

## PROGRAM TERMS AND CONDITIONS

**Welcome to the SMECO EV Recharge Managed Charging Program (“Program”).** By becoming a Participant of the Program, you may reduce stress on the grid in your utility service area and provide feedback and data to help EnergyHub improve its electric vehicle services. By participating in the Program, you may be eligible to receive the Reward described below, subject to these Program Terms and Conditions (“**Terms**”). To become a Participant in the Program, you must submit an application to, and have it accepted by EnergyHub. You must have an installed and operational Device (as such term is defined below) to participate in this 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 (as defined below); provided, however, in the event your application is not accepted or approved, you will not be subject to data collection under these Terms. Failure to comply with these Terms may result in your unenrollment from the Program. The decisions of the Sponsor regarding your eligibility to participate are final and binding in all respects. Sponsor reserves the right in its sole discretion to unenroll any Participant for, among other things: (1) tampering or attempting to tamper with the operation of the Program; or (2) violating these Terms. **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 unenrollment of a Participant and forfeiture of any Reward.**

**About the Program.** Applicants whose applications to participate in the Program are submitted by the enrollment deadline and accepted by the Sponsor (“**Participants**”, “**you**”, and “**your**”) and who fully comply with these Terms may receive an incentive, as set forth below (“**Reward**”), to be provided to you by Sponsor following the conclusion of the Program term. To receive the Reward, you must be accepted as a Participant by the Sponsor, and your participation must not be withdrawn or terminated.

**Definitions.** In the context of these Terms,

- The Program is provided by EnergyHub, Inc., 41 Flatbush Avenue, Suite 400A, Brooklyn, NY 11217 (including its affiliates, agents, directors, officers, and employees “**Sponsor**”).
- “**Adjustment Events**” mean times during the Program Period when the Sponsor will signal the Device to change device mode, level of charge or other settings, as applicable].
- “**DER Vendor**” means FLO.
- “**Device**” means the electric vehicle model approved by Sponsor for the Program, that can be monitored and controlled during the program through either the Vendor cloud platform or other communications pathway.
- “**FAA**” means the Federal Arbitration Act.
- “**Participant**” mean an applicant that has been accepted into the Program by the Sponsor.
- “**Program**” means the **SMECO EV Recharge Managed Charging Program**.
- “**Program Administrator**” means your utility, namely SMECO.
- “**Program Data**” means data related to your identity, your Adjustment Event opt-in or opt-out status, your energy usage and/or energy production, your electric bill, your meter data and operational data about your Device(s).
- “**Program Period**” The program will continue until the program is cancelled or terminated as described above. Your enrollment in the program will continue unless and until you or Sponsor cancels your participation.
- “**Reward**” means a \$120 annual incentive paid as \$10 bill credits per month. Monthly incentives will be forfeited after opting out of Managed Charging three or more times.
- “**Service**” means the connection between your Device(s) and the DER Vendor platform.
- “**Terms**” means these Program Terms and Conditions.

**Application Consent by Participant.** By submitting an application to enroll as a Participant, you authorize the Sponsor to 1) collect and exchange your Program Data and retain such Program Data indefinitely, solely for the purposes of determining your eligibility for the Program and operating the Program; 2) review and analyze all of your Program Data for the purposes of the Sponsor fulfilling its obligations under the Program and applicable law, improving 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; 3) automatically signal your Devices to take part in Adjustment Events for this Program or for general system testing purposes; 4) send you emails, text messages and other notifications related to the Program, including about your enrollment status and Program-related adjustments to your Devices; 5) send you emails, text messages and other notifications related to surveys about the Program and to share your responses to such surveys; 6) retain all of your Program Data indefinitely for record keeping purposes; and 7) summarize the results of the Program in publicly-available studies, 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 must have one or more Devices that are compatible with and connected to the DER Vendor platform ("Service") and compatible with the Program design;
- You must install and maintain the Sponsor's ChargingRewards mobile application;
- Maintain an active account in good standing on the Service and a continuous connection between your enrolled Devices and the Service;
- Assist Sponsor's support personnel in troubleshooting and resolving connectivity, firmware and other Device-related issues; and
- You must not have withdrawn or been removed from another program offered by the Program Administrator within one (1) year prior to the date of your application into the Program. If you are disqualified or withdraw from the Program, you must wait one (1) year from the date of your removal before you may be eligible to participate in any other program offered by the Program Administrator.

