

## SMART CHARGING PROGRAM TERMS AND CONDITIONS

These Terms and Conditions (the “Terms”) are a legal agreement between you (“you” or “Customer”) and Avista Corporation, a Washington corporation (“Avista” or “Company”) and govern your participation in Avista’s vehicle telematics program known as the Avista Smart Charging Program (“Program”). The Program is administered in conjunction with a third-party vehicle telematics service provider, Ev Dot Energy (“EV.Energy”). By enrolling in the Program, Customer authorizes EV.Energy to access Customer’s vehicle data via Customer’s Original Equipment Manufacturer (“OEM”) platform or other EV charging platform (“Platform(s)”), and subject to EV.Energy’s Terms of Service and Privacy Policy. Avista and Customer are hereinafter referred to individually as a “Party”, or, together as the “Parties”.

To enroll and participate in the Program, you must be 18 years or older. You represent and certify that you are of legal age to enter into a binding contract and are not a person barred from participating in the Program under the laws of the United States or other applicable jurisdictions.

**BY ENROLLING AND PARTICIPATING IN THE PROGRAM YOU AGREE TO BE BOUND BY THESE TERMS.**

### **SECTION 1. DEFINITIONS**

“Collected Data” means information about Customer’s EV charging collected through the Program, including when and where Customer charges; how much energy Customer uses; and Customer’s vehicle make/model/trim, VIN, battery size, charger make/model, charger serial number or other unique identifier, vehicle battery state of charge, plug-in/unplug times, start/stop times of charging sessions, kWh of energy consumed, vehicle charging location and similar data, and charging equipment.

“Effective Date” means the date on which Customer completes enrollment in the Program.

“Electric Vehicle” OR “EV” means a vehicle that uses at least one method of propulsion that is capable of being reenergized by an external source of electricity, is designed to have the capability to drive at a speed of more than 35 miles per hour and is licensed to drive on state and federal highways within the United States.

“Electric Vehicle Supply Equipment” or “EVSE” means the installed device used to deliver electricity to an EV, meeting industry standards for charger connections, and listed under applicable UL Standards and requirements or equivalent listing by a nationally recognized testing laboratory.

“Third Party Provider(s)” means EV.Energy and any other third-party technology provider, OEM, or service provider that facilitates Customer’s participation in the Program, including providers that enable data and control access to OEM platforms.

### **SECTION 2. PROGRAM PURPOSE AND ELIGIBILITY**

- A. **Purpose.** The purpose of this Program is to provide the Customer with information and tools necessary to understand and modify their EV charging behavior and to align with Avista’s load management goals. Participation in the Program requires enrollment in the EV.Energy platform and will include information provided in various forms, including, but not limited to, charging reports and optional active load management controls (e.g., Customer may authorize EV.Energy

to use the vehicle telematics control to start/stop charging or to shift when charging occurs. Avista is not responsible for any information provided by EV.Energy.

EV.Energy will use the Platform to collect Collected Data for the purpose of administering the Program. Collected Data allows Avista and EV.Energy to evaluate the Program. Additional data (e.g., connected hardware metadata, vehicle location, technical data, and application usage data) may be stored and processed by EV.Energy in accordance with [EV.Energy's Privacy Policy](#) for Program administration purposes.

- B. **Eligibility.** Customer must reside within Avista's service territory and must be a current Avista Washington electric customer.

**Hardware and Integration Eligibility.** Customer's eligibility for certain Program features may depend on the make, model, and capabilities of Customer's electric vehicle and/or EV charger, as well as EV.Energy's current integrations with those devices. Because hardware compatibility and integration capabilities may change over time, Customer's eligibility for specific Program features may also change. EV.Energy will make reasonable efforts to notify Customer of any material changes to Customer's eligibility but is not obligated to do so. Avista is not responsible for Customer's ineligibility due to their EV.

Customer agrees not to participate in the Program in any way that is illegal, fraudulent, or abusive, including to harass, threaten, abuse, defame, or slander any individual.

Customer represents and warrants that they are 18 years of age or older. Avista reserves the right to terminate Customer's participation immediately upon becoming aware that Customer does not meet this requirement.

### **SECTION 3. CUSTOMER OBLIGATIONS**

- A. Customer shall create and register an account through EV.Energy, which requires Customer's current Avista residential service address and Customer's OEM vehicle information, such as make, model, and year to determine Program eligibility. Customer is not responsible for any fees charged by EV.Energy, as EV.Energy's services will be provided through Avista at no cost to the Customer. Avista is not responsible for any fees the Customer may incur from their OEM for vehicle data services.

Customer represents that all information provided during enrollment and throughout the Term is accurate, complete, and not misleading. Neither Avista nor EV.Energy is responsible for any harm or ineligibility arising from inaccurate or incomplete information provided by Customer.

