

## PROGRAM TERMS AND CONDITIONS

**Welcome to the EnergyRight Smart Thermostat Rewards Program (“Program”).** By becoming a “Participant” of the Program, you may reduce stress on the grid in your utility service area, and may be eligible to receive the Rebate 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, both the Sponsor and the Program Administrator (as each is defined below). After your application is accepted, you will become a Participant and the Sponsor will perform electric heat validation to confirm whether the Participant has electric heat as the primary heat source. If the Participant is confirmed to have electric heat, the Participant will be automatically enrolled in the year-round Program Period (see definition below). If a validation confirms that the Participant does not have electric heat, the Participant will be enrolled in the summer only Program Period (see definition below). Also, you must have an installed and operational approved Device, as defined below, to participate in this Program.

**Agreement.** The decisions of the Sponsor and the Program Administrator regarding your participation in the Program are final and binding in all respects. The Sponsor reserves the right, in its sole discretion, to unenroll and terminate participation of any Participant for any reason to include, among other things: (1) tampering or attempting to tamper with their device or participation in the Program in a manner that negatively impacts the operation of the Program; or (2) violating these Terms or the terms and conditions of use of any of Sponsor Parties’ property or services. **Further, a Participant’s provision of any false information in connection with the Program is a violation of these Terms and may result in the immediate unenrollment of the Participant and forfeiture of any right to a future “Rebate”.**

**About the Program.** *To receive a Rebate (i) your application must fully comply with these Terms and be received by the enrollment deadline and accepted by the Program Administrator, (ii) you must be accepted as a Participant by the Sponsor and Program Administrator, and (iii) your participation must not be withdrawn or terminated. If you are entitled to a Rebate, you will receive the Rebate from the Program Administrator following the conclusion of the Program term as outlined in the section titled Program Termination below.*

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

- **“Adjustment Events”** mean times during the Program Period when the DER Vendor (as defined below) will signal the Device to raise or lower temperature settings a maximum of 4 degrees F up or down. A Participant shall maintain full ability to opt-out of the Adjustment Event.
- **“DER Vendor”** means the third party manufacturer of the Participant’s thermostat.
- **“Device”** means your DER Vendor thermostat, which can be monitored and operated during the Program by DER Vendor’s network operations center.
- **“FAA”** means the Federal Arbitration Act.
- **“Participant”** means an applicant that has been accepted into the Program by the Program Administrator.
- **“Program”** means the EnergyRight Smart Thermostat Rewards 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 Program Administrator account, and operational data about your Device(s).
- **“Program Period”** means the duration of the Program which is either 1) the year-round program from January 1st through December 31<sup>st</sup> or 2) the summer program which runs from June 1<sup>st</sup> – September 30<sup>th</sup>.
- **“Program Administrator”** collectively means TVA and your local power company.
- **“Program Term”** means as long as TVA continues the Program and your local power company participates or when a Participant withdraws from the Program.

- **“Pre-enrollment Rebate”** means credit paid to Participant for the purchase of a qualifying Device. Up to 2 per a home are eligible and allowed.
- **“Enrollment Rebate”** means one-time rebate paid to Participant after being validated and enrolled in the Program, This rebate is \$65 paid to Participant.
- **“Participation Rebate”** means a rebate paid to a qualifying Participant at the end TVA’s fiscal year. \$65 for year round Participants and \$20 for summer-only Participants.
- **“Qualified Applicant”** means meeting the eligibility criteria under the section **“Eligibility and Enrollment”**
- **“Service”** means the connection between your Device(s) and the DER Vendor platform.
- **“Sponsor”** means EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217.
- **“Sponsor Parties”** means Sponsor, DER Vendor, and Program Administrator, their respective successors and assigns, and each of their respective affiliates, agents, representatives, directors, officers, and employees.
- **“Terms”** means these Program Terms and Conditions.

**Application Consent by Participant.** By submitting an application to enroll as a Participant, you authorize the Sponsor Parties to 1) collect and exchange Program Data and retain such data indefinitely, for the purposes of operating, and determining your eligibility for, the Program; 2) 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, exchanging conclusions and publishing results based on those conclusions, provided that they treat all such Program Data in accordance with their respective privacy policies, and as otherwise permitted by applicable law; 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 Sponsor Parties; 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.

