapproves of one or more uses, certain conduct or otherwise;
- (d) “**Domains**” means, individually and collectively, one or more domain names, subdomains, Uniform Resource Locators (URLs) or the substantive equivalent;
- (e) “**Do-Not-Sell List**” means SGF Notice which indicates that (i) one or more individuals or entities are not authorized by SGF to promote or sell some or all SGF Products or (ii) the authorization of a Retailer to promote and sell SGF Products has been revoked in whole or part with respect to all such products or revoked only with respect to certain of such products;
- (f) “**Electronic Content**” means information that (i) can be accessed by an internet browser or the substantive equivalent, including, but not limited to, (A) internet shopping sites, (B) online marketplaces and (C) comparison shopping engines (CSEs) and price comparison websites (PCWs) (e.g., Google Shopping, Rakuten, eBay, Amazon and PriceGrabber); (ii) is provided by or through one or more applications (apps) for computers or mobile devices (e.g., tablets and smartphones), including, but not limited to, social media apps (e.g., Twitter, Instagram and Facebook) and mobile gaming platforms; or (iii) is furnished by or through (A) electronic solicitations or other electronic communications (e.g., robocalls, caller-on-hold and other audio recordings, messaging (such as SMS (text), MMS (multimedia), IM (instant) and app-based), webcasts, email and online or other electronic chats), (B) electronic advertisements (e.g., email newsletters, pop-ups and banners) or (C) the substantive equivalent;
- (g) “**Gift Cards**” means prepaid store value money cards, other forms of store credit or the substantive equivalent typically issued by a Retailer, bank or credit card company and used as an alternative to cash for purchases);
- (h) “**negligently**” means should have known (as determined by SGF);
- (i) “**offering**” and its variants mean or refer to making available for purchase or otherwise in any way, whether through advertising, promotion, proposal or other means;
- (j) “**Price Information**” means information regarding price, whether express or implied, such as a discrete price, price formula, reference to price or anything related to price (e.g., representations or inferences regarding savings, discount(s) or value) and the substantive equivalent;
- (k) the “**Prohibited Websites/Platforms List**” means the then-current list of websites and platforms banned by SGF for use by a Retailer to offer or sell any or all SGF Products, which list is provided or otherwise made available by SGF Notice;
- (l) the “**Restricted Accounts**” means, collectively, each individual or entity so designated by SGF Notice;
- (m) the “**Retailer Policies**” (in the singular, “**Retailer Policy**”) means, collectively, each then-current version of the announcements and policies (whether in the form of correspondence, memoranda, notices or otherwise) made available by SGF through SGF Notice or otherwise and expressly labeled as or deemed by SGF to be a policy or policies (or the substantive equivalent) and intended by SGF for a Retailer, including without limitation this Policy;
- (n) “**SGF Intellectual Property**” means any or all trademarks, trade names, service marks, trade dress, copyrights, logotypes, Domains, images, artwork, designs, copy, data and anything else in which SGF or its designee(s) claim(s) rights, regardless whether steps have been taken to register such rights with any government authority or private registrar;
- (o) “**SGF Notice**” means notice from SGF to a Retailer provided or made available electronically or otherwise, such as, but not limited to, posting on one or more websites designated by SGF;
- (p) the “**SGF Usage Policies**” means the Retailer Policies regarding any or all of (i) the use of SGF Intellectual Property and (ii) uses, depictions or other references of or to any or all SGF Products (including without limitation those policies relating to format and content);
- (q) “**substantive equivalent**” and its variants mean or refer to equivalency as determined by SGF; and
- (r) “**unilateral**” and its variants mean that the matter(s) referred to is or are designed, implemented and administered by SGF acting independently, without reaching any agreement with one or more Retailers or, other than third parties assisting SGF (typically as agents), anyone else.

9. Additional Provisions. Effective as of the Policy Effective Date, this Policy supersedes and cancels each other policy from SGF, if any, for any or all SGF Products applicable to each Retailer regarding minimum advertised price (EMAP), electronic minimum advertised price (EMAP), minimum retail or resale price (MRP) or electronic minimum retail or resale price (EMRP) or, to the extent covered by this Policy, the advertising and marketing matters referred to herein. For any reason(s) deemed appropriate by SGF (including without limitation based on the request of a Retailer for SGF to consider such things as, but not necessarily restricted to, limited-time promotional offers for a Retailer event or otherwise), but in no case other than as the unilateral decision of SGF, this Policy may be modified, extended, waived, suspended, discontinued or rescinded in whole or part by SGF Notice at any time (including without limitation during any SGF-designated promotional period(s)), with such action(s) effective immediately or as otherwise described by SGF.

