



Program Participation Agreement

Terms and Conditions

This document is intended for informational purposes only and does not constitute an agreement with Yukon Energy Corporation ("Yukon Energy"). Eligible applicants to the Peak Smart program selected by Yukon Energy to participate will be provided with a Participation Agreement to review and sign. The terms of the Participation Agreement are intended to be similar to the Terms and Conditions presented below, subject to change at Yukon Energy's sole discretion, without notice.

Terms & Conditions:

1. You represent and warrant that:
 - a) You are either a residential electricity distribution customer of the YEC or ATCO Electric Yukon ("AEY")
 - b) You are (i) an individual 18 years or older and (ii) the occupier and sole owner, legal or otherwise, of the premises (hereto referred to as the "**Premises**"), located at:
 - Street Address & Community: _____, YT,
 - Postal Code: _____;
 - c) The Premises are not subject to any leases, sublets, tenancies, or rental arrangements, and are not occupied by any lessees, sublessees, tenants, or renters of any kind, except for Permitted Tenancies as defined at section 2 of the Eligibility Criteria in Schedule A; and
 - d) You fulfill all of the Eligibility Criteria in Schedule A, and you covenant that you will continue to fulfill all of the applicable Eligibility Criteria in Schedule A for the duration of this Agreement.

Except for Permitted Tenancies as defined at section 2 of the Eligibility Criteria in Schedule A, you further agree that for the duration of this Agreement, you will not enter into any leases, sublets, tenancies, or rental arrangements of any nature for the Premises, allow the Premises to be subject to any leases, sublets, tenancies, or rental arrangements of any nature, or allow the Premises to be occupied by any lessees, sublessees, tenants, or renters of any kind.

2. You agree to permit YEC or contractors of YEC ("**YEC Contractors**") to install the Devices at the Premises as the primary control device for selected electrical heating appliances (the "**Appliances**"). The Appliances will be selected by YEC Contractors, subject to your oral approval. If there are pre-existing devices installed at the Premises that in the opinion of YEC may be suitable for use in the Initiative and are otherwise consistent with this Agreement (a "**Compatible Device**" or "**Compatible Devices**"), then you agree to permit YEC Contractors to inspect the Compatible

Devices at the Premises to determine and ensure, among other things, whether they are suitable for use in the Initiative. YEC may at any time determine at its sole discretion that a Device cannot be installed at the Premises for any reason or that any Compatible Device or any aspect of it is unsuitable for the Initiative and inconsistent with this Agreement, including but not limited to, safety, suitability, or access or funding, at which time this Agreement will terminate without any obligations on YEC to provide any Devices or provide any payment, and without liability on YEC for the performance of any of the obligations under this Agreement.

