

PeakSmart air-conditioning Terms and Conditions

(Updated and effective from 5 June 2014)



In consideration for Energex accepting You as a Participant in the 'PeakSmart' Compatible Air-conditioner Program ('the Program'), You acknowledge and agree to the following terms and conditions:

1. Eligibility criteria for participation in the Program

Energex agrees to include You in the Program on the basis of your confirmation, by signing this Agreement, of the following matters. You:

- confirm that the Property is, or will be, served by the Energex electricity distribution network and that a National Meter Identifier is applicable;
- are either the registered owner of the Property, or the occupier of, or a building contractor providing services in respect of, the Property and have obtained the owner of the Property's consent for the installation of a Signal Receiver(s) in the 'PeakSmart' Compatible Air-conditioner(s) at the Property;
- have had an Installer install a 'Signal Receiver(s) in the PeakSmart' Compatible Air-conditioner(s) at the Property;
- have had the Installer complete the PeakSmart' Installation Form which provides information on the installation of the Signal Receiver(s);
- have provided a copy of proof of purchase and installation of a 'PeakSmart' Compatible Air-conditioner(s) and Signal Receiver(s) or, if proof of purchase is unavailable, provided other supporting evidence as may be required by Energex and notified on the Energex website at energex.com.au, from time to time;
- have, if the application is being made by a business (including not for profit organisations), provided your ABN and submitted a valid Tax Invoice claiming the incentive reward value to which you may be entitled upon your application being successfully accepted by Energex;
- understand that all amounts specified in the Program are inclusive of any GST and that you cannot charge any additional amounts on account of GST.
- consent, or have obtained the Owner of the Property's consent, to Energex visiting the Property where required to maintain and/or check the installed Signal Receiver(s);
- agree to return any Signal Receiver(s) issued to you by Energex to the address advertised at energex.com.au should you elect to either not proceed with applying to participate or withdraw from the Program;
- acknowledge and agree that subject to clause 6, no representation is or has been made by or on behalf of Energex as to any benefit (monetary or otherwise) which may arise, if any, either presently or in the future, in connection with your participation in the Program and/or use of a 'PeakSmart' Compatible Air-conditioner and/or Signal Receiver, and that you do not expect any such benefit to arise;
- accept this Agreement by completing the 'PeakSmart' Application Form and submitting the 'PeakSmart' Installation Form to Energex.

2. Duration of the Project

- Your participation in the Program will commence on the date upon which the Signal Receiver(s) are installed in the 'PeakSmart' Compatible Air-conditioner(s) at the Property;
- Energex may at its discretion terminate your participation in the Program, or the Program as a whole, at any time by delivering one month's written notice to you at the postal address specified in your Application Form;
- If, in your reasonable opinion, any or all of the 'PeakSmart' Compatible Air-conditioners are adversely affected by participation in the Program, your sole remedy, to the full extent permitted by law, is your right to elect to end your participation in the Program in relation to the affected 'PeakSmart' Compatible Air-conditioners by providing seven days' written notice to Energex at the physical or email address specified on the Energex website at energex.com.au and then complying with the provisions of clause 2(d) below. The Program will however continue with respect to any unaffected 'PeakSmart' Compatible Air-conditioner(s).
- If you wish to end your participation in the Program you must provide seven days' written notice to Energex at the physical or email address specified on the Energex website at energex.com.au. Upon receipt of the notice Energex will forward you an envelope in which to return the Signal Receiver(s) to Energex. You must then arrange for and pay for your own Installer to remove the Signal Receiver(s) from the 'PeakSmart' Compatible Air-conditioner(s) and then return the Signal Receiver(s) to Energex. Your participation in the Program will continue until the Signal Receiver(s) is/are removed and returned to Energex.

3. Conclusion of the Program

There is no stipulated end date for participation in the Program. However, if Energex terminates your participation in the Program or the Program as a whole under Section 2(b) above, Energex may elect to retrieve the Signal Receiver(s) from the Property, but not the 'PeakSmart' Compatible Air-conditioner(s) as these are your own personal property.

4. Safety

For your own safety, you must not remove, alter or attempt your own electrical work on your 'PeakSmart' Compatible Air-conditioner(s) and/or Signal Receiver(s). Should you encounter any problem with your 'PeakSmart' Compatible Air-conditioner(s) please refer to your manufacturer's instructions and/or contact them or your Installer directly. Should you encounter any problem with the Signal Receiver(s) please contact Energex on 13 12 53.

5. Access for inspection

You agree to allow Energex access to the Property to carry out necessary audits or examination of the Signal Receiver(s) from time to time. Energex will contact you at least 5 business days prior to any audit or examination required.

6. Participation incentive

Following the installation of the Signal Receiver(s) in the 'PeakSmart' Compatible Air-conditioner(s) at the Property and submission of your completed Application Form, Energex will, provided it is reasonably satisfied that you meet the eligibility criteria for participation in the Program, transfer the 'PeakSmart' Incentive Reward as at the date your application was received by Energex. Incentives will be paid by electronic funds transfer (EFT) to an Australian bank account nominated by You.

