

Austin Energy® Power Partner™ Thermostat Customer Enrollment Agreement

Welcome to the Power Partner Thermostat Program.

About the Power Partner Thermostat Program ("Program"). Participants ("**Participants**", "**Customer**", "**you**", and "**your**") whose applications to participate in the Program are accepted by EnergyHub and Austin Energy and who fully comply with this "Agreement" will receive a one-time enrollment incentive provided by Austin Energy.

Why should I participate in the Program? Participants who participate in the Program and fully comply with this Agreement will receive the one-time enrollment incentive. Participants will also help reduce the risk of blackouts and brownouts in their electricity service areas.

Definitions:

- The Program is provided by EnergyHub, Inc. ("EnergyHub"), ("**we**," "**us**," and "**our**").
- "**Austin Energy**" shall mean the City of Austin, a Texas home rule municipal corporation, acting by and through its electric utility department doing business as Austin Energy; and
- "**Thermostat Manufacturer**" means the third party manufacturer or provider of the Customer's thermostat.
- "**Program Parties**" shall mean Thermostat Manufacturer, EnergyHub, and Austin Energy, together with their respective affiliates, agents, directors, trustees, officers, employees, successors, and assigns.

Binding Agreement. To participate in the Program, Participants must agree to this Customer Enrollment Agreement ("**Agreement**"). Because this Agreement forms a legally binding agreement with respect to the Program, please read it carefully. If you do not agree to the Agreement, you are not eligible to participate in the Program. Your application for the Program and your written acceptance thereof constitutes your agreement to this Agreement. This Agreement become effective upon acceptance and will continue until you, EnergyHub or Austin Energy cancels or terminates your participation, provided that any permissions or releases granted hereunder shall survive cancellation or termination with respect to activities occurring prior to the time of such cancellation or termination.

Eligibility. Potential participants who meet the following criteria may apply to participate in the Program:

- You must be a customer in good standing of Austin Energy;
- You must have one or more thermostats that are compatible with and connected to the Thermostat Manufacturer's platform ("**Service**"); and
- You must have an active account in good standing on the Service

How To Apply. The Program application is available at <https://honeywellhome.energyhub.net/tcc/enroll/austin>. EnergyHub and/or Austin Energy may accept or reject a potential participant's application in their sole discretion without liability to Participant.

Participation Requirements. Participant agrees during the duration of Program and at its expense to:

- Maintain the connection between your enrolled thermostat(s) and the Service;
- Maintain an active account in good standing on the Service;
- Maintain (always on) internet service; and
- Assist Service support personnel in troubleshooting and resolving connectivity and other thermostat-related issues, if any.

Participant agrees to the following terms required by Austin Energy:

Notes: Austin Energy[®] must have a signed agreement with a Power Partner[™] Thermostat Technology and Service Provider (currently EnergyHub) prior to acceptance of this application. EnergyHub must be listed as an approved provider with Austin Energy. Upon acceptance to the Program, a \$85 one-time enrollment incentive is provided by Austin Energy to Customers who enroll. The enrollment incentive will be credited to the customer on the following billing cycle. If more than one thermostat is installed at a premise, information is required for each.

By submitting this rebate application, Customer agrees to the following terms and conditions. *Customer is responsible for maintaining the thermostat including making any warranty claims related to equipment failure or workmanship. Customer agrees to request and grants approval to his/her Remote Communicating Thermostat manufacturer to provide Austin Energy access to Customer's thermostat for the purposes of collecting data and controlling the thermostat for the sole purpose of reducing demand on the electric grid. If Customer removes or causes the thermostat to be removed within 2 years of receiving a rebate for a thermostat, Customer may be disqualified from receiving a future rebate on a thermostat. Customer agrees to allow Austin Energy to control the thermostat to reduce demand on the electric grid by either (a) resetting the current set-point or original target temperature set-point by up to 4°F for up to 3 consecutive hours, or (b) implementing other thermostat control strategies such as "duty cycling" to temporarily reduce normal operating patterns in order to reduce electrical demand. Customer may opt out of an event at any time. Customer is eligible for future additional incentives developed by Austin Energy. Customer agrees to allow Austin Energy access to operational data such as temperature set-point, fan status, heating or cooling mode, compressor and fan runtimes, and opt-in or opt-out status. Customer agrees to maintain network connectivity to the thermostat through Customer's internet service provider or other network provider and agrees, to the extent practical, to keep network connection in operation. Customer agrees to be contacted by e-mail, mail, or telephone if, for any reason, Austin Energy needs to verify connectivity or customer status, administer surveys, and/or present additional offers. Customer agrees to provide access to Austin Energy and/or Austin Energy contractors to verify thermostat installation in addition to allowing access to energy use data collected by Austin Energy electric meter to evaluate program performance. Austin Energy and EnergyHub will not be liable in any manner whatsoever for the operation of the thermostat or for its performance or non-performance. In the event that Participant discontinues their relationship with EnergyHub, the Participant's agreement with the Austin Energy Program will terminate.*

