

## DEMAND SOLUTIONS PROGRAM

### TERMS AND CONDITIONS

**Welcome to the Demand Solutions program.** The Demand Solutions program (“**Program**”) will run in 2023 and 2024 between June 1 and September 30 (“**Program Period**”). Program Applicant must have an installed an operational Google Nest (“**DER Vendor**”) thermostat (“**Device**”) to participate in this Program.

- 1) **About the Program & Reward:** Entergy customers who are accepted into the Program are eligible to receive Reward(s) described in this section when they meet the Program’s requirements described in these terms and conditions (“**Terms**”), to be provided to following the conclusion of the Program term. Entergy customers must first submit an application (and when they do so, they become “Program Applicants”). Such application must be accepted by both EnergyHub, Inc. (“**Sponsor**”) and Entergy. Once accepted, Program Applicant becomes a participant (“**Participant**”). “**Reward**” means:
  - a. For enrollments prior to October 1, 2023:
    - i. \$50 one-time Mastercard e-gift card enrollment incentive per device, and
    - ii. \$25 Mastercard e-gift card after 12 months for each thermostat that remains enrolled through 2024.
  - b. For enrollments from October 1, 2023 to September 1, 2024:
    - i. a \$50 one-time Mastercard e-gift card enrollment incentive per device.To receive the Reward, Participant’s participation must not be withdrawn or terminated.

- 2) **Binding Agreement.** Program Applicants agree to comply with and be bound by these Terms, even if Program Applicant’s application is not accepted; provided, however, in the event Program Applicant’s application is not accepted, Program Applicant will not be subject to data collection described herein. If Program Applicant’s application is accepted, the collection of Participant’s Program Data, (defined below), will cease upon the earlier of the end of Participant’s participation in the Program, or at the end of the Program, unless Participant agree otherwise.

- 3) **Disqualification.** The Sponsor Parties (defined below) may terminate Participant’s participation in the Program and Reward at any time and without liability upon notice to Participant via email if Participant violate these Terms or applicable law, if Participant does not comply with any reasonable request from a Sponsor Party in connection with this Program, if Entergy declares Participant ineligible for the Program, if Participant’s account with Entergy or DER Vendor is no longer in good standing, or if Participant does not maintain a continuous connection between Participant’s enrolled Device(s) and the Service. If Participant enrolls in a conflicting energy program through Sponsor Parties (defined below), Sponsor may terminate Participant’s participation in the Program without liability and without notice. Disqualification from the Program will not affect any payment obligations Participant may have for Participant’s DER Vendor Device, and Participant’s DER Vendor customer agreement will remain in effect. **The decision of the Sponsor and Entergy regarding Participant’s eligibility to participate are final and binding in all respects. Sponsor reserves the right in its sole discretion to unenroll any Participant for: (1) tampering or attempting to tamper with the operation of the Program; (2) providing false information in connection with the Program, or (3) violating these Terms. Participants who are unenrolled for the foregoing reasons, or who withdraw their participation are not entitled to the Reward.**

- 4) **Application Consent by Participant.** By submitting an application to enroll as a Participant, Participant authorize Sponsor, Entergy, and DER Vendor, and their respective agents, successors and assigns, and each of their respective affiliates, directors, officers,

and employees (the “**Sponsor Parties**”) to 1) collect and exchange data related to Participant’s identity (such as email address or phone number), Participant’s Adjustment Event opt-in or opt-out status, Participant’s energy usage and/or energy production, Participant’s Entergy account number, Participant’s Entergy meter number, Participant’s Entergy service address, and operational data about Participant’s Devices (collectively, “**Program Data**”), solely for the purposes of determining Participant’s eligibility for the Program and administering the Program; 2) review and analyze all of Participant’s Program Data for the purposes of the Sponsor Parties 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, provided that they treat all such Program Data in accordance with their respective privacy policies; 3) automatically signal Participant’s Devices to take part in Adjustment Events for this Program or for general system testing purposes; 4) send Participant emails, text messages and other notifications related to the Program, including about Participant’s enrollment status and Program-related adjustments to Participant’s Devices; and 5) send Participant emails, text messages and other notifications related to surveys about the Program and to share Participant’s responses to such surveys among the Sponsor Parties; 6) retain all of Participant’s Program Data for record-keeping purposes; and 7) summarize the results of the Program in publicly-available studies, provided that any Program Data included in such studies will be anonymous such that Participants are not individually identifiable.