**Program Period.** The Program will run for the Program Period defined above. You may be automatically re-enrolled in subsequent Program Periods at Sponsor's discretion, subject to the then-current Terms for the Program. You may unenroll from the Program at any time.

**Program Description.** Participant agrees to allow the Sponsor to control the charging of the Participant's Devices during the Program Period. Such adjustments are referred to as "**Adjustment Events**." Adjustment Events may change device mode, level of charge or other settings, as applicable. Sponsor may charge or restrict charging to the Participant's Device at any time and to any level, even if the Device is in any kind of hold mode at the start of the Adjustment Event. Participant may opt out of a current or future Adjustment Event at any time by directly adjusting the Device or through the ChargingRewards mobile application.

**How to Apply.** You can apply to participate in the Program through your DER Vendor mobile app or at the program enrollment website found here: <https://chargingrewards.com/get-chargingrewards>. The Sponsor may accept or reject your application in their 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. 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 Sponsor.

**Program Termination.** Sponsor's ability to offer the Program is contingent on receiving certain approvals and acceptances. If such approvals and acceptances are withheld or withdrawn, or if the Program is declared unlawful, the Program will be terminated along with the Reward. In the event of such termination, Sponsor will provide notice at [www.energyhub.com](http://www.energyhub.com).

**Disqualification.** The 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 these Terms or applicable law or if you do not comply with any reasonable request from Sponsor in connection with this Program.

**Privacy Notice.** By participating in the Program, you agree that the Sponsor may collect your personal information or data and that if they cannot collect the required information or data, you may not be eligible to participate in the Program. Sponsor will administer your personal information and usage data consistent with these Terms and Sponsor's then-current privacy policy. Sponsor's privacy policy is located at: <http://www.energyhub.com/privacy-policy>

**Changes in Your Electricity Costs; Charging Levels.** Sponsor is not responsible for any changes in your utility costs during the Program. Sponsor is not responsible for any change in your Device's level of charge or available remaining charge following an Adjustment Event.

**Information.** You represent and warrant to Sponsor that the information you provide to Sponsor while applying for and during the course of the Program is accurate and complete, and you agree to promptly notify Sponsor 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. The Sponsor's failure to enforce any term of these Terms shall not constitute a waiver of that provision. THE SPONSOR (AND EACH OF ITS 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 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 PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU INDEMNIFY AND AGREE TO KEEP THE SPONSOR (AND ITS 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 OR OMISSION BY YOU UNDER THESE TERMS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO HOLD THE SPONSOR (AND ITS 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 SPONSOR'S NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE SPONSOR'S FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE

SPONSOR (AND ITS AFFILIATES, AGENTS, DIRECTORS, OFFICERS, AND EMPLOYEES) 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 the Sponsor and its successors and assigns, and Participant. Participant may not assign these Terms without the written consent of Sponsor whereas Sponsor may assign these Terms to any third party. The Sponsor is 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 constitutes the entire agreement between Sponsor and a Participant relating to the subject matter hereof and supersedes all other such prior or contemporaneous oral and written agreements and understandings.

**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 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.

**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 this Agreement, 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 or 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 this Agreement, should any dispute arise regarding or relating to the existence, validity, enforceability, or interpretation of the Arbitration and No Class Action procedures provisions above, the federal court located in New York, New York shall have the sole and exclusive jurisdiction to hear and determine the issue.

**Changes to the Terms.** Sponsor may modify these Terms at any time. 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 Terms, which will be after the date of our notice to you. Your continued participation in the Program thereafter signifies your acceptance to such modified Terms. The modified Terms will apply only to disputes that arise after the effective date of such modified Terms. We will also post the most current version of the Terms on our website specified below and encourage you to check this site frequently.

**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.** Additional program details are available at the following website address: <https://chargingrewards.com/faqs/smeco-ev-recharge/>. EnergyHub contact information for the program is: SMECOEVRecharge@icf.com.

