

## PROGRAM TERMS AND CONDITIONS

**Welcome to the EV Driven Off-Peak Rewards (OPR) (“Program”).** By participating in the Program, you (“Participants”, “you”, and “your”) may be eligible to receive the Reward described below, subject to these Terms and Conditions (“Terms”). To become a Participant in the Program and receive the Reward, you must submit an application to, and have it accepted by, Sponsor and the Utility (as each is defined below under the heading “Definitions”) and comply with the Terms. You must be a user of the Vendor Service (as defined below) to be eligible to become a participant in the Program.

**Binding Agreement.** By applying for the Program, you agree to comply with and be bound by these Terms, even if your application is not accepted or approved by the Sponsor and the Utility. Failure to comply with these Terms may result in your disqualification from the Program and receipt of the Reward. The decisions of the Sponsor and the Utility regarding your eligibility to participate in the Program are made in each of their sole discretions, and all decisions are final and binding in all respects. SPONSOR RESERVES THE RIGHT IN ITS SOLE DISCRETION TO DISQUALIFY ANY PARTICIPANT FROM PARTICIPATION IN THE PROGRAM FOR, among other things: (1) tampering or attempting to tamper with the operation of the Program; or (2) violating or failing to comply with these Terms or the terms and conditions of use of any of Sponsor Parties’ property or services. **ANY FALSE INFORMATION PROVIDED WITHIN THE CONTEXT OF THE PROGRAM BY ANY PARTICIPANT IS A VIOLATION OF THESE TERMS AND MAY RESULT IN THE IMMEDIATE DISQUALIFICATION OF A PARTICIPANT AND FORFEITURE OF ANY ACCRUED REWARD.**

**About the Program.** The Program is provided by Sponsor and Sponsor is responsible for operation and administration of the Program. Applicants whose applications to participate in the Program are accepted by Sponsor and the Utility and those applicants who fully comply with these Terms may receive the incentive set forth below (“Reward”). To receive the Reward, you must be accepted as a Participant by the Sponsor and Utility and your participation must not be withdrawn by you or the Program be terminated or canceled.

**Changes to the Terms.** Sponsor may modify, revise and update these Terms and/or the Program from time to time in its sole discretion. We will notify you by email at the most current email address we have on record for you when we make any material changes to these Terms, and the effective date of the modified, revised or updated Terms and/or the Program, which will be effective immediately after the date of our notice to you. Your continued participation in the Program or continued use of the website (specified below) thereafter signifies your acceptance to such modified, revised or updated Terms and/or the Program. The modified, revised or updated Terms and/or the Program will apply only to disputes that arise after the effective date of such modified, revised or updated Terms and/or the Program. We will also post the most current version of the Terms on Sponsor’s website, and you are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

**Definitions.** In the context of these Terms, the following words have the meanings given below:

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- **“Device”** means a device that can be monitored during the program through the Vendor cloud platform or other communications pathway.
- **“Program Period”** means the time period in which the Program will run from December 15, 2021 through December 31, 2023 (including any renewal periods thereafter).
- **“Sponsor”** or **“we”** means EnergyHub, Inc., 41 Flatbush Ave., Suite 400A, Brooklyn, NY 11217.
- **“Sponsor Parties”** means Sponsor, Vendor, and Utility, their respective successors and assigns, and each of their respective parent, subsidiaries, affiliates, agents, directors, officers, and employees.
- **“Utility”** means your utility, namely The Potomac Edison Company.
- **“Vendor”** means SmartCar Inc., 650 Castro St., Suite 120–331, Mountain View, CA 94041.

All other defined terms have the meanings given to them as defined in these Terms.

#### **Application Consent by Participant.**

By submitting an application to enroll as a Participant, you authorize the Sponsor Parties to 1) collect and exchange data related to your identity, your energy usage and/or energy production, your Utility account, your electric bill, and operational data about your Devices (collectively, **“Program Data”**), and 2) review and analyze all of your Program Data for the purposes of the Sponsor Parties fulfilling their obligations under the Program (including, without limitation, the grant of the Reward from Sponsor and Utility, compliance with applicable law, modifying the Program and as otherwise permitted by applicable law), and to exchange conclusions with each other and publish results based on those conclusions, provided that they treat all such Program Data in accordance with their respective privacy policies, which you can find at the sites listed below under the heading “Privacy Notice”; 3) send you emails, text messages and other notifications related to the Program and other relevant programs, including messages regarding your enrollment status; 4) send you emails, text messages and other notifications related to surveys about the Program and to share your responses to such surveys among Sponsor Parties; 5) summarize the results of the Program in publicly-available studies and marketing information and materials, provided that any Program Data included in such studies will be anonymous such that you are not individually identifiable.