Customer agrees to promptly notify EV.Energy if any of the following occur: (i) Customer moves their primary residence outside Avista's service territory; (ii) Customer sells, transfers, or otherwise disposes of their enrolled EV; or (iii) any other material change in Customer's circumstances that affects Customer's eligibility to participate in the Program.

Customer agrees to maintain, at no cost to Avista or EV.Energy, any subscription or connectivity services necessary to enable Customer's participation in the Program, including any OEM telematics services required to enable communication between EV.Energy and Customer's enrolled EV.

Customer represents that Customer has permission from any other person who uses the EV to collect and share the data described in these Terms.

- B. Customer shall allow Avista to access, collect and share any data collected during Customer's participation in the Program, which includes without limitation, Customer's EV charging activity, technical performance of any EVSE associated with Customer's EV, and Customer feedback and survey responses (together, the "Data"). Customer understands and consents to Avista sharing Data with any EVSE manufacturer, vendor, or subcontractor for purposes of reporting on Program successes or for addressing any underlying issues that arise over the course of the Program.

- C. Customer agrees to participate in current Avista load management events whereby, upon prior notice as provided by Avista or a contracted vendor, EVs may be programmed to charge during certain times, and/or charging power levels may be controlled to maximize grid benefits. Such events may occur between zero (0) and six (6) times per month over the course of the Program. Customer will retain the ability to override load management events when necessary. See EV.Energy Terms and Conditions for more details regarding Program participation.
- There is no limit to the number of overrides permitted during the Program, and overriding an event shall not result in any penalty to Customer but may result in loss of incentives.
- D. Customer may be eligible for certain incentives for participating in the Program. Incentives may be available for the following Customer actions, including without limitation: (i) enrolling in the Program, and (ii) participating in load management events. Such incentives may be provided by Avista, EV.Energy, or other contracted vendors participating in the Program. Incentive amounts, eligibility requirements, and payment schedules are subject to change. EV.Energy and/or Avista reserve the right to modify, suspend, or discontinue any incentive at any time. Continued participation in the Program after any changes to the incentive structure constitutes Customer's acceptance of the updated terms. Any incentives accrued prior to termination or withdrawal will be paid out in accordance with the applicable incentive terms, except where Customer's participation is terminated by Avista for cause, in which case accrued but unpaid incentives may be forfeited at Avista's discretion.
- E. Customer, at no cost to Customer, agrees to participate in surveys and provide feedback about the Program. Customer agrees to cooperate with Avista in ensuring Avista is able to fulfil its reporting requirements to any federal, state, or local regulatory or governing entities. If Customer provides Avista or EV.Energy with feedback or suggestions about the Program, Avista and/or EV.Energy may use such information without obligation to Customer.
- F. Customer shall comply with all applicable rules and regulations of federal, state, or local regulatory agencies with respect to the operation of the EVSEs, including any environmental requirements associated therewith.

#### **SECTION 4. TERM**

These Terms will become effective upon Customer's enrollment in the Program. The term of these Terms (the "Term") shall commence on the Effective Date and shall continue until \*March 31, 2027, unless terminated by earlier by either Avista or Customer, whether for cause or for convenience. To terminate these Terms, the party wishing to terminate these Terms shall provide the other with thirty (30) days written notice of termination. Avista reserves the right to terminate or modify the Program at any time. Avista and/or EV.Energy may terminate Customer's participation in the Program immediately and without prior notice in the event of: (i) Customer's material breach of these Terms; (ii) Customer providing false or misleading information during enrollment or otherwise; (iii) Customer's fraudulent or abusive conduct in connection with the Program; or (iv) Customer ceasing to meet the eligibility requirements set out in Section 2. Upon termination for cause, Avista reserves the right to withhold any accrued but unpaid incentives.

Upon Customer opt-out or termination, EV.Energy will cease using Customer's personal data for active Program management. Certain Program data will be retained for the period necessary to fulfill outstanding incentive obligations, comply with applicable legal and regulatory requirements, support fraud prevention, and meet EV.Energy's and Avista's legitimate business and audit obligations, after which it will be deleted or anonymized in accordance with EV.Energy's data retention policy.

If Avista retains the services of a third-party vehicle telematics provider other than EV.Energy, Customer may elect to enroll in that provider's vehicle telematics services.

Avista will provide Customer with at least thirty (30) days' written notice prior to any change in the third-party vehicle telematics provider administering the Program. Customer's continued participation following the notice period will constitute acceptance of the new provider's terms. If Customer does not wish to continue with a new provider, Customer may terminate these Terms by written notice to Avista within the notice period.

