

## Power Manager and EnergyWise Home Battery Control Program Terms and Conditions

**Welcome to the Program.** Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (“**Duke Energy**” or “**Program Administrator**”) has established the EnergyWise Home and Power Manager Battery Control program (the “**Program**”) in its North Carolina service territory and has contracted with EnergyHub, Inc. to implement the Program (the “**Sponsor**”). 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 may be eligible to receive the Incentive 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. You must have an installed and operational Fortress Power Battery Energy Storage System 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 and forfeiture of any Incentive.**

**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 (“**Reward**”), to be provided to you by Program Administrator following the conclusion of the Program term. To receive the Reward, you must be accepted as a Participant by the Sponsor and Program Administrator, and your participation must not be withdrawn or terminated.

**PowerPair<sup>SM</sup> Customers on Residential Solar Choice Rider RSC Acknowledgment.** Customers participating in the Duke Energy Residential Solar Choice Rider RSC are not Participants in the Program but shall be required to acknowledge and comply with the following Sections of these Terms (the “**Applicable Sections**”): Privacy Notice, Information, Acceptance of Agreement, Additional Program Details, and Application Consent. For purposes of this acknowledgment, the term “Participants” as used in the Applicable Sections shall be deemed to refer to the Residential Solar Choice customers, and the term “Program” shall be deemed to refer to PowerPair, and the term “Terms” shall be deemed to refer to this acknowledgment. Any reference to the term Control Event in the Applicable Sections shall be deemed to not apply to Participants.

### Definitions:

- **Sponsor.** The Program Sponsor is EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217.
- **Battery Energy Storage Systems (BESS)** means one or more devices controlled as a single system that can store energy in order to supply electrical energy for future use. For the avoidance of doubt, this does not include electric vehicle batteries.
- **Incentive(s)** means the incentive paid to a Participant on a monthly basis as a credit on the Participant’s Program Administrator electric utility bill for participation in the Program. Incentive(s)

will not be paid to Participant's who are not subject to Control Events as part of their enrollment in the PowerPair Program.

- **Connectivity** means reliable internet connection.
- **Control Events** means the times during the Program when the DER Vendor will control a Participant's Eligible Device(s) on behalf of the Sponsor Parties involving initiation of a signal to control an Eligible Device(s), and within 48 hours later, discharging the device. Control Events may include charging, discharging, holding charge steady, adjusting settings, returning settings to normal.
- **Customer Account** means the Participant's Duke Energy account number as indicated on their monthly electric utility bill at the Premises. Any Incentive(s) earned for participation in the Program will be included on the Participant's Customer Account.
- **DER Vendor** means Fortress Power
- **Device** means your Fortress Power Battery Energy Storage System, which can be monitored and operated during the Program by DER Vendor's network operations center.
- **Eligible Devices** means your DER Vendor BESS equipment approved for Participant use as part of the Program. The list of Eligible Devices is available <http://www.duke-energy.com/pmbattery> and <http://www.duke-energy.com/ewhbattery>. Participant may have multiple Eligible Devices installed and all Eligible Devices are considered as one Participant BESS.
- **FAA** means the Federal Arbitration Act.
- **Participant** means an applicant that has been accepted into the Program by the Program Administrator.
- **Premises** means the Participant's address where the Eligible Devices are installed and operate. Premises must be tied to the Customer Account where the Incentive will be issued. Participant must either own and occupy the Premises or occupy the Premises and provide Program Administrator with owner-consent for participation in the Program.
- **Program** means the Duke Energy Progress EnergyWise Home Program or the Duke Energy Carolinas Power Manager Program, depending on Participant jurisdiction.
- **Program Period** means the duration of the Program from January 1st through December 31st.
- **Program Administrator** means Duke Energy Progress, LLC or Duke Energy Carolinas, LLC and each of their respective successors and assigns.
- **Program Data** means data related to your identity, your Control Event opt-in or opt-out status, your energy usage and/or energy production, your Program Administrator Customer Account, your utility bill, and operational data about your Eligible Device(s).
- **Service** means the connection between your Device(s) and the DER Vendor platform.
- **Sponsor Parties** means Sponsor, DER Vendor, and Program Administrator, their respective successors and assigns, and each of their respective affiliates, agents, 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 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 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 your Devices to take part in Control 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 may apply to become a Participant and participate in the Program if you meet the following eligibility criteria and do the following:

1. Participant's Customer Account must maintain active and remain in good standing with the Program Administrator throughout Program participation.
2. Participant must be a residential customer of the Program Administrator served on an individually metered residential rate schedule in tariff approved territories.
3. Customer must either own and occupy the residence or occupy and provide the Program Administrator with owner-consent in order to participate in the Program.
4. Participant must have agreed to, and be in compliance with the Terms, including, without limitation, having provided the Application Consent.
5. Participant must maintain Connectivity to Eligible Devices that is sufficient to enable Sponsor to remotely communicate with Eligible Devices, collect Eligible Device status and Participant usage data and additionally manage and control your Eligible Devices during Control Events.
6. Participant must have an AMI meter installed at the Premises, where the Eligible Devices are installed and operated, that is connected to the Customer Account.
7. Interconnection Requirements:
  - a. Participant and Participant's Eligible Device must comply with Program Administrator interconnection standards.
  - b. Participant must not discharge Eligible Devices to Program Administrator's electric grid more than allowed by interconnection limits.
  - c. Participant must install an inverter that limits export to Program Administrator's electric grid if Participant's Eligible Device(s) power rating is beyond interconnection limits.
  - d. Participant must remain compliant with Program Administrator's interconnection standards throughout term of the Program.
8. Eligible Devices:
  - a. Participant must have an Eligible Device installed at their Premises in order to be eligible for the Program.
  - b. Eligible Devices may be removed from or added to the Program from time to time as determined appropriate by Program Administrator (i.e., issues with data collection and testing Connectivity with the control vendor and/or manufacturer).
  - c. Program Administrator and Sponsor do not warrant the performance of Eligible Devices. Participant is responsible for all aspects of Eligible Device ownership including but not limited to purchase, maintenance, Connectivity, and repair.
  - d. If Participant's Eligible Device(s) require replacement, in order to continue participation in the Program, Participant must contact the Sponsor to arrange for replacement equipment to be enrolled in the Program.
  - e. All Eligible Devices at the Premises must be enrolled in the Program. Participant may not choose to participate with only a subset of the BESS devices installed at the Premises.
  - f. Participant may own or be leasing their Eligible Device
9. Participant must support Sponsor, Program Administrator or DER Vendor requests for troubleshooting support.
10. Additional Program and Control Event Details:

- a. Participant Eligible Devices must be configured in such a way that allows Sponsor to remotely communicate and control the Eligible Devices.
- b. Participants must allow Sponsor, Program Administrator or DER Vendor to inspect and verify Eligible Devices upon request.
- c. Enrollment of Participant's Eligible Device(s) may require a successful test for Connectivity.
- d. Program Administrator will control Participant's Eligible Devices in Control Events at any hour of the day at least 30 and no more than 36 control events per calendar year:
  - i. December – March: Up to 18 times
  - ii. May – September: Up to 9 times
  - iii. April, October and November: Up to 9 times
  - iv. Program Administrator reserves the right for interruption outside of these parameters in the event continuity of electric service is threatened.
- e. Program Administrator reserves the right to test Eligible Devices at any time, and such test periods shall be counted as a Control Event.
- f. Program Administrator reserves the right to prevent the Participant's Eligible Device(s) from charging from the grid if continuity of service is threatened, or to disconnect a Participant's load entirely if the operation of the Participant's Eligible Device(s) threatens the reliability or safety of the Program Administrator's system. Program Administrator's exercising of this right does not constitute a Control Event.
- g. Participant may opt out of Control Events; however, if Participant exceeds four (4) Control Event opt-outs in a single year, Participant may be removed from the Program. A Control Event opt-out includes non-participation from part or all of the interruption time period. If the Company is unable to communicate with Participant's Installed Equipment during a Control Event, it will be counted as a Control Event opt-out. Opt outs not caused by fault of Participant shall not be considered an opt out.
- h. Sponsor will minimize on-peak charging during Control Events as much as reasonably possible
- i. Eligible Devices will not be discharged below a 20% state of charge during Control Events
- j. Sponsor will prioritize Eligible Device charging from Participant solar panels when possible during Control Events
- k. Incentives
  - i. Incentive amounts for Eligible Devices can be found on the program-eligible battery table found at <http://www.duke-energy.com/pmbattery> or <http://www.duke-energy.com/ewhbattery>.
  - ii. The Incentive a Participant qualifies for is dependent on the Eligible Device make and model installed at the Participant's Premises and enrolled in the Program
  - iii. Multiple Eligible Devices are allowed, and Incentive will be paid for multiple Eligible Devices subject to restrictions (See Section 11.o)
  - iv. Incentives for Eligible Devices are calculated based on the nameplate capacity continuous discharge rate (measured in kilowatts (kW)) of the Eligible Devices, reduced by a capability factor as follows:

Incentive =  
\$6.50

\* Nameplate Capacity Continuous Discharge Rate (kW) for Eligible Devices  
\* Capability Factor

Nameplate Capacity Continuous Discharge Rate (kW) is capped at 20 kW  
Residential Interconnection Limit

The current capability factor is available on <http://www.duke-energy.com/pmbattery> or <http://www.duke-energy.com/ewhbattery>.