**Eligibility and Enrollment.** You may apply to become a Participant and participate in the Program if you meet the following eligibility criteria and do the following:

- You must be at least 18 years of age;
- You currently receive electric service as a residential customer from the Utility, and are currently in good standing with the Utility including, current in your payments of bills from the Utility;
- You must have or acquire one or more Devices that are compatible with and connected to the Vendor platform (**“Service”**) and compatible with the Program design during the Program Period. Compatible Devices must have received and be able to receive remote update;

- You maintain an active account in good standing on the Service and a continuous connection between your enrolled Devices and the Service; and
- You assist Sponsor Parties' support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues.

**Dual Participation.** Participation in the Program does not preclude you from participating in other electric grid programs offered by any or all of the Sponsor Parties; however, such participation may require a separate enrollment and approval of any or all of the applicable parties to approve your participation at such time.

**Program Period.** The Program will run for the Program Period. Your enrollment in the Program will begin from the date upon which you are notified that you are accepted in the Program, and will auto-renew every year thereafter unless and until you withdraw as described in these Terms or the Program is terminated, modified or otherwise cancelled.

**Program Description.** Participant agrees to allow Sponsor Parties to collect data from the Participant's application and Devices during the Program Period, including unit serial number, Device ID, frequency, length, and time of electric vehicle charging; session status; average and peak power; and energy usage.

**How To Apply.** You can apply to participate in the Program through your account with Utility or at the Program enrollment website specified below. Sponsor and Utility may accept or reject your application in their sole discretion.

**How To Withdraw.** Once you are accepted as a Participant in the Program, you may withdraw by emailing the Sponsor contact address specified below. Withdrawal will not affect the other services provided by the Sponsor Parties to you. By withdrawing, you may render yourself ineligible to receive the Reward, participate in the Program in the future, or participate in other programs offered by any or all of the Sponsor Parties.

**Program Termination.** Sponsor's ability to offer the Program is contingent on receiving certain approvals and acceptances from Utility, and the status of your account with Utility. If such approvals and acceptances are denied, withheld or withdrawn, or if the Program becomes unlawful or is required to cease under the applicable law or regulatory order, the Program will be terminated along with the Reward. In the event of such termination, Sponsor will provide notice at [www.evdrivenpe.com](http://www.evdrivenpe.com).

**Disqualification.** In addition to the other termination rights set forth in these Terms, Sponsor may terminate your participation in the Program and Reward at any time and without liability upon notice to you via email if you violate or fail to comply with these Terms or applicable law, if you do not comply with any reasonable request from a Sponsor Party in connection with this Program, if your Utility declares you ineligible for the Program, if your account with Vendor or Utility is no longer in good standing, or if you do not maintain a continuous connection between your enrolled Device(s) and the Vendor Service. If you enroll in a conflicting energy program through Sponsor Parties, Sponsor may terminate your participation in the Program without liability to the Sponsor Parties and without notice to you.

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**Privacy Notice.** By participating in the Program, you agree that the Sponsor Parties may collect your Program Data (which includes your personal information and data) and that if they cannot collect the required information or data, you may not be eligible to participate in the Program. Sponsor Parties will protect your personal information and usage data consistent with these Terms and each company's then-current privacy policy. Sponsor's privacy policy is located at: <http://www.energyhub.com/privacy-policy>. Utility's privacy policy is located at: [https://www.firstenergycorp.com/corporate/privacy\\_legal\\_statement.html](https://www.firstenergycorp.com/corporate/privacy_legal_statement.html). Vendor's privacy policy is located at: <https://smartcar.com/privacy/>. Please review all privacy policies to inform yourself how your personal information and data may be collected under this Program. Your submission of an application to the Program will be deemed as an acceptance of the terms of each of the Sponsor Parties privacy policies, and your consent to all actions we take with respect to your information consistent with the terms of such privacy policies and the privacy provisions of these Terms. The Sponsor Parties may update their privacy policies from time to time. All changes are effective immediately when the applicable Sponsor Party posts them. Your continued participation in the Program following the posting of any change to the privacy policy means that you accept and agree to the changes.

