

## PROGRAM TERMS AND CONDITIONS

**Welcome to the Consumers Energy Smart Thermostat Program (“Program”).** This Program is administered by EnergyHub, Inc., (“EnergyHub”) on behalf of Consumers Energy Company (“Consumers Energy”). By becoming a Participant of the Program, you may reduce stress on the grid in your utility service area and be eligible to receive a Reward, subject to these Program Terms and Conditions (“Terms”). To become a Participant in the Program, you must submit an application to, and have it approved by, both Consumers Energy and EnergyHub. Additionally, you must have an installed and operational Device from an authorized DER Vendor to participate in this Program. The capitalized words in these Terms shall have the meanings ascribed to them in these Terms.

**Binding Agreement.** By applying for the Program, you agree to comply with, and be bound by, these Terms; provided, however, in the event your application is not approved by Consumers Energy and EnergyHub, you will not be subject to data collection under these Terms. Failure to comply with these Terms may result in your unenrollment from the Program, as well as forfeiture of any Reward, without prior notice. You may be unenrolled from the Program, and forfeit any Reward, without prior notice if you tamper with or attempt to tamper with the operation of the Program or otherwise violate these Terms. **Any false information provided within the context of the Program by a Participant is a violation of these Terms and may result in the immediate unenrollment of a Participant and forfeiture of any Reward without prior written notice.**

**About the Program.** Applicants whose applications to participate in the Program are (i) submitted by the enrollment deadline of August 31 each year and (ii) approved by Consumers Energy and EnergyHub (“Participants”, “you”, and “your”) and who otherwise fully comply with these Terms may receive an incentive as set forth below (“Reward”), to be provided to you after the Program Period ends. To receive the Reward, you must fulfill the following requirements: (1) you must be approved as a Participant by Consumers Energy and EnergyHub; (2) you must abide by these Terms; and (3) your participation in the Program must not be withdrawn or terminated.

**Definitions.** In the context of these Terms,

- The Program platform is provided by EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217, on behalf of Consumers Energy.
- “DER Vendor” means your smart thermostat device manufacturer (i.e. Alarm.com).
- “Device” means your DER Vendor’s product, which can be monitored during the Program by DER Vendor’s network operations center.
- “Participant” means an applicant that has been accepted into the Program by Consumers Energy and EnergyHub.
- “Program” means the Consumers Energy Smart Thermostat Program.
- “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 Consumers Energy account, your utility bill, and operational data about your Device(s).
- “Program Period” means the duration of the Program from June 1<sup>st</sup> – August 31<sup>st</sup>
- “Reward” means an initial one-time \$50 enrollment incentive (one per household); and subsequent \$25 annual participation incentives (per household) as long you remain in the Program through August 31<sup>st</sup> of the Program Period.
- “Service” means the connection between your Device(s) and the DER Vendor’s platform.
- “Program Parties” means Consumers Energy, EnergyHub, and DER Vendor, their respective successors and assigns.
- “Terms” means these Program Terms and Conditions.

**Application Consent by Participant.** By submitting an application to enroll as a Participant, you authorize the Program Parties and their agents, representatives, and personnel to 1) collect and exchange Program Data for the purposes of determining your eligibility for the Program and

operating the Program; 2) review and analyze all of your Program Data for the purposes of the Program Parties planning, implementing, or evaluating the Program, and as otherwise permitted by applicable law, provided that they treat all such Program Data as confidential; 3) automatically signal your Devices to take part in Adjustment Events for this Program or for general system testing purposes; 4) send you emails, text messages and other notifications related to the Program, including about your enrollment status and Program-related adjustments to your Devices; 5) send you emails, text messages and other notifications related to surveys about the Program and to share your responses to such surveys among the Program Parties; 6) retain all of your Program Data indefinitely for purposes of planning, implementing, or evaluating the Program; and 7) summarize the results of the Program in aggregate in publicly-available regulatory filings, provided that any Program Data included in such filings will be anonymous such that you are not individually identifiable. You acknowledge and agree that the DER Vendor, its affiliates, agents, representatives, directors, officers, and employees is an intended third-party beneficiary of this paragraph.

**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 when you apply to participate in the Program;
- You must have one or more Devices that are compatible with and connected to the DER Vendor platform and compatible with the Program design;
- You must maintain an active account in good standing on the Service and a continuous connection between your enrolled Devices and the Service;
- You must assist Program Parties' support personnel in troubleshooting and resolving connectivity, firmware, and other Device-related issues;
- You must have an active residential electric or combination (electric and natural gas) utility account with Consumers Energy;
- You must not already be enrolled in the Consumers Energy's AC Peak Cycling (ACPC) program;
- You must not already be enrolled in the Consumers Energy's Dynamic Peak Pricing (DPP) program, which include Critical Peak Pricing (CPP) and Peak Time Rewards (PTR); and
- You must not already be participating in Consumers Energy's Demand Response Generator program, the Renewable or Electric Vehicle Programs, the Net Metering rate, or the Smart Meter opt out.