(\*Subject to funding and other contractual obligations, the Program, including incentive availability, may extend beyond March 31, 2027. In the case of Program extension, Avista will provide notice to all customers enrolled in the Program to notify them of any Program changes, including incentive availability, etc.)

#### **SECTION 5. THIRD PARTY SOFTWARE**

Through Customer's participation in the Program, Avista may make software, hyperlinks, and other products of third-party companies available to Customer. Customer's use of such products is subject to the respective terms and conditions imposed by the third party owning, manufacturing, or distributing such products, and the agreement for Customer's use will be between Customer and such third party. Avista makes no warranty or representation with regard to the products or website of any other entity. Avista has no control over the content or availability of any third-party software or website, including EV.Energy. It is Customer's responsibility to become familiar with any third-party website's privacy and other policies and terms of service, and to contact that website's administrator with any concerns.

**THE PROGRAM AND EV.ENERGY PLATFORM ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. AVISTA AND EV.ENERGY DO NOT WARRANT THAT THE PROGRAM WILL BE UNINTERRUPTED, ERROR-FREE, OR THAT ANY DEFECTS WILL BE CORRECTED.**

EV.Energy requires all Third Party Providers accessing Customer's personal information under this Program to use it solely for Program purposes, refrain from selling or sharing it, and comply with all applicable privacy laws.

#### **SECTION 6. INDEMNIFICATION**

Customer shall indemnify and, upon request, defend Avista, and its directors, officers, employees, and agents, from and against all third party claims, demands, suits, losses, expenses (including court costs and reasonable attorneys' fees), and damages for bodily injury, physical property damage (individually or collectively, "Loss"), brought against or incurred by Avista resulting from, arising out of, or in any way connected with Customer's, or Customer's agents, suppliers or contractors, negligence, intentional actions, and performance or nonperformance of Customer's obligations under these Terms.

#### **SECTION 7. LIMITATION OF LIABILITY**

- A. UNDER NO CIRCUMSTANCES OR LEGAL THEORY, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY, WARRANTY, INFRINGEMENT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SECONDARY, INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT IS NOT LIMITED TO: I) ANY PROPERTY DAMAGE (REAL, PERSONAL, TANGIBLE OR INTANGIBLE) OR PERSONAL INJURY (INCLUDING MENTAL OR EMOTIONAL DISTRESS) ARISING FROM OR ALLEGED TO HAVE ARISEN UNDER THESE TERMS; II) WITH RESPECT TO AVISTA, ANY CLAIMS OR CAUSES OF ACTION THAT ARISE OR ARE ALLEGED TO HAVE ARISEN AS A RESULT OF ANY EVSE EQUIPMENT OR INSTALLATION; III) ANY DAMAGES ARISING OR ALLEGED TO HAVE ARISEN FROM ANY ELECTRICAL MALFUNCTION OR THE REPAIR OR REPLACEMENT OF SUCH MALFUNCTIONING ITEMS; OR IV) ANY ENVIRONMENTAL CLAIMS, DAMAGE OR CAUSES OF ACTION.

- B. UNDER NO CIRCUMSTANCES WILL AVISTA BE LIABLE FOR MATTERS INVOLVING CUSTOMER'S PURCHASE, LEASE, USE, NON-USE, OR DEVALUATION OF ANY ELECTRIC VEHICLE, PLUG IN HYBRID VEHICLE OR ANY VEHICLE OF ANY NATURE, ANY EVSE OR ASSOCIATED EVSE INFRASTRUCTURE WHEN APPLICABLE CODES OR STANDARDS PROHIBIT THE INSTALLATION OR USE OF SUCH VEHICLE OR EVSE. AVISTA WILL NOT PAY FOR ANY COSTS INCURRED OR DAMAGES SUSTAINED BY CUSTOMER FOR PURCHASING ANY VEHICLE OR EQUIPMENT OR OTHERWISE IN RELIANCE UPON AVISTA BEING ABLE TO PROVIDE EVSE ACCESS TO CUSTOMER. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE PROGRAM.

EV.Energy and Avista do not guarantee that Customer's participation in the Program will result in a decrease, or prevent an increase, in Customer's electricity bill. EV.Energy and Avista do not guarantee the performance, availability, or outcome of Customer's enrolled technologies, including the state of charge of Customer's EV at any given time. Customer is solely responsible for ensuring that Customer's enrolled devices are operating in a manner consistent with Customer's personal needs, and for taking any manual override action required to meet those needs.