**Changes in Your Electricity Costs.** The Program is unrelated to and the Sponsor and Vendor are not responsible for any changes in your electricity costs during the Program Period.

**Information.** You represent and warrant to the Sponsor Parties that the information you provide to the Sponsor Parties while applying for and during the course of the Program is accurate and complete, and you agree to promptly notify the Sponsor Party contact if any information you provided during your application for the Program has changed.

**General Conditions.** This Program is governed by the laws of the State of New York, without regard to its applicable principles of conflicts of law. Any of the Sponsor Parties' failure to enforce any term of these Terms shall not constitute a waiver of that provision. THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) ARE NOT RESPONSIBLE OR LIABLE FOR ANY INCORRECT OR INACCURATE PROGRAM APPLICATION INFORMATION, AND ASSUME NO RESPONSIBILITY FOR (I) TYPOGRAPHICAL OR OTHER ERRORS IN THE PRINTING OF THE PROGRAM MATERIALS OR THE OFFERING OR ANNOUNCEMENT OF ANY REWARD, (II) ANY ERROR, OMISSION, INTERRUPTION, DEFECT OR DELAY IN OPERATION OR TRANSMISSION AT ANY WEBSITE, (III) FAILURE OF ANY APPLICATION TO BE RECEIVED BY SPONSOR PARTIES DUE TO TECHNICAL PROBLEMS, TELEPHONE SERVICE PROBLEMS, PRINTING ERRORS, HUMAN ERROR OR TRAFFIC CONGESTION ON THE INTERNET OR AT ANY WEBSITE, (IV) COMMUNICATIONS LINE, HARDWARE AND/OR SOFTWARE FAILURES, (V) DAMAGE TO ANY COMPUTER OR DEVICE (SOFTWARE OR HARDWARE) RESULTING FROM PARTICIPATION IN THE PROGRAM, (VI) THEFT OR DESTRUCTION OF, TAMPERING WITH, UNAUTHORIZED ACCESS TO, OR ALTERATION OF APPLICATIONS AND/OR PROGRAM APPLICATION INFORMATION, OR (VII) APPLICATIONS WHICH ARE LATE OR LOST, OR (VIII) ANY LOSS OF INCOME DUE TO DEVICE CONTROL. PARTICIPANT ASSUMES ALL RISK OF

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PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU INDEMNIFY AND AGREE TO KEEP THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) INDEMNIFIED AT ALL TIMES FROM AND AGAINST ANY LIABILITY, CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS AND EXPENSES THAT ARISE FROM OR ARE RELATED TO ANY ACT, DEFAULT OR OMISSION BY YOU AND/OR A BREACH OF ANY WARRANTY BY YOU AND/OR TO ANY ACT, DEFAULT, OMISSION OR BREACH BY YOU UNDER THESE TERMS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO HOLD THE SPONSOR PARTIES (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) HARMLESS FROM ANY INJURY OR DAMAGE CAUSED OR CLAIMED TO BE CAUSED BY PARTICIPATION IN THE PROGRAM AND/OR USE OR ACCEPTANCE OF ANY REWARD OTHER THAN FOR: (1) DEATH OR PERSONAL INJURY ARISING AS A RESULT OF ANY OR ALL OF SPONSOR PARTIES' NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE SPONSOR PARTIES' FRAUDULENT MISREPRESENTATION TO YOU OR A SPONSOR PARTIES' WILLFUL MISCONDUCT. THE SPONSOR PARTIES ARE EACH INDIVIDUAL ENTITIES AND HAVE NO JOINT LIABILITY UNDER THE PROGRAM OR THESE TERMS. THE SPONSOR PARTIES HAVE NO LIABILITY TO ANY PARTICIPANT FOR ANY LOSS, DAMAGE, COSTS OR EXPENSE INCURRED AS A RESULT OF OR IN CONNECTION WITH A PARTICIPANT'S PARTICIPATION IN THE PROGRAM. If any provision of these Terms is held to be invalid or unenforceable, all remaining provisions of these Terms will remain in full force and effect. These Terms will be binding on each Sponsor Party and its successors and assigns, and Participant. Participant may not assign their participation in the Program or any Reward without the written consent of Sponsor. Sponsor may assign these Terms without the consent of Participant. The Sponsor Parties are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, participating, or claiming a Reward. For the avoidance of doubt, it is specifically understood and agreed that there shall be no personal liability on the part of any affiliates, agents, directors, officers, and employees of each Sponsor Party under these Terms.

