

Participant Agreement

You have applied to participate in the Residential and Small Commercial Demand Response Initiative (the “Initiative”) offered by Kitchener-Wilmot Hydro Inc., your local electricity distributor (the “LDC”). Alternatively, you may already be a participant in the prior version of this Initiative marketed as **peaksaver®** (or SmartStat) and are applying to receive a free Customer Information Display. This agreement is entered into between you and the LDC and will govern your participation in the Initiative.

If the LDC accepts your agreement, you will be entitled to receive one or more devices (“Device”), in the form of a relay-based control device, installed in or on your premises that from time to time adjusts how much electricity one or more enrolled items of equipment will use. If accepted as a new participant or as a continuing participant from the prior program, you will be entitled to receive a Customer Information Display that will display your electricity consumption and electricity cost information (subject to you programming the current electricity cost information into the Customer Information Display). You may also experience the benefits resulting from potentially reduced electricity usage during certain periods of the year. You will also have certain obligations.

In consideration of the installation of one or more Devices in your home or small business and/or your receipt of a free Customer Information Display, you agree to the following terms and conditions:

1. You represent and warrant that you are either a residential electricity distribution customer or a small commercial electricity distribution customer of the LDC and that the person signing this agreement is:
 - a. an individual 18 years or older and is the owner of the premises;
 - b. an individual 18 years or older and is the tenant or lessee of the premises and has the authority to install the Device(s) and Customer Information Display either as a condition of your lease or has the written consent or authorization of the owner of the premises; or
 - c. if the Participant is a corporation, authorized to bind the corporation which is the owner of the premises or lessee of the premises with the authority to install the Device(s) and Customer Information Display either as a condition of its lease or it has written consent or authorization of the owner of the premises.

You further represent that each appliance to which a Load Control Device is to be connected or attached is and shall be in good working order, and has been and will continue to be maintained and inspected at reasonable intervals.

2. You agree to permit the Device(s) and Customer Information Display to be installed in or on the equipment and at the location indicated above by the LDC and/or the LDC’s contractors. If the LDC determines at its sole discretion that a Device cannot be installed, including for safety or access reasons or lack of funds, this agreement will terminate without payment or liability by either party.
3. You agree that the LDC will, pursuant to an agreement with the Ontario Power Authority (the “OPA”), allow the OPA and/or the OPA’s contractors to control each Device installed in or on your premises by interrupting power to the equipment to which the Device is connected for not more than four hours per day during certain periods of the year. This may mean that, in the case of a Device attached to an air conditioner, there may be an increase in the temperature in your premises; in the case of a Device attached to a water heater, there may be reduction in the availability of hot water; and in the case of a Device attached to a swimming pool pump, the swimming pool pump will be inoperative. You further acknowledge and agree that no person or entity except the OPA or a person or entity designated by the OPA shall have the right to control or dispatch the Devices and exercise load control and you further agree not to authorize anyone else to control any Devices installed in or on your premises.
4. You agree not to move, remove, tamper with, disable or damage the Device(s) that are installed in or on your premises. You also agree not to remove, disable or damage the Customer Information Display. Any failure to comply with these obligations will be at your

sole risk for any damage that may result including damage to the equipment or your premises or injury to any person.

5. You agree to allow a representative of your LDC to have reasonable access to your premises in order to inspect, test, repair, replace and service the Devices and Customer Information Display as the LDC deems necessary.
6. You may submit a request in writing or by telephone to the LDC to terminate your participation in the Initiative and have the Device(s) cease operation. The LDC will comply with such request within at least ten (10) business days.
7. On two days advance notice, you may request by phone, in writing or by internet (if available) to the LDC that the electricity use of your equipment not be adjusted for a period not to exceed 48 hours. You may make this opt-out request no more than twice per year.
8. You agree and acknowledge that: (i) the LDC's contractor is independent of the LDC and that the LDC makes no representation, warranty, endorsement or recommendation of any kind with regard to the "Initiative"; (ii) the LDC does not guarantee energy cost savings or other benefits arising from this Initiative; (iii) the Customer Information Display may not display real time consumption and costing information; and (iv) neither the LDC, the OPA, nor their respective successors, assignors, affiliates, employees, agents, officers, directors, service providers and such affiliates, respective officers, directors or employees or any of their heirs, successors or assigns (collectively, the "**Initiative Operators**") will be liable for any loss, damage or injury to persons or property, including without limitation any economic loss, loss of good will, loss of profit or any direct, indirect, special or consequential damages, and 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 Device(s) or Customer Information Display, or the interruption of power to any equipment to which a Device is connected, the Initiative or any matter related to this agreement, including, without limitation, any acts or omissions of any Initiative Operator and you hereby release the Initiative Operators of, from and against any and all of the foregoing. You agree to indemnify the Initiative Operators if you or any member of your family, customer, occupant or guest seeks damages against any of them for any reason that is connected with this agreement, the Device(s) or Customer Information Display. The maximum liability of the Initiative Operators for any matter, claim or damage in connection with this agreement, the Device(s) or the Customer Information Display is limited to \$250.
9. You agree to participate in any follow up surveys, studies, audits, evaluations or verifications conducted by the LDC or the OPA or their agents or service providers in connection with the Initiative. This Section 9 shall survive the termination of this agreement.
10. You consent to the collection, use, disclosure and other handling of any information provided by you to the Initiative Operators, including personal information such as your name, address, telephone number, email address and records showing historical 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, which such use will include, without limitation: (i) sharing of Participant Information among the Initiative Operators; (ii) use by the Initiative Operators of the Participant Information provided by you to conduct, analyze and report on the results of the Initiative and to conduct surveys and modify the Initiative based on such surveys; and (iii) disclosure to the Ontario Energy Board, the Independent Electricity System Operator, the Ontario Ministry of Energy or the Ontario Environmental Commissioner and/or their respective successors. You hereby acknowledge that the Participant Information may be accessible to third parties under the *Freedom of Information and Protection of Privacy Act (Ontario)* or the *Municipal Freedom of Information and Protection of Privacy Act (Ontario)*. This Section 10 shall survive the termination of this agreement.