Energy Consumption. The Austin Energy thermostat control events described above may be preceded by "pre-cool" periods, wherein the current or scheduled target setpoint is temporarily decreased to prepare the premises for the subsequent setpoint increase. Neither EnergyHub, Austin Energy, nor Thermostat Manufacturer is responsible for any changes to your electricity costs or any electricity costs incurred by you during or related to the Program.

Reward. Austin Energy reserves the right to substitute a reward of equivalent value for the rewards described above at its sole discretion without liability to Participant.

How To Withdraw. You are participating in the Program on a voluntary basis. If you are dissatisfied with the Program, or if you no longer wish to grant the authorizations provided herein, you may withdraw from the Program at any time by emailing EnergyHub at Austin@energyhub.com. Withdrawing will not affect the other services provided to you by EnergyHub or Austin Energy. By withdrawing, you may render yourself ineligible to receive a Reward or other compensation, participate in the Program in the future, or participate in other programs offered by EnergyHub or Austin Energy.

Information. Participant represents and warrants that the information Participant provides while applying for and during the course of the Program is accurate and agrees to notify EnergyHub if changes occur. Participant agrees that information about Participant's Service account, Service usage, and devices connected to Participant's Service account, as well as information Participant provides while applying for the Program or that is related to the Program may be shared by the Program Parties with other third-party entities necessary for purposes of ensuring compliance with Program objectives and analyzing data.

Consent. By submitting an application and accepting this Agreement, you give the Program Parties the following permissions to:

- Send you emails and other notifications related to your participation in the Program;
- Share between them any information necessary to confirm your enrollment in the Program and operate the Program; and
- Collect your energy usage information and review and analyze such usage information and electric bill information for purposes of fulfilling their obligations under the Program and applicable law, improving the Program and as otherwise permitted by applicable law, and to exchange conclusions with each other and publish results based on those conclusions.
- Exchange data related to your identity and your service account status with Austin Energy, solely for the purposes of fulfilling their obligations under the Program; and
- Summarize the results of the Program in publicly-available studies, provided that any data included in such studies will be anonymized such that you are not individually identifiable.

Subject to Third-Party Approvals. EnergyHub's ability to offer the Program is contingent on certain approvals and acceptances from electric utilities and electricity grid governing bodies. Should EnergyHub fail to obtain such approvals and acceptances, the Program will be terminated, and Participants may not receive any Reward or other compensation.

Conduct. By applying for the Program, Participant agrees to comply with and be bound by the Agreement and any additional Program information provided to you during the Program. Failure to comply with this Agreement may result in your disqualification from the Program. You further agree to comply with and be bound by the decisions of EnergyHub and Austin Energy regarding your eligibility to participate, which are final and binding in all respects. EnergyHub and Austin Energy reserve the right in their sole discretion to disqualify any Participant they find to be: (1) tampering or attempting to tamper with the operation of the Program; or (2) violating the Agreement, conditions of use, or guidelines of any of our property or service. **Any false information provided within the context of the Program by any Participant is a violation of this Agreement and may result in the immediate disqualification of a Participant and forfeiture of any Reward.**

Privacy Notice. By participating in the Program, you agree that the Program Parties can collect your personal information or data and that if they cannot collect the required information or data, you may not be eligible to participate in the Program. Any personal information or data collected during the course of the Program by the Program Parties will be used only for administering the Program pursuant to this Agreement.

General Conditions. This Program is governed by the laws of Texas. All federal, state and local laws and regulations apply. These Terms constitute the entire agreement between Austin Energy and Participant relating to the subject matter hereof and supersedes all other such prior or contemporaneous oral and written agreements and understandings with respect to such subject matter.

Program Period. The Program will continue until Austin Energy or EnergyHub terminates the program. You may be automatically re-enrolled in subsequent Program Periods at Austin Energy's discretion, subject to the then-current Terms for the Program.