- 5) **Eligibility and Enrollment.** Participation enrollment is limited by program funds. Program Applicant may apply to become a Participant if Program Applicant meets the eligibility criteria, is accepted, does the following, and if funds are available:
- a. Participant must be at least 18 years of age;
  - b. Participant must have one or more Devices that are compatible with and connected to the DER Vendor platform (“**Service**”) and compatible with the Program design;
  - c. Maintain an active account in good standing on the Service and a continuous connection between Participant’s enrolled Devices and the Service;
  - d. Assist Sponsor Parties’ support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues;
  - e. Participant must agree to these Terms; and
  - f. Maintain an active utility account with Entergy in Participant’s name.

Any additional Devices installed as part of your DER Vendor system at your Program Administrator service address will be automatically enrolled in the Program and may also participate in Adjustment Events, as described below. Rewards will be provided pursuant to the applicable Program Administrator offer. For clarity, replacing a device with a new device would not result an additional Reward.

- 6) **Program Period.** The Program season runs from June 1<sup>st</sup> to September 30<sup>th</sup> during the Program Period. Participant may be automatically re-enrolled in subsequent Program Periods at Entergy’s sole discretion, subject to the then-current Terms for the Program and funding available. Participant may unenroll from the Program at any time (see Section 9 below).
- 7) **Program Description.** Participant agrees to allow Sponsor Parties to adjust the Participant’s Devices during the Program Period. Such adjustments are referred to as “**Adjustment Events**.” Adjustment Events may signal the Device to change its mode of operation, change device mode, setpoint, or other settings, as applicable. Adjustment Events may include or be preceded by “pre-cool” 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 Sponsor 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. Adjustment Event parameters are as followed:

- a. A maximum of 15 Adjustment Events can be called per Program Period.
  - b. The Adjustment Event window is between 1:00 PM to 7:00 PM on non-holiday weekdays.
  - c. The Adjustment Event duration will last between 1 to 4 hours.
  - d. Only one Adjustment Event per day.
  - e. A maximum of consecutive Adjustment Events is 3 days.
  - f. Adjustments of 4 degrees or less to setpoint of Device.
- 8) **How to Apply.** Entergy customers can apply to participate in the Program through their DER Vendor mobile app or at the program enrollment website found here: <https://www.thermostatrewards.com/entergytxdemandsolutions>
- 9) **How to Withdraw.** Once accepted as a Participant in the Program, Participant may withdraw by emailing the Sponsor contact address: [entergy-texas@energyhub.net](mailto:entergy-texas@energyhub.net). Withdrawal will not affect the other services provided by the Sponsor Parties to Participant. By withdrawing, Participant may become ineligible to receive the Reward, participate in the Program in the future, or participate in other programs offered by Sponsor.
- 10) **Program Termination.** Sponsor's ability to offer the Program is contingent on receiving certain approvals and acceptances from Entergy. If such approvals and acceptances are withheld or withdrawn, or if the Program is declared unlawful, the Program will be terminated along with any outstanding Reward. Further, Sponsor's ability to offer the Program to Participant is contingent on Sponsor's agreements with DER Vendor, and in the event such agreement(s) terminate for any reason, Participant's participation in the Program will be terminated along with any outstanding Reward. In the event of such termination, DER Vendor may provide notice to Participant by email, and Sponsor may provide notice at [www.energyhub.com](http://www.energyhub.com).
- 11) **Privacy Notice.** By participating in the Program, Participant agree that the Sponsor Parties may collect Program Data related to Participant's Entergy account, and that if they cannot collect this data, Participant may not be eligible to participate in the Program. Sponsor Parties will treat Program Data consistent with these Terms and each Sponsor Party's then-current privacy policy. Sponsor's privacy policy is located at: <http://www.energyhub.com/privacy-policy>. Entergy's privacy policy is located at <https://www.entergy.com/privacy-policy/>.
- 12) **Changes in Participant's Electricity Costs.** Sponsor Parties are not responsible for any changes in Participant's electricity costs during the Program. Participant understands that Sponsor Parties assume no responsibility for the condition or repair of the participant's central air conditioner or other equipment, and Participant shall be solely responsible for the repair and maintenance of such equipment.
- 13) **Information.** Participant represents and warrants to Sponsor that the information Participant provide while applying for and during the course of the Program is accurate and complete, and Participant agrees to notify Sponsor promptly if any information Participant provided during Participant's application for the Program changes.
- 14) **General Conditions.** This Program is governed by the laws of the State of Texas without regard to its applicable principles of conflicts of law. The Sponsor Parties' failure to enforce any term of these Terms shall not constitute a waiver of that provision. THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) ARE NOT RESPONSIBLE OR LIABLE FOR ANY INCORRECT OR INACCURATE PROGRAM APPLICATION INFORMATION, AND