11. You transfer and assign, or to the extent transfer or assignment is not permitted, hold in trust for, or in favour of, the LDC in its capacity as agent for and on behalf of the OPA, and not for the LDC's own benefit, all right, title and interest in and to all benefits or entitlements associated with the electricity savings or demand savings attributable to a Device, and the right to quantify and register these, including without limitation, any energy efficiency certificate, renewable energy certificate, credit, reduction right, offset, allocated pollution right, emission reduction allowance (collectively, the "**Environmental Attributes**"). Until the OPA notifies you otherwise, the LDC, in its capacity as agent, shall be entitled, unilaterally and without your consent, to deal with such Environmental Attributes on behalf of the OPA in any manner the LDC determines. You acknowledge that the OPA may direct you in the same manner as the LDC and that until the OPA notifies you otherwise the LDC may direct you to take such actions and do all such things necessary to certify, obtain, qualify and register with the relevant authorities or agencies such Environmental Attributes for the purpose of transferring, assigning, or holding in trust, such Environmental Attributes to and for the OPA and you shall comply with such directions, and you will be entitled to reimbursement of the cost of complying with such direction, provided that the LDC, acting reasonably, has approved such cost in writing prior to the cost being incurred by you. This Section 11 shall survive the termination of this agreement.
12. As between you and the LDC, the LDC does not own nor will it own the Devices or Customer Information Display installed on or in your premises and title to the Devices and the Customer Information Display shall at all times be and remain with you. Nothing in this Agreement or otherwise shall have the effect of passing title to the Devices or Customer Information Display to the LDC.
13. You acknowledge and agree that: (i) you have independently assessed the risk of installing Devices or Customer Information Display in or on your premises and you accept such risk; (ii) the Devices and Customer Information Display have been selected and obtained through normal commercial channels, and the LDC 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 and Customer Information Display or any part thereof or the installation thereof or otherwise; (iii) the energy cost savings and other benefits described in connection with the Initiative are based on estimates, and actual results may differ; and (iv) the Devices and Customer Information Display are intended for use only as directed and improper use may result in injury or damage.
14. The LDC 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 due solely to any cause which is unavoidable or beyond the reasonable control of the LDC, including without limitation any act of God or other cause which frustrates the performance of this agreement.
15. Subject to earlier termination rights herein, this agreement shall remain in effect for as long as there is an operational Device at your premises or until you move from the premises where a Device is located. In the event a Device cannot be installed at your premises, this agreement shall terminate. If you breach any of your obligations in this contract, the LDC may terminate this agreement. The LDC may terminate this agreement at any time and for any reason by sending you a notice.
16. This agreement shall be interpreted under Ontario law. You may not assign this agreement. This agreement may be amended by the LDC with thirty (30) days' notice to you.
17. Except as provided in Sections 3, 8, 9, 10, 11 and this Section 17, this agreement is solely for the benefit of:
 - a. the LDC, 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 the LDC 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 the LDC as the trustee for the OPA and the other Initiative Operators of the applicable provisions set out in this agreement, including Sections 3, 8, 9, 10, and this Section 17. The LDC is the OPA's agent for the purpose of Section 11.

I ACKNOWLEDGE that I have read this document and fully understand the terms and conditions contained herein.

Participant Name (please print): _____

Participant Signature: _____

Service Address: _____ City: _____

Postal Code: _____ Date: _____