

PROGRAM TERMS AND CONDITIONS

Welcome to the Los Angeles Department of Water and Power (LADWP) Power Savers Program (“Program”). By becoming a Participant of the Program, you can assist in reducing stress on the grid, receive monetary incentives and contribute to Clean Grid LA efforts in your electricity service area. By participating in the Program, you may be eligible to receive the incentives described below, subject to these Terms and Conditions (“**Terms**”). To become a Participant in the Program, you must submit an application to, and have it accepted by the Program Parties.

YOU MUST BE AN EXISTING USER OF THE THERMOSTAT PARTNER SERVICE TO BECOME A PARTICIPANT. PLEASE READ THESE TERMS CAREFULLY. THIS PROGRAM IS VOID WHERE PROHIBITED BY LAW.

Binding Agreement. By applying for the Program, you agree to comply with and be bound by these Terms. Failure to comply with these Terms may result in your disqualification from the Program. The decision of LADWP regarding your eligibility to participate is final and binding in all respects. LADWP reserves the right in its sole discretion to disqualify any Participant for but not limited to, the following: (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 Incentive.**

About the Program. Applicants whose applications to participate in the Program are accepted by LADWP (“Participants”) and who fully comply with these Terms may receive the incentive set forth below to be provided to you by LADWP. To receive the Incentive, you must be accepted as a Participant by LADWP and your participation must not be withdrawn or terminated.

Definitions.

- **“Vendor”** means EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217
- **“Thermostat Partner”** means ecobee, Inc.
- **“Program Parties”** means LADWP, Vendor and Thermostat Partner their respective successors and assigns, and each of their respective affiliates, agents, directors, officers, and employees.
- **“Device”** means a device that can be monitored and controlled during the program through the Thermostat Partner cloud platform or other communications pathway.
- **“Participants”** means LADWP’s electric customers who have applied and been accepted into the program.
- **“Program Period”** means the period of June 1st through October 31st of each year the Program is offered.

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 LADWP account, your electric bill, and operational data about your Devices (collectively, **“Program Data”**), 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 adjust your Devices, as required by the Program at times indicated by LADWP (as described below) 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, pre-recorded messages and other notifications related to surveys about the Program and to share your responses to such surveys among program parties 6) 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 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 Thermostat Partner's 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 Devices and the Service;
- Assist Program Parties' and their authorized personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues.

Any additional Devices installed as part of your LADWP system at your service address will be eligible if you choose to enroll them in the Program and LADWP approves the enrollment of these devices. Once enrolled and approved by LADWP, these devices may also participate in Adjustment Events, as described below. Incentives will be provided pursuant to LADWP's offer and the automatic enrollment of additional Devices may not result in additional incentives.

Program Period. The Program will run for the period defined under Definitions section (the "**Program Period**"). You may be automatically re-enrolled in subsequent Program Periods at LADWP's discretion, subject to the then-current Terms for the Program.

Program Description. Participant agrees to allow Program Parties to control the Participant's Devices during the Program Period. 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. Participant may opt out of an Adjustment Event at any time directly by adjusting his/her device.

How To Apply. You can apply to participate in the Program through your Thermostat Partner's web or mobile account or at the program enrollment website specified below. LADWP may accept or reject your application in its sole discretion.

How To Withdraw. Once you are accepted as a Participant in the Program, you may withdraw by emailing the LADWP contact address specified below or through your Thermostat Partner's account web portal or mobile app. Withdrawal will not affect the other services provided by the Program Parties to you. By withdrawing, you may render yourself ineligible to receive the incentive, participate in the Program in the future, or participate in other programs offered by LADWP or Vendor.

Program Termination. LADWP or Vendor's (with authorization from LADWP) ability to offer the Program is contingent on certain approvals and acceptances. If such approvals and acceptances are withheld or withdrawn, or if the Program is declared unlawful, the Program will be terminated along with the incentive. In the event of such termination, LADWP will provide notice at www.ladwp.com/powersaversprogram

Disqualification. LADWP or Vendor (with authorization from LADWP) may terminate your participation in the Program and incentive 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 LADWP or Vendor (with authorization from LADWP) declares you ineligible for the Program, if your account with Thermostat Partner 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 Program Parties, LADWP or Vendor (with authorization from LADWP) may terminate your participation in the Program without liability and without notice.

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 protect your personal information and usage data consistent with these Terms and each company's then-current privacy policy. LADWP's privacy policy is located at <http://rates.ladwp.com/PrivacyPolicy.aspx> and the Vendor's privacy policy is located at <http://www.energyhub.com/privacy-policy>.

Changes in Your Electricity Costs. Parties are not responsible for any changes in your electricity costs during your participation in this Program. Your participation in the program is not a guarantee that your electricity costs will go down.

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

General Conditions. This Program is governed by the laws of the State of California without regard to its applicable principles of conflicts of law. LADWP or Vendor's failure to enforce any term of these Terms shall not constitute a waiver of that provision. THE PROGRAM PARTIES 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 INCENTIVE, (II) ANY ERROR, OMISSION, INTERRUPTION, DEFECT OR DELAY IN OPERATION OR TRANSMISSION AT ANY WEBSITE, (III) FAILURE OF ANY APPLICATION TO BE RECEIVED BY LADWP OR VENDOR 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 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 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 PROGRAM PARTIES' NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE PROGRAM PARTIES' FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE PROGRAM PARTIES 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 Vendor and LADWP and its successors and assigns, and Participant. Participant may not assign these Terms without the written consent of LADWP or Vendor whereas LADWP or Vendor 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 an Incentive.

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

Changes to the Terms. LADWP or Vendor (with authorization from LADWP) 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. We will also post the most current version of the Terms on our website specified below and encourage you 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 Vendor's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you, LADWP and Vendor.

Additional Program Details.

- Utility Program website: ladwp.com/powersaversprogram
- Incentive: \$125 enrollment incentive per device and \$60 seasonal incentive per device for customers who remain enrolled through the end of the program season on October 31st. Limited to two devices per household.
- The Program application for enrollment is available at the following website address: <https://www.ecobee.com/ladwp>
- Program contact information: powersaversprogram@ladwp.com
- Program Period: June 1st, 2020 – October 31st, 2021
Season Period: June 1st – October 31st per year program is offered
- Up to 15 Adjustment Events per Season Period
- Temperature adjustment may vary by up to 4 degrees Fahrenheit
- Adjustment Event window of operation may be from 1pm – 10pm PST
- Adjustment Event duration is a maximum of 4 hours
- The Program Terms are available at the following website: <https://mercury.energyhub.net/t/terms/ladwp/ecobee-ladwp.html>