

PROGRAM TERMS AND CONDITIONS

Welcome to the Power Savers Mid-Atlantic Program (“Program”). By becoming a Participant of the Program, you may reduce stress on the grid in your Utility service area. By participating in the Program, you are automatically entered into the sweepstakes promotion (“Promotion”) described below, subject to the Official Rules for the Promotion, and 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, both the Sponsor and the Program Administrator (as each is defined below). You must have an installed and operational ecobee thermostat 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 Sponsor (as defined below) and the Program Administrator; provided, however, in the event your application is not accepted or approved, 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. The decisions of the Sponsor and the Program Administrator regarding your eligibility to participate are final and binding in all respects. Sponsor reserves the right in its sole discretion to unenroll 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 Sponsor 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 unenrollment of a Participant.**

About the Program. Applicants whose applications to participate in the Program are submitted by the enrollment deadline and accepted by the Program Administrator (“Participants”, “you”, and “your”) and who fully comply with these Terms may receive an incentive, as set forth below (“Promotion”). To be eligible for the Promotion, you must be accepted as a Participant by the Sponsor and Program Administrator, and your participation must not be withdrawn or terminated.

1. Definitions. In the context of these Terms,

- “**Adjustment Events**” mean times during the Program Period when the DER Vendor will control Participant’s Device(s) (on behalf of the Sponsor Parties) to signal the Device to change its mode of operation, change device mode, setpoint, or other settings, as applicable .
- “**DER Vendor**” means the third-party manufacturer or provider of the Participant’s thermostat. The current DER Vendor is ecobee Technologies ULC.
- “**Device**” means a device that can be monitored and controlled during the program through the DER Vendor cloud platform or other communications pathway.
- “**FAA**” means the Federal Arbitration Act.
- “**Operator**” means the electricity market administrator in the Participant’s territory.
- “**Participant**” means an applicant who has submitted an application that has been accepted into the Program by the Program Administrator and Sponsor.
- “**Program**” means the Power Savers Mid-Atlantic 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 Utility account, your utility bill, and operational data about your Device(s).
- “**Program Period**” means the duration of the Program from June 1st through May 31st. The Summer Program runs from May 1st – October 31st; the Winter Program runs from November 1st – April 30th.
- “**Program Administrator**” means Voltus, Inc., 2443 Fillmore St. #380-3427, San Francisco, CA 94115.

- **Promotion**” means as a Participant in the Program you are eligible to earn entries into a random drawing for the chance to win a one-time payment of \$10,000, as more fully described in the Official Rules and subject to the terms of such Official Rules.
- **Service**” means the connection between your Device(s) and the DER Vendor platform.
- **Sponsor**” means the entity that implements and operates the Program. The current Sponsor is EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217.
- **Sponsor Parties**” means Sponsor, DER Vendor, and Program Administrator, Third-Party Utility Data Access Provider, their respective successors and assigns, and each of their respective affiliates, agents, representatives, directors, officers, and employees.
- **Terms**” means these Program Terms and Conditions.
- **Third-Party Utility Data Access Provider**” means Arcadia Power, Inc., 5600 S Quebec St D320 or other third-party vendor designated to collect and access residential utility data.
- **Utility**” means your electricity provider.

2. Application Consent by Participant. By submitting an application to enroll as a Participant, you authorize the Sponsor Parties to:

- collect and exchange Program Data and retain such data, solely for the purposes of determining your eligibility for the Program and operating the Program
- to share required portions of your Program Data with the Operator and the Utility as part of the registration process
- review and analyze all of your 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;
- automatically signal your Devices to take part in Adjustment Events for this Program or for general system testing purposes;
- send you emails, text messages and other notifications related to the Program, including about your enrollment status and Program-related adjustments to your Devices;
- send you emails, text messages and other notifications related to surveys about the Program and to share your responses to such surveys among the Sponsor Parties;
- retain all of your Program Data indefinitely for record keeping purposes as permitted under applicable law; and
- 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.

3. Eligibility and Enrollment.

Eligibility: 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 installed one or more Devices that are compatible with and connected to the DER Vendor platform (“Service”) and compatible with the Program
- Maintain an active account in good standing on the Service and a continuous connection between your enrolled Devices and the Service;
- Assist Sponsor Parties’ support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues;
- You must successfully complete any necessary data sharing authorizations, as may be required by the Program Administrator in order to manage your participation; and
- Have an active utility residential account with your Utility
- You consent to the required permissions outlined above in Section 2.

Enrollment. Program Administrator and/or Sponsor may accept or reject your application at their sole discretion. You may be automatically re-enrolled in subsequent Program Periods at Sponsor's discretion, subject to the then-current Terms for the Program

- 4. Program Description.** Participant agrees to allow DER Vendor, on behalf of the Sponsor Parties, to control the Participant's Devices during the Program Period. Such adjustments are referred to as "**Adjustment Events.**" 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 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 or contacting DER Vendor.