These Terms constitute the entire agreement between Sponsor Parties and a Participant relating to the subject matter hereof and supersede all other such prior or contemporaneous oral and written agreements and understandings.

EACH PARTICIPANT UNDERSTANDS AND AGREES THAT UTILITY HAS NO LIABILITY FOR THE OPERATION AND ADMINISTRATION OF THE PROGRAM.

**Arbitration.** If you and the Sponsor do not resolve any dispute by informal negotiation, any other effort to resolve the dispute will be conducted exclusively by binding individual arbitration governed by the Federal Arbitration Act ("FAA"). YOU ARE GIVING UP THE RIGHT TO LITIGATE (OR PARTICIPATE IN AS A PARTY OR CLASS MEMBER) ALL DISPUTES IN COURT BEFORE A JUDGE OR JURY. Instead, all disputes will be resolved on an individual basis before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the FAA. Any court with jurisdiction over the parties may enforce the arbitrator's award.

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**No Class Action Procedure.** Notwithstanding any of the foregoing or any other provision of these Terms, class arbitration is not permitted under any circumstance. You and the Sponsor agree that, by entering into these Terms, THE PARTIES MAY BRING CLAIMS AGAINST THE OTHER ONLY IN THEIR RESPECTIVE INDIVIDUAL CAPACITY, and not as a plaintiff or class member in any purported class or representative proceeding. Further, you agree that the arbitrator may not consolidate proceedings of more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. Although the non-availability of any form of representative or class proceeding is clear from these Terms, should any dispute arise regarding or relating to the existence, validity, enforceability, or interpretation of the Arbitration and No Class Action Procedure provisions above, the federal court located in New York, New York shall have the sole and exclusive jurisdiction to hear and determine the issue.

**Geographic Restrictions.** The Program is based in the State of Maryland in the United States. We provide the website for use only by persons located in the United States. We make no claims that the website or the Program or any of its content is accessible or appropriate outside of the United States. Access to the website may not be legal by certain persons or in certain countries. If you access the website from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

**Acceptance of Agreement.** The use of an electronic signature process to accept and sign these Terms, including your indication of acceptance of these Terms by a click-through or click-wrap process presented on Sponsor's website, shall constitute effective execution and delivery of these Terms, and shall form a binding contract between you and the Sponsor.

#### **Additional Program Details.**

- Utility Program website address: [www.potomacedison.com/evdriven](http://www.potomacedison.com/evdriven).
- Reward: \$0.02 per kWh charged during off peak hours net of hours charged during on peak hours. For more details on/off peak hours, please see the Electric Service Tariff at [https://www.firstenergycorp.com/content/customer/customer\\_choice/maryland/maryland\\_tariffs.html](https://www.firstenergycorp.com/content/customer/customer_choice/maryland/maryland_tariffs.html).
- Eligible Devices: Participant is required to utilize a residential level 2 charger as offered by defined Vendor during the Program Period.
- Charging Station Wi-Fi Connectivity: Participant is aware that the Device must be activated to and maintain connectivity to the Service throughout the Program Period, and acknowledges that adequate Wi-Fi coverage is required and is the responsibility of the Participant to enable and maintain adequate Wi-Fi coverage.
- The Program terms and application are available at the following website address: [www.evdrivenpe.com](http://www.evdrivenpe.com).
- EnergyHub (Sponsor) contact information: [EVdriven@energyhub.com](mailto:EVdriven@energyhub.com).

**Contact.** If you have any questions regarding the Program or the Rewards, you can contact the Sponsor at [EVdriven@energyhub.com](mailto:EVdriven@energyhub.com) or visit the Program website at [www.evdrivenpe.com](http://www.evdrivenpe.com).