3. You agree that upon installation of the Devices in or on the Premises, ownership of the Devices is transferred to You. This Agreement does not impact the ownership of any Compatible Devices.
4. You further represent, warrant, and agree that for the duration of this Agreement each Appliance to which a Device or Compatible Device is connected, to be connected, or attached is and shall be in good working order and has been and will continue to be maintained and inspected by a qualified individual at reasonable intervals. YEC reserves the right to terminate this agreement at their sole discretion due to concerns regarding the maintenance of connected Appliances. YEC is not responsible for any costs relating to or performance any maintenance or inspection of any Appliance to which a Device is connected, YEC makes no representation or warranty with respect to any such maintenance or inspection and shall incur no liability whatsoever related to any such maintenance or inspection.
5. You agree to allow YEC and YEC Contractors to control the Devices or Compatible Devices installed at the Premises by interrupting or increasing power to the Appliances to which the Devices or Compatible Devices are connected and to any equipment attached to the Appliance to which the Device or Compatible Device is connected ("**YEC Demand Control**"). This may mean that, for example, in the case of a Device or Compatible Device attached to a baseboard thermostat, there may be a decrease or increase in the temperature at the Premises, or in the case of a Device or Compatible Device attached to a water heater, there may be a reduction in the temperature of hot water at the Premises. The foregoing examples are for illustrative purposes only and do not limit the circumstances of YEC Demand Control. You further acknowledge and agree that no person, which includes but is not limited to individual or legal entity ("**Person**"), except You, YEC or a Person designated by YEC has or will have the right to control or dispatch the Devices and exercise electricity load control for the Appliances, and that you will not authorize anyone else to control any Devices or Compatible Devices installed at the Premises or install any other load control or related devices to the Devices, Compatible Devices or the Appliances. Please note that you will also have the ability to choose to opt out of on-going instances of YEC Demand Control at your sole discretion.
6. You agree not to move, modify, alter, uninstall, remove, tamper with, disable or damage the Devices or Compatible Devices that are installed at the Premises for the duration of this Agreement without written advance approval by YEC. Any requests to move, modify, alter, uninstall, remove, or disable Devices or Compatible Devices that are installed at the Premises must be provided in writing to YEC, to which YEC may approve or deny at its sole discretion. Any effort to move, modify, alter, uninstall, remove, or disable the Devices or Compatible Devices at any time must be performed by an individual qualified to do so at the highest industry standard. Failure to comply with these obligations will be at your sole risk for any injury or damage that may result, including damage to the Appliances, equipment connected directly or indirectly to the Appliances, the Premises, or to any Person.

7. You agree to provide YEC and YEC Contractors with reasonable access to enter and occupy the Premises to inspect, test, maintain, repair, replace, and service the Devices, or in the case of Compatible Devices inspect and test the Compatible Devices, as YEC deems necessary for the duration of this Agreement. Prior to accessing the Premises, YEC will provide You with five (5) Business Days' notice whenever possible, except in the case of an emergency, safety issue, or other hazardous scenario whereby this notice period may be waived with your consent.
8. You may submit a request in writing or by telephone to YEC to terminate your participation in the Initiative and for the Devices to be replaced at YEC's cost with either a new non-communicating thermostat selected at YEC's discretion or a suitable and YEC-approved thermostat that you provide. YEC will make reasonable efforts to comply with such requests within ten (10) business days.
9. You agree and acknowledge that: (i) YEC Contractors are independent of YEC and that YEC makes no representation, warranty, endorsement or recommendation of any kind with regard to the Initiative; (ii) the Initiative is not intended to provide any energy cost savings and YEC does not guarantee energy cost savings or other benefits arising from the Initiative or this Agreement; (iii) the Devices or Compatible Devices may not display real time consumption and costing information; and (iv) NEITHER YEC NOR THEIR RESPECTIVE SUCCESSORS, HEIRS, ASSIGNS, AFFILIATES, EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, AND SHAREHOLDERS, AND NEITHER YEC CONTRACTORS AND SERVICE PROVIDERS AND THEIR RESPECTIVE SUCCESSORS, HEIRS, ASSIGNS, AFFILIATES, EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, AND SHAREHOLDERS (COLLECTIVELY, THE "**INITIATIVE OPERATORS**") WILL BE LIABLE TO YOU OR ANY THIRD-PARTY FOR ANY LOSS, DAMAGE OR INJURY TO ANY PERSONS OR PROPERTY, INCLUDING WITHOUT LIMITATION ANY ECONOMIC LOSS, LOSS OF GOOD WILL, LOSS OF PROFIT OR ANY DIRECT, INDIRECT, SPECIAL, EXEMPLARY, AGGRAVATED, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LEGAL FEES, OR ANY COSTS OR LOSSES, EXPENSES, FEES, LIABILITIES, ALLEGATIONS, CAUSES OF ACTION, SUITS, PROCEEDINGS, DEBTS, PENALTIES AND DEMANDS ARISING THEREFROM OR CONNECTED THEREWITH OF ANY NATURE OR KIND WHATSOEVER ARISING FROM OR RELATED TO THE INSTALLATION OF THE DEVICES, THE USE OF COMPATIBLE DEVICES IN THE INITIATIVE, YEC DEMAND CONTROL, THE INTERRUPTION OF POWER TO ANY APPLIANCE TO WHICH A DEVICE OR COMPATIBLE DEVICE IS CONNECTED OR EQUIPMENT CONNECTED DIRECTLY OR INDIRECTLY TO SUCH APPLIANCE, THE INITIATIVE OR ANY MATTER RELATED TO OR ARISING FROM THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY ACTS OR OMISSIONS OF ANY INITIATIVE OPERATOR, INCLUDING BUT NOT LIMITED TO ANY BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT THE INITIATIVE OPERATOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. YOU HEREBY RELEASE THE INITIATIVE OPERATORS OF, FROM AND AGAINST ANY AND ALL OF THE FOREGOING.
10. SUBJECT TO THE TERMS AND CONDITIONS SET FORTH YOU (THE "**INDEMNIFYING PARTY**") SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE INITIATIVE OPERATORS (THE "**INDEMNIFIED PARTY**") AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, DEFICIENCIES, CLAIMS, ACTIONS, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, PENALTIES, FINES, COSTS, OR EXPENSES OF WHATEVER KIND, INCLUDING LEGAL FEES, THAT ARE INCURRED BY INDEMNIFIED PARTY (COLLECTIVELY, "**LOSSES**"), ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM ALLEGING:

