

EnergyScout for Small Business Participant Agreement

Customer Name: _____

Service Address: _____

Account Number: _____

Equipment Type and Count: _____

This Participant Agreement ("Agreement") is for the benefit of the Service Address identified above and between the above-named customer ("Participant") and Hawaiian Electric Company, Inc. ("Hawaiian Electric" or the "Company") for participation in the Small Business Direct Load Control ("SBDLC") Program, a component of Hawaiian Electric's EnergyScout Program, also known as EnergyScout for Small Business. Participation in this program is voluntary and subject to the SBDLC Program Rules, available at: <https://www.hawaiianelectric.com/energyscout>

1. New Control Device Installation and Maintenance

Participant authorizes Honeywell and its contractors, acting on behalf of Hawaiian Electric, to install a qualified load control device ("Device") on their enrolled electric resistance water heater and/or central air conditioner (each referenced as "Equipment"). Installation and maintenance may include, without limitation, testing and verification activities. Subject to prior notice, Participant agrees to provide Hawaiian Electric and its contractors with access to the premises to perform Device installation, maintenance, repair and removal work.

2. Participant Responsibilities

By signing this Agreement, Participant agrees to:

- Keep the Device installed and in working condition unless otherwise instructed by Hawaiian Electric.
- Maintain the Equipment in working condition and good repair throughout the duration of their participation in the program.
- Not remove or tamper with the Device without prior authorization from Hawaiian Electric.
- Notify Hawaiian Electric if they wish to cease participating in the program or if the Device is damaged or malfunctioning.
- Grant permission for Hawaiian Electric and its contractors to remotely access data from the Device for program purposes.

3. Transfer of Participation

Neither this Agreement, nor any right, remedy, obligation or liability arising hereunder or by reason hereof may be assigned by the Participant without the prior written consent of the Company. This agreement runs with the property and shall inure to the benefit of the property.

If the property is sold or occupied by a new commercial customer of Hawaiian Electric who holds the electrical service account for the property, participation in the SBDLC Program and this Agreement will automatically transfer to that new customer. No new Agreement is required. The new customer may withdraw from the program and this Agreement by notifying Hawaiian Electric and executing any documents that Hawaiian Electric may reasonably request of the new customer to complete the withdrawal. Prior to the sale or other transfer of interest in the property, the current Participant is required to notify the new owner or occupant that the property is enrolled in the SBDLC Program and that a Device is installed on Equipment at the property.

4. Limitation of Liability

Participation in the SBDLC Program is voluntary. The Participant understands that the Device is installed and operated to support grid reliability and may occasionally affect the operation of the enrolled Equipment. Hawaiian Electric and its contractors are not responsible for any indirect, incidental, or consequential damages related to the Participant's participation in the program or the performance of the Device and the Participant hereby waives any and all claims it may have to such damages. The Participant agrees that they will not hold Hawaiian Electric, its contractors, or affiliates responsible for any losses or damages, except in the event that Hawaiian Electric's performance hereunder is the sole and direct cause of such loss or damage.

5. Indemnification

The Participant shall indemnify, defend and hold the Company and its officers, directors, agents and employees harmless, from and against all liabilities, damages, losses, fines, penalties, claims, demands, suits, costs and expenses (including reasonable attorney's fees and expenses) to or by third persons, including the Company's employees or subcontractors, for injury or death, or for injury to property, arising out of the actions or inactions of the Participant (or those of anyone under its control or on its behalf) with respect to its obligations under this Agreement, except to the extent that such injury, death or damage is attributable to the gross negligence of the Company or its officers, directors, agents or employees.

6. Insurance

The Participant shall, at its own expense, maintain in full force and at all times during the term of this Agreement standard commercial property insurance in an amount sufficient to cover any and all losses arising from the Participant's participation in the program. If the Participant fails to maintain such insurance, the Participant acknowledges and agrees that it will not seek or be entitled to any coverage under Company's insurance. The Participant shall provide Hawaiian Electric with a certificate of insurance or other acceptable documentation of such insurance upon request.

7. Authorization to Participate

If the Participant is not the owner of the property, they represent and affirm that they have either, i) obtained permission from the property owner or manager to participate in the SBDLC Program, which participation includes the installation and operation of the Device on the premises; or ii) possess the legal right with respect to the property and the Equipment to participate in the SBDLC Program.

8. Personnel and System Safety

If at any time the Company determines that the continued operation of the Equipment may endanger any person or property, the Company’s systems, or have an adverse effect on the safety or power quality of other customers, the Company shall have the right to disconnect the Device from the Equipment. The Equipment shall remain disconnected from the Device until such time as the Company is satisfied that the adverse effect or power quality condition(s) has been corrected, and the Company shall not be obligated to accept any capability from the Equipment during such period.

9. Notices

Any notice required under this Agreement shall be in writing and emailed or mailed at any United States Post Office with postage prepaid and addressed to the party or personally delivered to the party at the address identified below. Changes in such designation may be made by notice similarly given. Notice sent by email or mail shall be deemed to have been given on the date of actual delivery or at the expiration of the fifth day after the date of mailing, whichever is earlier.

Notice shall be given as follows:

If to Company:
Hawaiian Electric
energyscout@hawaiianelectric.com
Customer Energy Resources
P.O. Box 2750, AL18-SI
Honolulu, HI 96840

If to Participant:
The name, address and email address of the customer of record held by Hawaiian Electric.

10. Governing Law and Jurisdiction

This Agreement shall be construed as executed in the State of Hawaii and must in all respects be interpreted, governed, and construed under the laws of the State of Hawaii. This Agreement is subject to, and the parties’ obligations hereunder include, operating in full compliance with

all valid, applicable federal, state, and local laws or ordinances, and all applicable rules, regulations, orders of, and tariffs approved by, duly constituted regulatory authorities having jurisdiction over the subject matter contemplated by this Agreement. Any dispute arising out of this Agreement shall only be brought in the State of Hawaii in a court of competent jurisdiction.

11. Amendment, Modification, Waiver

This Agreement may not be altered or modified by either of the parties, except by an instrument in writing executed by each of them. None of the provisions of this Agreement shall be considered waived by a party unless such waiver is given in writing. The failure of a party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect. This Agreement contains the entire agreement and understanding between the parties, their agents, and employees as to the subject matter of this Agreement. Each party also represents that in entering into this Agreement, it has not relied on any promise, inducement, representation, warranty, agreement or other statement not set forth in this Agreement.

12. Relationship of the Parties

Nothing in this Agreement shall be deemed to constitute any party hereto as partner, agent or representative of the other party or to create any fiduciary relationship between the Parties.

13. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives, and permitted assigns.

14. Counterparts and Electronic Signature

This Agreement and any subsequent writings, including amendments, may be executed in counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument binding all parties. Duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document. This Agreement and any subsequent writings, including amendments, may be executed and delivered by exchange of executed copies via email or other acceptable electronic means or formats (*e.g.*, DocuSign, Adobe PDF). A party's signature transmitted by email or other acceptable electronic means or formats shall be considered an original signature that is binding and effective for all purposes.

Participant Signature: _____

Date: _____