

PROGRAM TERMS AND CONDITIONS

Welcome to LG&E and KU's Bring Your Own Thermostat Program ("Program") provided by LG&E and KU Energy LLC and its subsidiaries Louisville Gas and Electric Company ("**LG&E**") and Kentucky Utilities Company ("**KU**") (collectively referred to as "**Utility**"). By becoming a Participant of the Program, you may reduce stress on the grid in your utility service area and provide feedback and data to help the Program Parties improve their services. By participating in the Program, you may be eligible to receive the Reward described below, subject to these Program Terms and Conditions ("**Terms**"). To become a Participant in the Program, you must submit an application to, and have it accepted by the Utility. You must have an installed and operational Nest device to participate in this Program.

Binding Agreement. By applying for the Program, you agree to comply with and be bound by these Terms, even if your application is not accepted or approved by the Utility. Failure to comply with these Terms may result in your disqualification from the Program. The decisions of the Program Parties regarding your eligibility to participate are final and binding in all respects. The Program Parties reserve the right in their discretion to disqualify any Participant for, among other things: (1) tampering or attempting to tamper with the operation of the Program; or (2) violating these Terms or the terms and conditions of use of any of Program Parties' property or service. **Any false information provided within the context of the Program by any Participant is a violation of these Terms and may result in the immediate disqualification of a Participant and forfeiture of any Reward.**

Changes to the Terms. THE PROGRAM PARTIES RESERVE THE RIGHT TO CHANGE THESE TERMS (INCLUDING THE PROGRAM DETAILS AS DEFINED BELOW) AT ANY TIME AND WITHOUT NOTICE TO YOU. We 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. The most current version of these Terms, can be reviewed by going to <https://mercury.energyhub.net/t/terms/lge-ku-byot/hest-lge-ku-byot.pdf>. We encourage you to check this site frequently to determine whether any changes to these Terms have been posted.

About the Program. The Program involves connection to your Device and automated modifications to the temperature settings for your Device to potentially reduce stress on the Utility's electric grid. Participant agrees to allow Program Parties to control the Participant's Devices during participation in the Program. Such adjustments are referred to as "**Adjustment Events**." Adjustment Events may 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. *Please Note:* The Adjustment Events may not meet your personal comfort needs and/or the particular circumstances of your site at the time. Accordingly, it is your responsibility – and right – to opt out of an Adjustment Event at any time directly by manually adjusting your applicable Device(s), but this may impact your eligibility for incentives.

For the then-current Program information, participation requirements and available incentives for participation in the Program ("**Reward**"), please see <http://thermostatrewards.com/lge-ku> (the "**Program Details**"). Applicants whose applications to participate in the Program are submitted and accepted by Utility ("**Participants**", "**you**", and "**your**") and who fully comply with these Terms and the requirements in the Program Details during their participation in the Program may receive a Reward from the Utility as specified in the then-current Program Details. To receive the Reward, your participation must not be withdrawn or terminated.

Definitions. In the context of these Terms,

- **“Device”** means your Vendor thermostat that can be monitored and controlled during the program by the Vendor’s network operations center. *Please Note:* the Program Parties do not warrant that any specific Device will be compatible with, and eligible for participation in, the Program.
- **“Program Administrator”** means the Utility’s third-party contractor that is helping administer the Program, EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217.
- **“Program Parties”** means Program Administrator, Vendor, and Utility, their respective successors and assigns, and each of their respective affiliates, agents, directors, officers, and employees.
- **“Service”** means the connection between your Device(s) and the Vendor platform.
- **“Vendor”** means the third party manufacturer or provider of the Participant’s thermostat.

Application Consent by Participant. By submitting an application to enroll as a Participant, you authorize the Program Parties to 1) collect and exchange data related to your identity, your opt-in or opt-out status, your energy usage and/or energy production, your Utility account, your electric bill, and operational data about your Devices (collectively, **“Program Data”**), and retain such Program Data indefinitely, solely 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 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 your Devices to take part in Adjustment Events for this Program or for general system testing purposes; 4) send you emails, text messages, pre-recorded messages and other notifications related to the Program and other relevant programs, 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 themselves; 6) retain all of your Program Data indefinitely 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 you are not individually identifiable. You further agree that Utility and Service Provider may retain any Device-specific operational data and any de-anonymized personal information provided to them by the applicable Vendor.