ASSUME NO RESPONSIBILITY FOR (I) TYPOGRAPHICAL OR OTHER ERRORS IN THE PRINTING OF THE PROGRAM MATERIALS OR THE OFFERING OR ANNOUNCEMENT OF ANY REWARD, (II) ANY ERROR, OMISSION, INTERRUPTION, DEFECT OR DELAY IN OPERATION OR TRANSMISSION AT ANY WEBSITE, (III) FAILURE OF ANY APPLICATION TO BE RECEIVED BY SPONSOR DUE TO TECHNICAL PROBLEMS, TELEPHONE SERVICE PROBLEMS, PRINTING ERRORS, HUMAN ERROR OR TRAFFIC CONGESTION ON THE INTERNET OR AT ANY WEBSITE, (IV) COMMUNICATIONS LINE, HARDWARE AND/OR SOFTWARE FAILURES, (V) DAMAGE TO ANY COMPUTER OR DEVICE (SOFTWARE OR HARDWARE) RESULTING FROM PARTICIPATION IN THE PROGRAM, (VI) THEFT OR DESTRUCTION OF, TAMPERING WITH, UNAUTHORIZED ACCESS TO, OR ALTERATION OF APPLICATIONS AND/OR PROGRAM APPLICATION INFORMATION, OR (VII) APPLICATIONS THAT ARE LATE OR LOST, OR (VIII) ANY LOSS OF INCOME DUE TO DEVICE CONTROL. PARTICIPANT ASSUMES ALL RISK OF PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, PARTICIPANT INDEMNIFY AND AGREE TO KEEP THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) 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 PARTICIPANT AND/OR A BREACH OF ANY WARRANTY BY PARTICIPANT AND/OR TO ANY ACT, DEFAULT OR OMISSION BY PARTICIPANT UNDER THESE TERMS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, PARTICIPANT AGREE TO HOLD THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) HARMLESS FROM 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 SPONSOR'S NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE SPONSOR PARTIES' FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) 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. 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 will be binding on the Sponsor Parties and their respective successors and assigns, and Participant. Participant may not assign these Terms without the written consent of Sponsor Parties, whereas Sponsor Parties may assign these Terms to any third party. Sponsor Parties are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, participating, or claiming a Reward. 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 Sponsor Party under these Terms. These Terms constitute the entire agreement between Sponsor Parties and a Participant relating to the subject matter hereof and supersedes all other such prior or contemporaneous oral and written agreements and understandings.

- 15) **Arbitration.** If Participant and the Sponsor do not resolve any dispute by informal negotiation, any other effort to resolve the dispute will be conducted exclusively by binding individual arbitration governed by the Federal Arbitration Act (“**FAA**”). Participant are giving up the right to litigate (or participate in as a party or class member) all disputes in court before a judge or jury. Instead, all disputes will be resolved on an individual basis before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the FAA. Any court with jurisdiction over the parties may enforce the arbitrator’s award.

- 16) **No Class Action Procedure.** Notwithstanding any of the foregoing or any other provision of these Terms, class arbitration is not permitted under any circumstance. Participant and the Sponsor agree that, by entering into this Agreement, THE PARTIES MAY BRING CLAIMS AGAINST THE OTHER ONLY IN THEIR RESPECTIVE INDIVIDUAL CAPACITY, and not as a plaintiff or class member in any purported class or representative proceeding. Further, Participant agree that the arbitrator may not consolidate proceedings or more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Although the non-availability of any form of representative or class proceeding is clear from this Agreement, should any dispute arise regarding or relating to the existence, validity, enforceability, or interpretation of the Arbitration and No Class Action procedures provisions above, the federal courts located in Texas shall have the sole and exclusive jurisdiction to hear and determine the issue.
- 17) **Changes to the Terms.** Sponsor may modify these Terms at any time. Sponsor will notify Participant by email at the most current email address it has on record for Participant when it makes any material changes to these Terms, and the effective date of the modified Terms, which will be after the date of such notice. Participant's continued participation in the Program thereafter signifies Participant's acceptance to such modified Terms. The modified Terms will apply only to disputes that arise after the effective date of such modified Terms. Sponsor will also post the most current version of the Terms on its website specified below and encourages Participants to check this site frequently.
- 18) **Acceptance of Agreement.** The use of an electronic signature process to accept and sign these Terms, including Participant's indication of acceptance of these Terms by a click-through or click-wrap process presented on Sponsor's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between Participant and the Sponsor Parties.
- 19) **EnergyHub Contact Information.**
- a. Demand Solutions program website addresses:  
<https://www.thermostatrewards.com/entergytxdemandsolutions>
  - b. Demand Solutions email: [entergy-texas@energyhub.net](mailto:entergy-texas@energyhub.net)
  - c. EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217