

PROGRAM TERMS AND CONDITIONS

Welcome to the [Smart Thermostat] Program (“Program”). By enrolling in and participating in the Program, you may help reduce stress on the grid in your utility service area and may be eligible to receive the Reward described below, subject to these Program Terms and Conditions (these “**Terms**”). To participate, you must submit an application and be accepted into the Program by Consolidated Edison Company of New York, Inc. (“Con Edison” or the “Program Administrator”) in accordance with Program requirements. EnergyHub, Inc. (“EnergyHub” or the “Program Service Provider”) provides platform and related services in support of Program administration, including enrollment processing and device communications, on Con Edison’s behalf as described in these Terms, and is expressly authorized by Participants to perform such functions in connection with the Program. You must have an installed and operational eligible smart thermostat to participate. When submitting your application, please ensure that you provide your full legal name exactly as you would like it to appear on any incentive payment you may receive.

Binding Agreement. By applying for the Program, you agree that, if your application is accepted and you enroll in the Program, you will comply with and be bound by these Terms. If your application is not accepted, you will not be enrolled in the Program and you will not be subject to Program participation requirements under these Terms. Failure to comply with these Terms may result in your unenrollment from the Program. Determinations regarding eligibility, enrollment and continued participation are made by the Program Administrator (including, where applicable, through processes administered by the Program Service Provider acting on the Program Administrator’s behalf, including technical verification of device compatibility and connectivity) in accordance with Program requirements and are final for purposes of Program administration. The Program Administrator may unenroll any Participant for reasons including: (1) tampering or attempting to tamper with Program operations; (2) material violation of these Terms; or (3) providing materially false information in connection with the Program. If you are unenrolled for cause, you may be ineligible for a Reward as described below.

About the Program. Applicants who are accepted into the Program (“**Participants**”, “**you**”, or “**your**”) and who comply with these Terms may be eligible to receive an incentive (the “**Reward**”) as described below. The Reward, if earned, will be provided by the Program Administrator in accordance with the Program requirements following the conclusion of the applicable Program Period, and will be determined in accordance with Program rules applicable to that Program Period, with administrative and data processing support provided by the Program Service Provider acting on the Program Administrator’s behalf, provided that your participation has not been withdrawn or terminated prior to the applicable determination date.

Definitions. In the context of these Terms,

- “**Adjustment Events**” mean times during the Program Period when, for Program purposes, eligible enrolled Devices may be signaled (through the DER Vendor platform) to adjust settings consistent with the Program design.
- “**DER Vendor**” means the third-party manufacturer of your smart thermostat device.
- “**Device**” means your smart thermostat device manufactured by a DER Vendor that is capable of being enrolled in the Program and participating in Adjustment Events through the DER Vendor platform.
- “**FAA**” means the Federal Arbitration Act.
- “**Participant**” means an applicant that has been accepted into the Program by the Program Administrator.
- “**Program**” means the Smart Thermostat Program.
- “**Program Administrator**” means **Consolidated Edison Company of New York, Inc.** (“**Con Edison**”).

- **“Program Data”** means data related to your identity, your Adjustment Event opt-in or opt-out status, your energy usage and/or energy production, your Program Administrator account, your utility bill, and operational data about your Device(s), as collected, used, and processed in connection with Program administration as described in these Terms.
- **“Program Period”** means the applicable Program season(s) identified on the Program website or enrollment microsite at the time of enrollment.
- **“Program Service Provider”** means EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217 (“EnergyHub”), which provides platform and related services in support of Program administration on behalf of Con Edison, including enrollment processing, device communications, and Program-related data processing, as further described in these Terms, and does not independently administer the Program.
- **“Reward”** means the incentive(s) offered under the Program as described on the Program website or enrollment microsite, which may include (for eligible enrollments) an enrollment reward and, after the initial participation period, a participation reward based on meeting Program participation thresholds.
- **“Service”** means the connection between your Device(s) and the DER Vendor platform.
- **“Terms”** means these Program Terms and Conditions.