- a) breach or non-fulfilment of any provision of this Agreement by Indemnifying Party or Indemnifying Party's personnel, agents, contractors, family, or guests, cohabitants, or occupiers of the Premises (collectively, the "**Related Parties**");
 - b) any negligence, willful misconduct or more culpable act or omission of Indemnifying Party or the Related Parties (including reckless misconduct) in connection with the performance of its obligations under this Agreement;
 - c) any bodily injury, death of any Person, or damage to real or tangible personal property caused by the negligence, willful misconduct or more culpable acts or omissions of Indemnifying Party or its Related Parties (including any reckless misconduct); or
 - d) any failure by Indemnifying Party or its Related Parties to comply with any applicable federal, provincial, or territorial laws, regulations or codes in the performance of its obligations under this Agreement.
11. Notwithstanding anything to the contrary in this Section 11, Indemnified Party may select its own legal counsel to represent its interests, and Indemnifying Party shall:
- a) reimburse Indemnified Party for its costs and legal fees and expenses immediately upon request as they are incurred; and
 - b) remain responsible to Indemnified Party for any Losses indemnified under Section 10.
12. Indemnifying Party shall give prompt written notice to Indemnified Party of any proposed settlement of a claim that is indemnifiable under Section 10. Indemnifying Party may not, without Indemnified Party's prior written consent, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder.
13. You agree to participate and provide correct information in any follow-up surveys, studies, audits, evaluations, or verifications conducted by YEC or their agents or service providers in connection with the Initiative or this Agreement. You agree to be contacted by YEC or their agents or service providers regarding this or related efforts. This section shall survive the termination of this Agreement.
14. You consent to the collection, use, disclosure and other handling of any information provided by you and/or by operation of the Devices or Compatible Devices to the Initiative Operators, including personal information such as your name, address, telephone number, email address and records showing historical and on-going energy use and consumption (collectively the foregoing is referred to as "**Participant Information**") by the Initiative Operators for purposes relating to the operation, administration or assessment of the Initiative, and in connection with any reporting activities relating to the Initiative, including, without limitation: (i) sharing of Participant Information among the Initiative Operators and (ii) use by the Initiative Operators of the Participant Information to conduct, analyze and report on the results of the Initiative and to conduct surveys and modify the Initiative based on such surveys. This section shall survive the termination of this Agreement.
15. You acknowledge and agree that: (i) you have independently assessed the risk of installing Devices or Compatible Devices at the Premises, that you have been given adequate time to consult at your