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

- You must be at least 18 years of age;
- You must have one or more Devices that are compatible with and connected to the Vendor platform and compatible with the Program design;
- Maintain an active account in good standing on the Service and a continuous connection between your enrolled Devices and the Service;
- Assist Program Parties’ support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues.

Any additional Devices installed as part of your system at your Utility 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 Utility offer and the automatic enrollment of additional Devices may not result in additional Rewards.

How to Apply. You can apply to participate in the Program through your Vendor mobile app or at the program enrollment website found here: [https:// thermostatrewards.com/lge-ku](https://thermostatrewards.com/lge-ku). The Utility 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 from the Program at any time by either (a) using any then current withdrawal procedure on the Utility's EE/DSM customer portal, if available; or (b) emailing the withdrawal contact at EECustomerSupport@lge-ku.com. Withdrawal will not affect the other services provided by the Program Parties to you. By withdrawing, you may render yourself ineligible to receive the Reward, participate in the Program in the future, or participate in other programs offered by Utility.

Program Termination. [Utility](#) reserves the right to suspend or terminate the Program for participants generally at any time without liability and without prior notice.

Disqualification. The Program Parties may terminate your participation in the Program and Reward at any time and without liability upon notice to you via email if you violate these Terms or applicable law, if you do not comply with any reasonable request from a Program Party in connection with this Program, if your Utility declares you ineligible for the Program, if your account with Vendor is no longer in good standing, or if you do not maintain a connection between your enrolled Device(s) and the Service.

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. The Program Parties will administer your personal information and usage data consistent with these Terms and each company's then-current privacy policy. Utility's privacy policy is located at: <https://lge-ku.com/privacy>. Program Administrator's privacy policy is located at: <http://www.energyhub.com/privacy-policy>. For your Vendor's privacy policy, see the terms on their applicable web site(s).

Changes in Your Electricity Costs. The Program Parties are not responsible for any changes in your electricity costs during the Program. The Program Parties do not represent or warrant that participation in the Program will reduce your electricity costs.

Information. You represent and warrant to the Program Parties 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 the Program Parties if any information you provided during your application for the Program has changed.

General Conditions. This Program is governed by the laws of the Commonwealth of Kentucky without regard to its applicable principles of conflicts of law. A Program Party's failure to enforce any term of these Terms shall not constitute a waiver of that provision. THE PROGRAM PARTIES (AND EACH OF THEIR 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 UTILITY 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 WHICH 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, YOU INDEMNIFY AND AGREE TO KEEP THE PROGRAM PARTIES (AND THEIR 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 YOU AND/OR A BREACH OF ANY WARRANTY BY YOU AND/OR TO ANY ACT, DEFAULT OR OMISSION BY YOU UNDER THESE TERMS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO HOLD THE PROGRAM PARTIES (AND THEIR 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 THE PROGRAM PARTIES' NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE PROGRAM PARTIES' FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE PROGRAM PARTIES (AND THEIR 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 Program Parties and their successors and assigns, and Participant. Participant may not assign these Terms without the written consent of the Program Parties whereas the Program Parties may assign these Terms to any third party. The Program 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 Program Party under these Terms.

These Terms constitutes the entire agreement between the Program Parties and a Participant relating to the subject matter hereof and supersedes all other such prior or contemporaneous oral and written agreements and understandings.

Arbitration. If you and the Program Parties 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"). You 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. Notwithstanding the foregoing, this arbitration provision does not apply to service-related disputes between you and the Utility over which the Kentucky Public Service Commission has exclusive jurisdiction.

No Class Action Procedure. Notwithstanding any of the foregoing or any other provision of these Terms, class arbitration is not permitted under any circumstance. You and the Program Parties 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, you 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 court located in New York, New York shall have the sole and exclusive jurisdiction to hear and determine the issue.

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 a Program Party's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you and the Program Parties.