**Program Period.** The Program will run for the Program Period. You may be automatically re-enrolled in subsequent Program Periods at Consumers Energy's and EnergyHub's discretion, subject to the then-current Terms for the Program. You may unenroll from the Program at any time by emailing [consumersenergy@energyhub.com](mailto:consumersenergy@energyhub.com), or calling 855-242-0558.

**Program Description.** Participant agrees to allow the DER Vendor, on behalf of Consumers Energy and EnergyHub, to control the Participant's Device(s) at times during the Program Period by sending signals to the Device to change its mode of operation, change device mode, setpoint, or other settings, as applicable. Such adjustments are referred to as "**Adjustment Events**." Adjustment Events shall be consistent with any and all approvals from the Michigan Public Service Commission. Adjustment Events may signal the Device to charge, discharge, or change its mode of operation, change device mode, setpoint, or other settings, as applicable. For Devices that allow for temperature control, Adjustment Events may include or be preceded by "pre-cool" or "pre-heat" periods, wherein the then-current or scheduled target temperature setpoint is temporarily changed to prepare for the subsequent adjustment. For certain types of services offered by the Program Parties, an Adjustment Event may occur even if the Device is in any kind of hold mode at the start of the Adjustment Event. Participant may opt out of a current or future Adjustment Event at any time by directly adjusting the Device.

**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: [www.thermostatrewards.com/consumersenergy](http://www.thermostatrewards.com/consumersenergy). Consumers Energy and EnergyHub may accept or reject your application in their discretion.

**How to Withdraw.** Once you are accepted as a Participant in the Program, you may withdraw by emailing the EnergyHub at [ConsumersEnergy@EnergyHub.com](mailto:ConsumersEnergy@EnergyHub.com). Withdrawal from the Program will not affect any other services provided by the Program Parties to you. By withdrawing from the Program, you may render yourself ineligible to (1) receive the Reward, (2) participate in the Program in the future, or (3) participate in other programs offered by Sponsor.

**Program Termination.** Consumers Energy reserves the right, in its sole discretion, to modify or discontinue the Program at any time.

The Program is subject to approval and/or amendment by the Michigan Public Service Commission. If the Program is not approved by the Michigan Public Service Commission, or if the Program is otherwise declared unlawful, then the Program will be terminated immediately, and the Participant will not be entitled to the Reward. EnergyHub will provide notice of any such termination at: <https://www.thermostatrewards.com/consumersenergy>. Termination of the Program will not affect any payment obligations you may have to Consumers Energy or otherwise related to your Device, and your customer agreement with your DER Vendor will remain in effect.

Further, EnergyHub's ability to provide the Program to you on behalf of Consumers Energy is contingent on EnergyHub's agreements with the DER Vendors, and, in the event such agreement(s) terminate for any reason, your participation in the Program will be terminated and you will not be entitled to the Reward. In the event of such termination, DER Vendor may provide notice to you by email and EnergyHub will provide notice at: <https://www.thermostatrewards.com/consumersenergy>. Termination of your participation in the Program will not affect any payment obligations you may have to Consumers Energy or otherwise related to your Device, and your customer agreement with your DER Vendor will remain in effect.

**Disqualification.** Consumers Energy and EnergyHub may terminate your participation in the Program at any time and without liability upon notice to you via email if any of the following occurs:

- (i) you violate these Terms,
- (ii) you violate applicable law,
- (iii) you fail to comply with any reasonable request from a Program Party in connection with this Program,
- (iv) Consumers Energy declare you ineligible for the Program,
- (v) your account with Consumers Energy or DER Vendor is no longer in good standing, and/or
- (vi) you do not maintain a continuous connection between your enrolled Device(s) and the Service.

If you enroll in a conflicting energy program through Consumers Energy, Consumers Energy and/or EnergyHub may terminate your participation in the Program without liability and without notice. Your disqualification from the Program will not affect any payment obligations you may have to Consumers Energy or otherwise related to your Device, and your customer agreement with your DER Vendor will remain in effect.

**Privacy Notice.** By participating in the Program, you agree that the Program Parties may 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. Program Parties will administer your personal information and usage data consistent with these Terms and only for the permitted purposes set forth in these Terms under the "Application Consent by Participant" paragraph above and will treat such data as confidential.

**Changes in Your Utility Costs.** Consumers Energy and EnergyHub are not responsible for providing the systems necessary to participate in the Program, such as your Device or internet access. You are responsible for any changes in your utility costs resulting from your participation in the Program.

**Information.** You represent and warrant to Consumers Energy and EnergyHub that the information you provide while applying for and during the course of the Program is accurate and complete, and you agree to promptly notify EnergyHub if any information you provided during your application for the Program has changed by emailing [consumersenergy@energyhub.com](mailto:consumersenergy@energyhub.com), or calling (855) 242-0558.

**General Conditions.** This Program is governed by the laws of the State of Michigan without regard to its applicable principles of conflicts of law. You agree that any legal action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in Michigan, and you hereby irrevocably consent to the personal jurisdiction and venue of such courts. The Program Parties' failure to enforce any aspect of these Terms against you shall not constitute a waiver of that provision.