7. Product and service warranties and costs

7.1 'PeakSmart' Compatible Air-conditioner(s)

Energex is not responsible for and does not accept any warranty conditions or costs associated with your 'PeakSmart' Compatible Air-conditioner(s) or the work carried out to install or remove the 'PeakSmart' Compatible Air-conditioner(s) or Signal Receiver(s) in the Property. These are the explicit responsibility of the 'PeakSmart' Compatible Air-conditioner(s) manufacturer, retailer and the Installer who carried out the electrical and air-conditioner work in your Property. You

should contact your manufacturer, appliance retailer and/or Installer directly.

7.2 Signal Receiver(s)

To enable the 'PeakSmart' Compatible Air-conditioner(s) to activate the energy capping capability of the appliance, Energex has supplied you/your Installer with a Signal Receiver(s) to be installed in or near the 'PeakSmart' Compatible Air-conditioner(s) in accordance with manufacturer instructions in order that a remotely operated activation signal can be received. Energex does not accept any costs associated with the installation or removal of the Signal Receiver(s) at the Property. During your participation in the Program, you may report any issues you have with the Signal Receiver(s) to Energex on 13 12 53.

8. Liability of Energex

8.1 Limitation of liability

Subject to clause 8.2 below, to the full extent permitted by law, Energex excludes any and all liability to you in connection with this Agreement. Where the above exclusion does not apply for any reason (including where a court of competent jurisdiction indicates it is invalid), to the full extent permitted by law and subject to clause 8.2 below, Energex's liability to you for any direct damages you incur in connection with this Agreement is limited to an amount of \$50.00. Subject to clause 8.2 below but otherwise despite any other provision in this Agreement, to the full extent permitted by law Energex is not liable to you (whether under contract, in tort, in equity, under statute or otherwise) for any loss of profit, loss of revenue, loss of opportunity, loss of good will, or any indirect, incidental, special or consequential damage, cost or loss however caused.

8.2 Australian Consumer Law

Nothing in this Agreement generally affects or negatives any rights you may have under the Australian Consumer Law (as contained in Schedule 2 of the Competition and Consumer Act 2010 (Cth)) and equivalent State and Territory fair trading legislation regarding consumer guarantees to the extent that such consumer guarantees, or our statutory liability for failure to comply with them, cannot be modified or excluded by law.

9. Privacy Notice

Energex is collecting, using and disclosing your personal information for the purpose of conducting this Program. If you do not provide your personal details, you may, at Energex's discretion, not be eligible to participate in the Program. As a Participant, your information may be provided to:

- the manufacturer of the 'PeakSmart' Compatible Air-conditioner(s);
- Energex representatives who may have to examine and carry out audits and maintenance of the Signal Receiver(s) installed at the Property;
- your local government/council;
- the Queensland State Government;
- the installer of the 'PeakSmart' Compatible Air-conditioner(s) and/or Signal Receiver(s);
- the appliance retailer who sold you the 'PeakSmart' Compatible Air-conditioner(s), and
- external market research companies to conduct customer research.

You consent to the use of your personal information as set out in this Agreement. You are entitled to access any personal information that Energex holds about you by contacting us on 13 12 53. Energex's privacy policy is available at energex.com.au or by calling 13 12 53.

10. You must give notice if you sell or cease to occupy your Residence

If you sell or cease to occupy the Property, or return possession of the Property to its owner, you:

- must notify Energex in writing via post or email at the physical or email address specified on the Energex website at energex.com.au
- must notify the incoming owner or occupier of the Property that the 'PeakSmart' Compatible Air-conditioner(s) at the Property has/have a Signal Receiver(s) installed.

11. Severability

Any provision of this Agreement that is prohibited or unenforceable is ineffective to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement.

12. Definitions

"**Agreement**" means these Terms and Conditions, the "PeakSmart' Application Form and the 'PeakSmart' Installation Form.

"**Energex**", "**We**", "**Us**", "**Our**" means Energex Limited, its employees, contractors and agents.

"**Installer**" means a suitably qualified electrical contractor and/or air-conditioner contractor.

"**Participant**" or "**you**" means the person or company whose details are set out in Section A of the 'PeakSmart' Installation Form.

"**'PeakSmart' Compatible Air-conditioner(s)**" means an air-conditioner system with functionality added by the manufacturer which meets all specification criteria as indicated in published standard AS4755 and includes all Demand Response Modes (**DRM1**, **DRM2** and **DRM3**).

"**'PeakSmart' Application Form**" means the on-line form to make a formal application and includes the completed 'PeakSmart' Installation Form, for the Energex Program.

"**'PeakSmart' Installation Form**" means the form required to be submitted as part of the 'PeakSmart' Application Form which includes information about the Participant, Installer and PeakSmart Compatible Air-conditioner(s) and Signal Receiver(s).

"**Program**" means the Energex 'PeakSmart' Compatible Air-conditioner Program demand management program that is being offered through Energex's demand management initiative.

"**Signal Receiver(s)**" means the Energex approved Demand Response Enabling Device (DRED)/Demand Control Signal Receiver (DCSR) that has to be connected to a 'PeakSmart' Compatible Air-conditioner to enable the air-conditioning unit to receive a signal that will cap the rated input load for short periods of during peak times. Signal Receivers are designed to be installed in or near the 'PeakSmart' Compatible Air-conditioner or at the meter box depending upon manufacturer instructions.

"**Property**" means either residential or commercial premises served by the Energex electricity distribution network, and includes premises under construction.