Adjustment Events are expected to be limited to times when the electricity grid is experiencing emergency conditions, peak load conditions, high-priced energy periods, and/or for general system testing purposes, as determined in the Sponsor Parties' discretion.

- 5. 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://thermostatrewards.com/powersaversmidatlantic>. The Sponsor Parties may accept or reject your application in their discretion.

- 6. Termination; Expiration.**

Participant Withdrawal. Once you are accepted as a Participant in the Program, you may withdraw by emailing the Sponsor contact address specified below. Withdrawal will not affect the other services provided by the Sponsor Parties to you. By withdrawing, you may render yourself ineligible to participate in the Program in the future, or participate in other programs offered by Sponsor. If you cease to participate in the Program, the Sponsor Parties will unenroll the Device, effective immediately. You may unenroll from the Program at any time.

Program Termination. Sponsor's ability to offer the Program is contingent on receiving certain approvals and acceptances from Program Administrator. If such approvals and acceptances are withheld or withdrawn, or if the Program is declared unlawful, the Program will be terminated. Further, Sponsor's ability to offer the Program to you is contingent on Sponsor's agreements with DER Vendor, and in the event such agreement(s) terminate for any reason, your participation in the Program will be terminated. In the event of such termination, DER Vendor may provide notice to you by email, and Sponsor may provide notice at www.energyhub.com. Termination of the Program will not affect any payment obligations you may have for your DER Vendor Device, and your DER Vendor customer agreement will remain in effect.

Program Disqualification. The Sponsor Parties may terminate your participation in the Program 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 Sponsor Party in connection with this Program, if your Program Administrator declares you ineligible for the Program, if your account with Program Administrator or DER Vendor is no longer in good standing, or if you do not maintain a continuous connection between your enrolled Device(s) and the Service. If you enroll in a conflicting energy program through Sponsor Parties, Sponsor may terminate your participation in the Program without liability and without notice. Disqualification from the Program will not affect any payment obligations you may have for your DER Vendor Device, and your DER Vendor customer agreement will remain in effect.

7. **Privacy Notice.** By participating in the Program, you agree that the Sponsor Parties may collect your Program Data and that if they cannot collect the required information or data, you may not be eligible to participate in the Program. Sponsor Parties will administer your Program Data consistent with these Terms and each company's then-current privacy policy. Sponsor's privacy policy is located at: <http://www.energyhub.com/privacy-policy>. Program Administrator's privacy policy is located at <https://terms.voltus.co/partners/programs/residential/privacy>.

8. **Disclaimers of Warranties, Limitation of Liability and Indemnity.**

Changes in Your Utility Costs. Sponsor Parties are not responsible for any changes in your utility costs during the Program.

Information. You represent and warrant to Sponsor that the information you provide to Sponsor while applying for and during the course of the Program is accurate and complete, and you agree to promptly notify Sponsor if any information you provided during your application for the Program has changed.

General Conditions

The Sponsor Parties' failure to enforce any term of these Terms shall not constitute a waiver of that provision.

Limitation of Liability: 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, (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 WHICH ARE LATE OR LOST, (VIII) ANY LOSS OF INCOME DUE TO DEVICE CONTROL, OR (IX) DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, AND PUNITIVE DAMAGES (EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). PARTICIPANT ASSUMES ALL RISK OF PARTICIPATION IN THE PROGRAM. TO THE EXTENT A COURT FINDS THE SPONSOR PARTIES LIABLE FOR ANY DAMAGES, THE SPONSOR PARTIES' TOTAL LIABILITY TO YOU FOR ANY DAMAGES FINALLY AWARDED SHALL NOT EXCEED ONE HUNDRED DOLLARS (\$100.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

Indemnification. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU 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 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 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 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 whereas Sponsor may assign these Terms to any third party. The Sponsor Parties are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, or participating. 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 constitutes 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.

9. Dispute Resolution.

Governing Law. This Program is governed by the laws of the State of New York without regard to its applicable principles of conflicts of law.

Informal Process First. You agree that, in the event of any dispute between you and the Program Administrator or Sponsor, you will first contact the Program Administrator or Sponsor in writing and make a good faith sustained effort to resolve the dispute before resorting to more formal means of resolution, including without limitation, any arbitration or court action.

Arbitration. If you and the Sponsor or Program Administrator 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.

The arbitrator's award will consist of a written statement stating the disposition of each claim, and the award will also provide a concise written statement of the essential findings and conclusions on which the award is based.

You and the Program Administrator or Sponsor shall maintain the confidential nature of the arbitration proceeding and the award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement or unless otherwise required by law or judicial decision.

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, Sponsor, and Program Administrator 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.

- 10. Changes to the Terms.** Sponsor Parties may modify these Terms at any time. 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. Sponsor will also post the most current version of the Terms on our website specified below and encourage you to check this site frequently.
- 11. 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 Sponsor's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you and the Sponsor Parties .
- 12. Additional Program Details.** Additional program details are available at the following website address: <https://thermostatrewards.com/powersaversmidatlantic>. Sponsor contact information for the program is: powersavers-midatlantic@energyhub.net.