discretion with an individual qualified to assess such risk, and that you accept such risk; (ii) the Devices or Compatible Devices have been selected and obtained through normal commercial channels, and YEC makes no representation or warranty, express, implied, statutory or otherwise, including any representation or warranty as to merchantability, design, capabilities, suitability, durability or fitness for use or for a particular purpose, with regard to the Devices or Compatible Devices or any part thereof or the installation thereof or otherwise; (iii) any benefits described in connection with the Initiative are based on estimates, and actual results may differ; and (iv) the Devices or Compatible Devices are intended for use only as directed and improper use may result in injury or damage to Persons or property.

16. YEC shall not be in default, and shall not be deemed to be in default, of this Agreement by reason of delay or the failure or inability to perform its obligations hereunder where the said delay, failure or inability is caused by any circumstance that is unavoidable or beyond the reasonable control of YEC, including without limitation any act of God or any other cause which delays the performance of this Agreement or makes this Agreement commercially impractical for YEC in YEC's opinion.
17. Subject to earlier termination rights herein, this Agreement shall remain in effect until the End Date. In the event a Device cannot be installed at the Premises, which may be determined at the sole discretion of YEC, this Agreement shall terminate immediately. YEC may terminate this Agreement at any time and for any reason by sending you a written notice by email or mail.
18. IF YOU INTEND TO (i) CEASE BEING THE OCCUPIER OR SOLE OWNER OF THE PREMISES, OR (ii) EXCEPT TO THE EXTENT OF ANY PERMITTED TENANCIES, ENTER INTO ANY LEASES, SUBLETS, TENANCIES, OR RENTAL ARRANGEMENTS FOR THE PREMISES, ALLOW THE PREMISES TO BE SUBJECT TO ANY LEASES, SUBLETS, TENANCIES, OR RENTAL ARRANGEMENTS, OR ALLOW THE PREMISES TO BE OCCUPIED BY ANY LESSEES, SUBLESSEES, TENANTS, OR RENTERS, YOU MUST NOTIFY YEC BY WRITTEN NOTICE (the "**Notice of Relocation or Tenancy**") AT LEAST 30 DAYS PRIOR TO THE OCCURRENCE OF ANY OF THE CIRCUMSTANCES STATED IN (i) OR (ii). You must provide the Notice of Relocation or Tenancy to YEC by completing the form of notice found at Schedule B attached to this Agreement, and submitting it to YEC's program team at peaksmart@summerhill.com, to avoid a breach of any of your obligations under this Agreement.
19. This Agreement, including all schedules, attachments, and appendices attached to this Agreement and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the Yukon Territory and the federal laws of Canada applicable therein.
20. You shall not assign any of your rights or delegate any of your obligations under this Agreement without the prior written consent of YEC. Any purported assignment or delegation in violation of this Section 21 will be null and void. No assignment or delegation shall relieve you of any of your obligations under this Agreement. YEC may assign any of its rights or delegate any of its obligations to any Person without your consent.
21. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

22. No amendment to or modification of this Agreement is effective unless it is in writing, and signed by each Party.
23. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.
24. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
25. You acknowledge having been given the opportunity to obtain independent legal advice prior to the execution of this Agreement. You further acknowledge and agree that you understand the terms, and its rights and obligations under this Agreement.
26. The Agreement will begin on the Effective Date.
27. Except as provided in Sections 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15 and this Section 27, this Agreement is solely for the benefit of:
 - a) YEC, and its successors and assigns, with respect to your obligations under this Agreement, and
 - b) you, and your successors with respect to the obligations of YEC under this Agreement.and this Agreement will not be deemed to confer upon or give to any other Person any claim or other right or remedy. You appoint YEC as the trustee for the other Initiative Operators of the applicable provisions set out in this Agreement.
28. The rights and obligations of the Parties set forth in this Section 28 and Sections 1, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23 and any right, obligation, or representation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.
29. This Agreement, including and together with any related statement of works, exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter. The Parties acknowledge and agree that if there is any conflict between the terms and conditions of this Agreement and the terms and conditions of any statement of work, the terms and conditions of this Agreement shall supersede and control.