Application Consent by Participant. By submitting an application to enroll as a Participant, you acknowledge and agree that this Agreement is entered into by you with Con Edison as Program Administrator and EnergyHub as Program Service Provider/Platform Provider for the limited purposes described in these Terms, including the authorization of platform operations, and you expressly authorize Con Edison and EnergyHub (acting on Con Edison’s behalf for Program administration purposes), and the DER Vendor (collectively, the “Program Parties”) to: 1) collect, use, and exchange Program Data as reasonably necessary to (a) determine eligibility, (b) administer and operate the Program, (c) perform measurement, verification, and customer support activities, and (d) comply with applicable law and regulatory requirements; 2) analyze Program Data for Program administration and improvement purposes and to generate reports about Program performance, provided that any public reporting will use aggregated and/or de-identified information and will not include your personal information; 3) send signals to your enrolled Device(s) to participate in Adjustment Events consistent with the Program design and to perform limited system or communications testing reasonably related to Program operations; 4) contact you (including by email, text message, and in-app notifications) regarding your enrollment status, Program communications, Adjustment Events, and Program updates; 5) send you surveys about the Program and use your responses for Program administration and improvement purposes; and 6) retain Program Data only for as long as reasonably necessary to administer the Program and meet legal, regulatory, audit, or recordkeeping requirements, after which it will be retained or deleted in accordance with the applicable privacy policies and legal requirements.

Eligibility and Enrollment. You may apply to become a Participant and participate in the Program if you meet the following eligibility criteria:

- You must be at least 18 years of age;
- You must have one or more eligible Devices that are compatible with the DER Vendor platform (“Service”) and the Program design;
- You must maintain an active account in good standing on the Service and a reasonable connection between your enrolled Device(s) and the Service (recognizing that intermittent connectivity issues may occur);
- You agree to reasonably cooperate with Con Edison and EnergyHub support in troubleshooting connectivity, firmware, and other Device-related issues as necessary for Program participation, including coordination with the DER Vendor where required to maintain Device connectivity to the Service; and
- You must have an active utility account with Con Edison in good standing.

Program Period. The Program will run for the Program Period defined above (as further described on the Program website or enrollment microsite). Subject to Program availability and any changes in Program requirements, you may be offered the option to enroll in a subsequent Program Period, subject to the then-current Terms for the Program. If automatic re-enrollment is offered, Con Edison (or EnergyHub acting on Con Edison's behalf) will provide notice, and you will have the ability to opt out or unenroll at any time, including through the communications channels used for Program administration.

Program Description. By participating, you agree to allow your DER Vendor, in coordination with EnergyHub as Program Service Provider and on behalf of Con Edison, and in connection with the Program and its supporting platform services, to send signals to your enrolled Devices during the Program Period to make limited, temporary adjustments consistent with the Program design (each, an "Adjustment Event"). For thermostats, Adjustment Events generally involve temporary adjustments to temperature setpoints and may include or be preceded by "pre-cool" or "pre-heat" periods to prepare for an upcoming event.

You remain in control of your Device(s). You may opt out of a current Adjustment Event (or future Adjustment Events) at any time by adjusting your Device settings directly or through your DER Vendor application, or by contacting the Program support contact listed below. For Program operations, limited communications or system testing related to Program functionality may occur from time to time; such testing will be limited to what is reasonably necessary to operate the Program and its supporting platform services.

How to Apply. You can apply to participate in the Program through your DER Vendor mobile app or at the Program enrollment website found here: <https://www.coned.com/en/save-money/rebates-incentives-tax-credits/rebates-incentives-tax-credits-for-residential-customers/bring-your-thermostat-and-get-85>. Con Edison (and EnergyHub acting on Con Edison's behalf for enrollment processing, including facilitating application submission and processing through applicable platform services) may accept or reject your application based on Program requirements and eligibility criteria.

How to Withdraw. Once you are accepted as a Participant, you may withdraw at any time by contacting the Program support address specified below. Withdrawal will not affect your separate agreements with your DER Vendor. By withdrawing, you may become ineligible to receive a Reward for the applicable Program Period and may be ineligible to participate in the Program in the future, depending on Program requirements.

Program Termination. Con Edison may modify, suspend, or terminate the Program due to regulatory requirements, operational needs, or other circumstances, including if required approvals are withheld or withdrawn. EnergyHub's ability to support the Program may depend on its arrangements with DER Vendors. If a DER Vendor ceases to support participation for a Device type, affected Devices may no longer be eligible to participate in the Program or may be removed from the Program.