**Eligibility and Enrollment.** You must meet the following eligibility criteria and do the following to remain a Participant in good standing under the Program:

- Be at least 18 years of age;
- Have one or more Devices that are compatible with and connected to the DER Vendor platform (“Service”) and compatible with the Program design;
- Maintain an active account in good standing on the Service and a continuous connection between your enrolled Device(s) and the Service;
- Assist Sponsor Parties’ support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues; and
- Have an active residential utility account with your local power company.

**Program Period.** The Program will run for the Program Period defined above. Participant will be automatically re-enrolled in subsequent Program Periods at Sponsor’s discretion, subject to the then-current Terms for the Program. You may unenroll from the Program at any time.

**Program Description.** Participant agrees to allow DER Vendor, on behalf of the Sponsor Parties, to remotely adjust the Participant’s Devices during the Program Period consistent with the Program’s parameters. Such adjustments are referred to as **“Adjustment Events.”** Adjustment Events may signal the Device to raise or lower temperature settings up to a maximum of 4 degrees Fahrenheit up or down while the Participant maintains full ability to opt-out from current or future Adjustment Events at any time by directly adjusting the Device. An Adjustment Event 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. To be eligible for the Participation Rebate, you must participate in at least 65% of the Adjustment Events called. Manual adjustment of thermostat setting during an event opts-out the participant from that event; however, partial participation in an event counts towards the % participation. Participation Rebates will be calculated by taking the Participant's total participating minutes in Adjustment Events for the season, calculated in 15-minute interval data, divided by the total minutes of Adjustment Events for the season.

**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: [thermostatrewards.com/TVAEnergyRight](http://thermostatrewards.com/TVAEnergyRight). The Sponsor Parties may accept or reject your application in their sole discretion.

**How to Withdraw.** Once you are accepted as a Participant in the Program, you may withdraw from the program at any time by emailing the Sponsor contact at the address specified below. Withdrawal will not affect the other services such as but not limited to general electric service or other special programs currently provided by the Sponsor Parties to you. By withdrawing, Participant may render Participant ineligible to receive a Rebate, participate in the Program in the future, or participate in other programs offered by Sponsor.

**Program Termination.** Sponsor's ability to offer the Program is contingent on the Sponsor receiving certain approvals and acceptances from the Program Administrator. If such approvals and/or acceptances are withheld or withdrawn by the Program Administrator, or if the Program is declared unlawful, the Program, your participation, and right to any future rebates 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) with DER Vendor terminate for any reason, your participation in the Program, your participation, and right to any future rebates will be terminated.

In the event the Program is terminated, DER Vendor may provide notice to you by email at the most current email address on record, and Sponsor will provide notice at [www.energyhub.com](http://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.

**Disqualification.** The Sponsor Parties may terminate your participation in the Program at any time, and without liability, upon providing notice to you via email at the most current email address on record 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 no longer eligible 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 with your DER Vendor Device, and your DER Vendor customer agreement will remain in effect.

**Privacy Notice.** By participating in the Program, you agree that the Sponsor 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. Sponsor Parties will administer your personal information and usage 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>.

**Changes in Your Utility Costs.** Sponsor Parties do not guarantee or warrant that the Program will result in any energy savings and are not responsible for any changes in your utility costs during the Program.

**Information.** You represent and warrant to Sponsor that the information that you have or will provide to Sponsor during the course of the Program is accurate and complete, and you agree to promptly notify Sponsor of any changes to information that you have provided during the Program Term.

**General Conditions.** This Program is governed by the laws of the State of Tennessee 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 REBATE, (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, 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 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 AND/OR USE OR ACCEPTANCE OF ANY REBATE 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, participating, or claiming a Rebate. 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 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 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”). 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.

**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 agree that, as a condition of participating in the Program, YOU MAY ONLY BRING CLAIM(S) AGAINST ANY PARTY CONNECTED TO THE PROGRAM IN YOUR 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.

**Changes to the Terms.** Sponsor may modify these Terms at any time. Sponsor will notify Participant by email at the most current email address on record when material changes are made to these Terms, and the effective date of the modified Terms, which will be after the date of our notice to Participant. 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. The most current version of the Terms will be posted on the website specified below and Participants are encouraged to check this site 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 Sponsor’s website, shall constitute effective execution and delivery of these Terms, and shall form a contract between you and the Sponsor, and the other Sponsor Parties shall be express third party beneficiaries hereof and may enforce the provisions hereof as if they were a party hereto; provided that the other Sponsor Parties will not be bound by the arbitration provisions hereof and may enforce these Terms in any court having jurisdiction over the subject matter of the dispute.

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

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Customer Signature

\_\_\_\_\_  
Customer Name

\_\_\_\_\_  
Date

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