No Recourse to Judicial or Other Procedures. As a condition of participating in the Program, unless otherwise prohibited by law, applicants and Participants agree that any and all disputes that cannot be resolved between the parties and causes of action arising out of or in connection with the Program, shall be resolved individually, without resort to any form of class action. Further, in any such dispute, under no circumstances will a Participant be permitted to obtain awards for, and each Participant hereby waives all rights to claim, punitive, incidental or consequential damages, including attorneys' fees, and Participant further waives all rights to have damages multiplied or increased. To the fullest extent permitted by law, the rights to litigate, to seek injunctive relief, or to any other recourse to judicial or any other procedure in case of disputes or claims resulting from or in connection with the Program are hereby excluded, and you expressly waive any and all such rights. Note, such waiver is not enforceable in all jurisdictions.

DISCLAIMER: THE PROGRAM PARTIES ARE NOT RESPONSIBLE OR LIABLE FOR ANY INCORRECT OR INACCURATE PROGRAM APPLICATION INFORMATION, AND ASSUME NO RESPONSIBILITY FOR (I) ANY CONTENT, SOFTWARE, HARDWARE, THERMOSTATS, PRODUCTS OR OTHER MATERIALS PROVIDED, MANUFACTURED, DEVELOPED OR CREATED BY A THIRD PARTY; (II) TYPOGRAPHICAL OR OTHER ERRORS IN THE PRINTING OF THE PROGRAM MATERIALS OR THE OFFERING OR ANNOUNCEMENT OF ANY REWARD, (III) ANY ERROR, OMISSION, INTERRUPTION, DEFECT OR DELAY IN OPERATION OR TRANSMISSION AT ANY WEBSITE, (IV) FAILURE OF ANY APPLICATION TO BE RECEIVED BY ENERGYHUB OR UTILITY DUE TO TECHNICAL PROBLEMS, TELEPHONE SERVICE PROBLEMS, PRINTING ERRORS, HUMAN ERROR OR TRAFFIC CONGESTION ON THE INTERNET OR AT ANY WEBSITE, (V) COMMUNICATIONS LINE, HARDWARE AND/OR SOFTWARE FAILURES, (VI) DAMAGE TO ANY COMPUTER (SOFTWARE OR HARDWARE) RESULTING FROM PARTICIPATION IN THE PROGRAM, (VII) THEFT OR DESTRUCTION OF, TAMPERING WITH, UNAUTHORIZED ACCESS TO, OR ALTERATION OF APPLICATIONS AND/OR PROGRAM APPLICATION INFORMATION, OR (VIII) APPLICATIONS THAT ARE LATE, LOST, STOLEN, DAMAGED, ILLEGIBLE, AND/OR UNINTELLIGIBLE (OR ANY COMBINATION THEREOF).

LIMITATIONS OF LIABILITY: PARTICIPANTS ASSUME ALL RISK OF PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU INDEMNIFY AND AGREE TO KEEP THE PROGRAM PARTIES INDEMNIFIED AT ALL TIMES FROM AND AGAINST ANY LIABILITY, CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS AND EXPENSES THAT ARISE FROM OR ARE RELATED TO ANY ACT, DEFAULT OR OMISSION BY YOU AND/OR A BREACH OF ANY WARRANTY BY YOU AND/OR TO ANY ACT, DEFAULT OR OMISSION BY YOU UNDER THESE RULES INCLUDING WITHOUT LIMITATION RESULTING FROM OR IN RELATION TO ANY BREACH, NON-OBSERVANCE, ACT OR OMISSION WHETHER NEGLIGENT OR OTHERWISE, PURSUANT TO THESE RULES BY YOU. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO HOLD THE Program Parties HARMLESS FOR ANY INJURY OR DAMAGE CAUSED OR CLAIMED TO BE CAUSED BY PARTICIPATION IN THE PROGRAM AND/OR USE OR ACCEPTANCE OF ANY REWARD OTHER THAN FOR: (1) DEATH OR PERSONAL INJURY ARISING AS A RESULT OF THE PROGRAM PARTIES' NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE PROGRAM PARTIES' FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE PROGRAM PARTIES HAVE NO LIABILITY TO ANY PARTICIPANT FOR ANY LOSS, DAMAGE, COSTS OR EXPENSE INCURRED AS A RESULT OF OR IN CONNECTION WITH A PARTICIPANT'S PARTICIPATION IN THE PROGRAM.

Third Parties. The Program Parties are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, participating, and/or claiming a prize or Reward in the Program.

Severability. If any provision(s) of this Agreement are held to be invalid or unenforceable, all remaining provisions hereof will remain in full force and effect.