[Signature Page Will Follow, in Participant Agreement]

SCHEDULE A

Eligibility Criteria for Participation in the Initiative

- 1) Homeowners or property owners must have all legal rights and authority over eligible properties that are connected to and serviced by the Yukon Integrated System. Such homeowners or property owners must consent to participate in the Initiative by signing the Agreement, prior to YEC's program implementer scheduling a site visit.
- 2) The Initiative is not currently open to Premises that are subject to any leases, sublets, tenancies, or rental arrangements (collectively, "**Tenancies**" each a "**Tenancy**"), or occupied by any lessees, sublessees, tenants, or renters (collectively, the "**Tenants**", each a "**Tenant**"), except for Tenancies that have all of the following characteristics (the "**Permitted Tenancies**"):
 - The rental unit subject to the Tenancy (the "**Rental Unit**") has separate space and/or water heating control systems(s), which is not controlled or affected by the Devices or Compatible Devices;
 - The Rental Unit does not have access to the Devices or Compatible Devices such that the Devices or Compatible Devices are at any risk of being moved, modified, altered, uninstalled, removed, tampered with, disabled or damaged by the Tenancy;
 - Access to the Rental Unit is not required for YEC or YEC Contractors to access, enter and occupy the Premises in accordance with section 7 of this Agreement; and
 - The rights and obligations under this Agreement are not inconsistent with or do not otherwise violate any terms or conditions of the Tenancy or any other applicable laws, including the *Residential Landlord and Tenant Act*, SY 2012, c. 20.
- 3) Premises must be regularly occupied by You throughout the heating season, from September to March annually.
- 4) All participating Appliances must be electricity-based (for example, electric baseboards, electric hot water tanks) and compatible with Devices available through the Initiative or Compatible Devices.
- 5) Any participating space heating appliances, if applicable, must currently be controlled by wall-mounted thermostats.
- 6) If participants already have a smart thermostat installed, it must be replaced by the Initiative's thermostat, if not compatible with the Initiative.
- 7) Premises must have a stable internet and Wi-Fi connection that is accessible with your Wi-Fi network name and password at time of installation and an internet router to which a gateway/hub can connect.
- 8) Participants must consent to participate in YEC Demand Control for every connected device for a period of five (5) years from the Effective Date or 31st March 2028 (whichever date comes earlier).
- 9) Residents from communities outside the City of Whitehorse that are serviced by the Yukon Integrated System (i.e. not off-grid communities) are eligible. However, participants from these communities may experience a delay in the scheduling of their installation, to support logistics and program cost-effectiveness.
- 10) YEC maintains full discretion in the selection of participants for the Initiative.

SCHEDULE B

Notice of Relocation or Tenancy

If you plan to either (i) relocate from a Premises participating in the Initiative, or (ii) enter into any leases, sublets, tenancies, or rental arrangement of any nature for the Premises, allow the Premises to be subject to any leases, sublets, tenancies, or rental arrangements of any nature, or allow the Premises to be occupied by any lessees, sublessees, tenants, or renters of any kind, please complete the form below and send it to peaksmart@summerhill.com.

Part 1 – Participant Information	
Full Name(s)	
Current Address (Participating Premises)	
Current Phone Number	
Current Email	
Part 2 – Relocation Details (if applicable)	
Anticipated Date of Relocation	
New Address (optional)	
Have you notified the new occupants that the Premises is participating in the Peak Smart Home program?	
Do you wish to be contacted by YEC about future related programs?	
Part 3 – Tenancy (if applicable)	
Anticipated Date of lease, sublet, tenancy, or rental arrangement	