#### **SECTION 8. MISCELLANEOUS PROVISIONS**

- A. Amendment and Modification. Avista may amend or modify these Terms at any time, consistent with Avista's Tariff Schedule 077 by providing to Customer thirty (30) days' written notice of such amendment or modification.
- B. Assignment. These Terms shall not be assigned by Customer without the prior written consent of Avista. These Terms shall bind any permitted successors and assigns of the parties.
- C. Status of Parties. These Terms shall not be construed as creating a partnership, joint venture, agency relationship, franchise, or association, nor shall these Terms render Avista and Customer liable as partners, co-venturers, or principals. It is agreed that nothing shall operate to change or alter such relationship, except a further agreement in writing between them.
- D. Severability. If any term or provision of these Terms is held illegal or unenforceable by a court with jurisdiction over these Terms, all other terms will remain in full force, and the illegal or unenforceable provision shall be deemed struck. In the event that the stricken provision materially affects the rights, obligations, or duties of either Party, Avista and Customer shall substitute a provision by mutual agreement that preserves the original intent of the Parties as closely as possible under applicable law.
- E. Governing Law. These Terms shall be governed by the laws of the State of Washington. Customer expressly waives their rights to a trial by jury in any action brought hereunder.
- F. Non-waiver. Either Party's failure to insist on performance of any of these Terms herein or to exercise any right or privilege or either Party's waiver of any breach hereunder shall not thereafter waive any of the Party's rights or privileges under these Terms or at law. Any waiver of any specific breach shall be effective only if given expressly by the Party in writing.
- G. Merger. These Terms embodies the entire agreement between Avista and Customer. The Parties shall not be bound by or liable for any statement, writing, representation, promise, inducement or understanding not set forth above.
- H. Consent; Privacy Law. Customer further acknowledges and agrees that Customer is knowingly consenting to and authorizing Avista to release and share Customer's information, including Customer's Avista residential service address, charging data, and any technical configuration or electrical usage patterns concerning Customer's participation in the Program with Avista's authorized third-party service providers and any regulatory bodies that require such information, in order for the Customer to receive potential incentive payments.

- I. Taxes. Customer is responsible for paying all taxes, if any, associated with receipt of incentives or any other thing of value in connection with the Program.
- J. Electronic Acceptance. Customer acknowledges that acceptance of these Terms by electronic means, including by clicking an "I agree" or equivalent button on the EV.Energy platform or Avista's enrollment portal, constitutes a legally binding agreement with the same force and effect as a handwritten signature. Customer agrees not to contest the validity or enforceability of these Terms on the basis that they were accepted electronically.
- K. No Third-Party Beneficiaries. These Terms are for the benefit of Avista and EV.Energy and their respective successors and assigns with respect to Customer's obligations, and for Customer's benefit with respect to Customer's rights. There are no other third-party beneficiaries under these Terms, and these Terms will not be deemed to confer upon or give to any other person any claim or other right or remedy.
- L. Survival. The following sections shall survive the expiration or termination of these Terms: Section 6 (Indemnification); Section 7 (Limitation of Liability); and Section 8(H) (Consent; Privacy Law).
- M. Force Majeure. No party shall be liable for non-performance of its obligations to the extent such non-performance is due to events or circumstances beyond its reasonable control, including but not limited to natural weather events and disasters, labor disruptions, and disruptions in the supply of electric utilities.
- N. Attorney Fees. Should either Party institute any action or proceeding in court to enforce or interpret any provisions hereof or for damages by reason of any alleged breach or default of any provision of these Terms or for a declaration of such Party's rights or obligations hereunder, or for any other judicial remedy, each Party shall be responsible for its own attorney fees, expenses, and any other legal fees.
- O. Dispute Resolution. In the event Customer is dissatisfied with Avista's resolution of any dispute under these Terms, Customer has the right to file an informal or formal complaint with the UTC by contacting the Consumer Protection Section of the UTC at 1-888-333-9882 or complete an online complaint form at [www.utc.wa.gov](http://www.utc.wa.gov). Avista will take no other action to enforce these Terms until any complaint filed with the Commission is resolved.
- P. Program Communications. Customer consents to receive communications from EV.Energy and Avista relating to the Program in electronic form sent to Customer's email address and phone number provided during enrollment. Customer expressly consents to receiving calls and messages, including SMS messages, from EV.Energy and Avista, and their agents, solely for purposes related to the Program. Customer may withdraw this consent at any time by contacting EV.Energy at support@ev.energy. Message and data rates may apply.

## **SECTION 9. NOTICES**

Any written notices required or permitted to be given to either Party by the other Party under these Terms or by law shall be sufficiently given if delivered in person or sent by certified mail to the following:

**Avista Corporation**  
Attn: Lisa Garrett  
1411 East Mission Avenue, MSC-15  
Spokane, Washington 99220  
[Lisa.Garrett@avistacorp.com](mailto:Lisa.Garrett@avistacorp.com)  
509-495-7994

**Customer:** any written notices provided to the Customer will be sent to the address associated with their primary Avista account and/or the address they included in their Program enrollment.