The availability of one or more items of SGF Products may be changed by SGF anytime, in which case, any or all of SGF and each other individual or entity, if any, supplying a Retailer may, without liability or penalty, do either or both of the following: (a) cancel all pending orders (even if accepted) from a Retailer for such changed item(s) and (b) refuse to accept any new orders from such Retailer for such item(s). Unless SGF designates otherwise, for purposes of compliance with this Policy, each business (regardless of the name(s) used and location(s)) directly or indirectly owned, operated or associated with a Retailer (as determined by SGF) will be considered to part of such Retailer, so that each violation by any such business will be aggregated with that or those of each other such business and attributed to such Retailer. Notwithstanding the use of the term “partner” or anything similar thereto in this Policy or elsewhere, nothing herein or therein shall constitute or be deemed to constitute in the legal sense a partnership, franchise or joint venture between SGF and a Retailer. Wherever required by the context of this Policy, each pronoun used herein shall be deemed to include both the singular and the plural and to encompass each gender. If the approval of SGF under this Policy is sought by a Retailer, the failure to obtain it no later than seven (7) days after receipt by SGF of such request will be deemed to be a disapproval of each thing for which such approval is sought.

Regardless whether expressly indicated in this Policy, each notice referred to herein (including without limitation SGF Notice): (i) may, as determined by SGF, be given in writing or electronically and (ii) will be considered to be received as designated by SGF. The “Explanation” (which also may be referred to as “Quick Reference Guide,” “Frequently Asked Questions,” “FAQs” or the substantive equivalent), as well presentation or other materials (other than the Retailer Policies), if any, accompanying or associated with this Policy, unless indicated otherwise by SGF, are intended to assist in the understanding or operation of this Policy, but are not part of this Policy and are not dispositive. In the event of any disagreement over the interpretation or enforcement of this Policy, the view of SGF will control.

If SGF determines that a Retailer does not qualify for or abused any or all of the EMAP Policy Exemptions and the Grandfathered Conduct Exemption, such exemption(s) with respect to such Retailer will be deemed withdrawn by SGF retroactive to the Policy Effective Date or such other date specified by SGF. Except in extraordinary circumstances, SGF will not consider any requests for other exemptions. The consequences of violating this Policy are non-exclusive and do not limit or waive in any way the legal, equitable and other remedies available to SGF, particularly for, but not limited to, conduct relating to SGF Intellectual Property. If, in the view of SGF, applicable law contains or may contain any requirement(s) or other provision(s) that is or are inconsistent with, contrary to, in conflict with or missing from any or all provision(s) or part(s) of this Policy and related materials, (collectively, the “*Affected Provisions*”), SGF, at any time, may elect by SGF Notice (effective as designated by SGF therein) that, without liability or penalty: (A) such requirement(s) or provision(s) be deleted from, substituted for or added to the Affected Provisions to the extent necessary in the opinion of SGF or (B) this Policy or such materials be rescinded or otherwise revised in whole or part.

SGF will not discuss any conditions of acceptance related to this Policy. In addition, SGF neither solicits, nor will it accept, any assurance of compliance with this Policy. Notwithstanding anything to the contrary which may be expressed or implied in or by one or more agreements between a Retailer and either SGF or an Authorized Distributor, nothing therein shall constitute an agreement by such Retailer to comply with this Policy, as, among other things, this Policy is not and should not be construed to be one of the Retailer Policies (as such term or the substantive equivalent is or may be used in any or all of such agreements or otherwise) for which such compliance is mandatory.

10. Questions, Additional Information or Information Regarding Violations. All questions, comments or requests for additional information regarding this Policy and all information regarding potential and actual violations of this Policy must be in writing and are to be addressed to the person at SGF with sole responsibility for administration of this Policy (the “*Policy Administrator*”): **Brandprotection@simplygoodfoodsco.com.**

Only the Policy Administrator or the Policy Administrator’s designated representative(s) is or are authorized by SGF to answer questions or receive comments or requests for additional information regarding this Policy, to comment on this Policy or to accept information regarding potential or actual violations. Except for the Policy Administrator and such representative(s), no SGF employee or independent sales representative has authority to comment upon or to take any action under this Policy.

EMAP Product List

Effective as of September 1, 2023



QUEST "ORIGINAL" PROTEIN BARS 12 ct.			
Quest Item Number	Box/Sleeve UPC	Item Description	Price
QPBBDC12M12	8-88849-00596-3	Birthday Cake	\$ 24.72
QPBBM12M12	8-88849-00463-8	Blueberry Muffin	\$ 24.72
QPBCCD12M12	8-88849-00003-6	Choc. Chip Cookie Dough	\$ 24.72
QPBCB12M12	8-88849-00042-5	Chocolate Brownie	\$ 24.72
QPBCPB12M12	8-88849-00046-3	Chocolate Peanut Butter	\$ 24.72
QPBCAC12M12	8-88849-00002-9	Cookies & Cream	\$ 24.72
QPBMC12M12	8-88849-00137-8	Mint Chocolate Chunk	\$ 24.72
QPBOCC12M12	8-88849-00464-5	Oatmeal Chocolate Chip	\$ 24.72
QPBMR12M12	8-88849-00123-1	S'Mores	\$ 24.72
QPBWCR12M12	8-88849-00022-7	White Chocolate Raspberry	\$ 24.72

QUEST "COOKIES" 12 ct.			
Quest Item Number	Box/Sleeve UPC	Item Description	Price
QPCCC12M6	8-88849-00609-0	Chocolate Chip	\$ 24.72
QPCPB12M6	8-88849-00605-2	Peanut Butter	\$ 24.72