If the Program (or your participation) is terminated, Con Edison will provide reasonable notice when practicable. Termination may affect your eligibility to receive a Reward, which will be determined in accordance with Program rules applicable to the relevant Program Period. Termination of the Program will not affect any payment obligations you may have for your Device under your separate agreement with your DER Vendor, and your DER Vendor customer agreement will remain in effect.

Disqualification. Con Edison may terminate your participation in the Program and your eligibility for a Reward if: (i) you materially violate these Terms or applicable law in connection with the Program; (ii) you are no longer eligible under Program requirements (including if your utility account is not in good standing); (iii) your enrolled Device(s) are no longer connected to the Service for an

extended period such that participation is not feasible; or (iv) you provide materially false information in connection with the Program.

Con Edison will provide reasonable notice of disqualification when practicable.

Privacy Notice. By participating in the Program, you understand and agree that Con Edison, EnergyHub (as Program Service Provider), and DER Vendor, may collect and use Program Data as described in these Terms, and that, if required information cannot be collected, you may not be eligible to participate in the Program. Con Edison, EnergyHub, and the DER Vendor will handle Program Data in accordance with these Terms and their respective privacy policies. Con Edison's privacy information is available at: [INSERT CON EDISON PRIVACY LINK]. EnergyHub's privacy policy is located at: <http://www.energyhub.com/privacy-policy>

Changes in Your Utility Costs. Con Edison, EnergyHub, and the DER Vendor are not responsible for any changes in your utility costs during the Program.

Information. You represent and warrant that the information you provide in connection with your application and participation is accurate and complete to the best of your knowledge, and you agree to promptly notify Con Edison or EnergyHub if there is any material change to any information you provided during your application for the Program.

General Conditions. This Program is governed by the laws of the State of New York without regard to its applicable principles of conflicts of law. Con Edison's failure to enforce any provision of these Terms does not constitute a waiver of that provision.

To the maximum extent permitted by applicable law, Con Edison, EnergyHub, and the DER Vendor are not responsible for: (i) inaccuracies in Program application information; (ii) typographical or administrative errors in Program materials, provided that commercially reasonable efforts will be made to correct such errors; (iii) interruptions or delays in communications or system operations due to factors outside their reasonable control, including internet connectivity or third-party systems; or (iv) issues arising from Participant's home network, equipment, or Device malfunction. Participant agrees to use the Program in accordance with these Terms and applicable law. Participant is responsible for any losses or damages arising from Participant's misuse of the Program or material breach of these Terms.

If any provision of these Terms is held invalid or unenforceable, the remaining provisions will remain in full force and effect. These Terms will be binding on Participant and Con Edison and their respective permitted successors and assigns. Participant may not assign these Terms without written Con Edison's prior written consent. Con Edison may assign these Terms to a successor program administrator in connection with a transfer of Program administration, provided that Participant's rights under these Terms are preserved.

These Terms constitute the entire agreement between Participant and Con Edison relating to the subject matter hereof and supersede all prior or contemporaneous agreements or understandings relating to the Program.

Dispute Resolution. Any dispute arising out of or relating to the Program or these Terms will be brought in the state or federal courts located in New York, New York, and you consent to such jurisdiction and venue.

Changes to the Terms. Con Edison may modify these Terms from time to time to reflect Program changes, legal or regulatory requirements, or operational needs. If material changes are made, Con Edison (or EnergyHub acting on Con Edison's behalf) will provide notice by email (or other reasonable means) using the most current contact information on record. Material changes will apply prospectively as of the effective date stated in the notice. If you do not agree to the modified Terms, you may unenroll from the Program at any time.

Acceptance of Agreement. Your acceptance of these Terms through an electronic signature, click-through, or click-wrap process constitutes your agreement with Con Edison as Program Administrator and, solely for the limited platform-operation purposes expressly described in these Terms, your agreement with EnergyHub as Program Service Provider. EnergyHub (as Program Service Provider) and the DER Vendor are intended third-party beneficiaries solely of the provisions relating to Program Data, Adjustment Events, and communications necessary to administer the Program, and may enforce those provisions as applicable.

Additional Program Details. Additional program details are available at the following website address: <https://www.coned.com/en/save-money/rebates-incentives-tax-credits/rebates-incentives-tax-credits-for-residential-customers/bring-your-thermostat-and-get-85>. Program support contact is: coned@energyhub.net