YOU VOLUNTARILY ASSUME ALL RISKS ASSOCIATED WITH YOUR PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU INDEMNIFY AND SAVE THE PROGRAM PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) HARMLESS FROM AND AGAINST ALL LOSSES, LIABILITIES, CLAIMS, DEMANDS, PAYMENTS, ACTIONS, LEGAL PROCEEDINGS, RECOVERIES, COSTS, EXPENSES, FINES, ATTORNEY FEES, SETTLEMENTS, JUDGMENTS, ORDERS, AND DECREES OF EVERY NATURE AND DESCRIPTION BROUGHT OR RECOVERED AGAINST, OR INCURRED BY, THE PARTICIPANT THAT ARISE FROM OR ARE IN ANY WAY RELATED TO ANY ACT, DEFAULT, OR OMISSION BY YOU; ANY ACT, DEFAULT, OR OMISSION BY YOU UNDER THESE TERMS; OR YOUR PARTICIPATION IN THE PROGRAM. THE PROGRAM PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) SHALL HAVE NO LIABILITY TO ANY PARTICIPANT FOR ANY LOSS, LIABILITY, CLAIMS, DEMANDS, PAYMENTS, ACTIONS, LEGAL PROCEEDINGS, RECOVERIES, COSTS, EXPENSES, FINES, ATTORNEY FEES, SETTLEMENTS, JUDGMENTS, ORDERS, OR DECREES OF EVERY NATURE AND DESCRIPTION ARISING FROM OR ARE IN ANY WAY RELATED TO YOUR PARTICIPATION IN THE PROGRAM. For the avoidance of doubt, it is specifically understood and agreed that there shall be no personal liability on the part of any affiliates, agents, directors, officers, and employees of each Program Party under these Terms. You acknowledge and agree that the DER Vendor, its affiliates, agents, representatives, directors, officers, and employees is an intended third-party beneficiary of this paragraph.

If any provision of these Terms is held to be invalid or unenforceable, all remaining provisions of these Terms will remain in full force and effect. These Terms are binding on you and your successors and assigns. Participant may not assign these Terms without the written consent of Consumers Energy whereas Consumers Energy may assign these Terms to any third party. Consumers Energy and EnergyHub are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, participating, or claiming a Reward.

These Terms constitute the entire agreement between you and Consumers Energy/EnergyHub relating to the subject matter hereof and supersede all other such prior or contemporaneous oral and written agreements and understandings related to said subject matter.

**No Class Action Procedure.** You expressly and knowingly waive any right to participate in a class action lawsuit, a collective action lawsuit, or any other representative proceeding against the Consumers Energy or EnergyHub related to the Program. This includes any right to serve as a class representative, a named plaintiff, or a member of a class or collective in any such proceeding.

You agree that any dispute resolution proceedings will be conducted solely on an individual basis. **Changes to the Terms.** Consumers Energy may modify these Terms at any time. EnergyHub will notify you by email at the most current email address we have on record for you when we make any material changes to these Terms, and the effective date of the modified Terms, which will be after the date of our notice to you. Your continued participation in the Program thereafter signifies your acceptance to such modified Terms. The modified Terms will apply only to disputes that arise after the effective date of such modified Terms. EnergyHub will also post the most current version of the Terms on its website, specified below, and encourage you to check the website frequently.

**Acceptance of Agreement.** The use of an electronic signature process to accept and sign these Terms, including your indication of acceptance of these Terms by a click-through or click-wrap process presented on EnergyHub's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you and Consumers Energy/EnergyHub.

**Additional Program Details.** Additional program details are available at the following website address: [www.thermostatrewards.com/consumersenergy/faq](http://www.thermostatrewards.com/consumersenergy/faq). EnergyHub contact information for the program is: [consumersenergy@energyhub.com](mailto:consumersenergy@energyhub.com).

**Communication.** You agree to receive mandatory Program communications and to provide and maintain valid contact information for such communications. You accept responsibility for the receipt of these communications. By enrolling, you accept [Consumers Energy's Electronic Communications Terms & Conditions](#), including but not limited to those provisions regarding live and automated voice notifications and text messages when you provide a phone number (both land line and wireless). Network and other data or text charges may apply.

**Limitation of Liability.** Consumers Energy's and EnergyHub's liability is limited to paying the Reward in accordance with these Terms. In no event will Consumers Energy and/or EnergyHub be liable whether in contract, tort (including negligence), strict liability, warranty, or otherwise for any direct, indirect, special, incidental, or consequential damages connected with or resulting from your participation in this Program.

**Warranties.** Consumers Energy does not warrant the performance of installed equipment, expressly or implicitly. Consumers Energy makes no warranties or representations of any kind, whether statutory, expressed, or implied, including without limitation, warranties of merchantability or fitness for a particular purpose regarding the smart thermostats, central air conditioning equipment or heating equipment provided by a manufacturer or vendor. Contact your DER Vendor for details regarding equipment performance and warranties.