- v. Incentive will be applied to the Participant's Customer Account after successful enrollment in the Program and each month that Participant remains enrolled in the Program.
  - vi. Incentive may require up to two (2) billing cycles to appear on the Participant's Customer Account.
  - vii. Upon payment of the Incentive, Program Administrator will be entitled to any and all environmental, energy efficiency, and demand reduction benefits and attributes, including all reporting and compliance rights, associated with participation in the Program.
  - viii. None of the energy used in a Control Event shall be considered eligible for resale to the Program Administrator, and any value associated with the Control Events shall be considered to be compensated for as part of the Participant's Incentive.
- I. Incentive Restrictions
- i. Incentives for Eligible Devices is capped at the 20kW residential interconnection limit

**Contract Period.** Participant must remain in the Program for no less than one year.

**Program Description.** Participant agrees to allow DER Vendor, on behalf of the Sponsor Parties, to control the Participant's Eligible Devices during the Program through Control Events.

**How to Apply.** You can apply to participate in the Program through your DER Vendor mobile app or at the program enrollment website found at <http://www.duke-energy.com/pmbattery> or <http://www.duke-energy.com/ewhbattery>. The Sponsor Parties 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 by emailing the Sponsor contact address specified below or through your DER Vendor account (web portal or mobile app). Withdrawal will not affect the other services provided by the Sponsor Parties to you. By withdrawing, you render yourself ineligible to receive the Incentive. Participant may withdraw participation by providing 30 days' notice.

**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 withdrawn or withheld, or if the Program is declared unlawful, the Program will be terminated including any Incentive included therein. 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 along with the Incentive. Notice will be provided in either case to Participant no less than 30 days prior to any such termination. In the event of such termination, DER Vendor may provide notice to you by email, Sponsor may provide notice at [www.energyhub.com](http://www.energyhub.com), and/or Program Administrator may provide notice to you by email or at <http://www.duke-energy.com/pmbattery> or <http://www.duke-energy.com/ewhbattery>. 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.

**Participant Termination.** The Sponsor and Program Administrator Parties may terminate, suspend or disqualify your participation in the Program and eligibility for the Incentive at any time and without liability upon notice to you via email if, in their sole discretion, you violate these Terms or applicable law, if you tamper or attempt to tamper with the operation of the Program if you do not comply with any reasonable request from a Sponsor Party in connection with this Program, or if your Eligible Device becomes ineligible for the Program. In any case, the Participant will be provided at least 30 days prior notice. 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.

**General Conditions.** These Terms do not relinquish the Participant from complying with other program terms and conditions offered by the Program Administrator.

These Terms are governed by the laws of the State of North Carolina without regard to applicable principles of conflicts of law. The Sponsor Parties' failure to enforce any portion of these Terms shall not constitute a waiver of that provision or any other 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 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 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 INCENTIVE 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 OR THE USE OF ANY ELIGIBLE EQUIPMENT INSTALLED AT THE PREMISES. 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 an Incentive. 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.

**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 Program 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> and Program Administrator's [privacy policy is located at: https://www.duke-energy.com/legal/privacy](https://www.duke-energy.com/legal/privacy)

**Changes in Your Utility Costs.** Program Administrator and Sponsor Parties are not responsible for any changes in Participant electricity costs or other costs before, during, or after 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.

**Arbitration.** To the extent the subject matter of any such dispute does not fall within the exclusive jurisdiction of the Federal Energy Regulatory Commission or the North Carolina Utilities Commission, and to the extent permitted by law, the dispute will be conducted exclusively by binding individual arbitration governed by the 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, and to the extent permitted by law, class arbitration is not permitted under any circumstance. You 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, 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. 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 Sponsor's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you and the Sponsor Parties.

**Additional Program Details.** Participants are subject to the requirements of the Program as further detailed in the [regulatory rate documents](#). . Additional program details are available at the following website address: [Power Manager Battery Control - Duke Energy \(duke-energy.com\) \(Duke Energy Carolinas, LLC\)](#)/ [EnergyWise Home Battery Control - Duke Energy \(duke-energy.com\)](#) (Duke Energy Progress, LLC). EnergyHub contact information for the program are-  
DEC: [dukeenergypmbattery@energyhub.com](mailto:dukeenergypmbattery@energyhub.com) ; DEP: [dukeenergyewhbattery@energyhub.com](mailto:dukeenergyewhbattery@energyhub.com)

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Customer Signature

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Customer Name

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Date