

## INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (this "**Agreement**") is entered into, effective as of [\_\_\_\_], 2021 (the "**Effective Date**") by and between Avista Edge, Inc., a Washington corporation ("**Contractor**") and the City of Cheney, a municipality of the State of Washington ("**Provider**").

### RECITALS

WHEREAS, eero LLC, a Delaware limited liability company ("**eero**"), and Provider are parties to that certain Service Provider Marketing Agreement, dated on or about the date of this Agreement (the "**Marketing Agreement**"). Capitalized terms used but not defined in this Agreement shall have the meaning given such terms in the Marketing Agreement.

WHEREAS, pursuant to Section 16 of the Marketing Agreement, Provider may subcontract any of Provider's rights, duties, and obligations under the Marketing Agreement to a third party.

WHEREAS, Provider has engaged Contractor as an independent contractor to perform the rights, duties, and obligations of Provider under the Deployment Agreement, on the terms and conditions set forth in (1) this Agreement and (2) the Master Lease and Services Agreement, dated as of August 21, 2020, between Contractor and Provider (the "**Master Agreement**").

WHEREAS, Provider and Contractor desire to set forth in this Agreement the rights, duties, and obligations of Provider in the Marketing Agreement that Contractor will perform.

### AGREEMENT

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Performance of Obligations by Contractor. Contractor covenants, acknowledges and agrees that Contractor will perform, as an independent contractor of Provider, all rights, duties, and obligations of Provider set forth in the Marketing Agreement. Capitalized words in this paragraph shall have the meaning set forth in the Marketing Agreement.

For the avoidance of doubt, Contractor shall through the Distribution Agreement between Contractor and Amazon.com Services LLC (attached as Attachment 1, hereto): (A) be the purchaser of Products and Deploy those Products via loan or rental to Provider's Customer; (B) perform services and obtain eero Products; (C) provide the "eero Customer Support Services for Service End Users" set forth on related Attachments, Schedules, and Annexed documents in the Distribution Agreement to include identifying the support team and contact information for End-Users in the "Internet Service Terms and Conditions" via a link for Tier 1 support.

For the "Third Party Security Requirements" set forth on Annex 5 to the Distribution Agreement, Contractor shall comply with the "Security Policy." The Provider (City of Cheney) shall not comply with the Security Policy unless Amazon Information is directly received by Provider for Provider's business purposes. Contractor acknowledges that Provider is subject to the public records act, Chapter 42.56 RCW.

2. Indemnification. Contractor agrees to defend, indemnify and hold Provider, its officers, elected officials, employees, agents, contractors, lessees, successors and assigns of each of the foregoing (collectively, the “**Indemnitees**”) harmless against and from any and all claims, costs, damages, demands, loss and liability, arising from or caused by the acts or omissions associated with, including, without limitation, any and all claims arising from: (a) any breach, neglect, or default on the part of Contractor in performance of any covenant or agreement on its part to be performed pursuant to the terms of the Marketing Agreement; and (b) any act of negligence or willful misconduct of Contractor or its agents, servants, employees, contractors, subcontractors, or licensees. Such indemnity shall include payment of any and all costs, attorney fees, expenses and damages incurred in or through any such claim, action, or proceeding brought thereon against any Indemnitees by reason of any claim herein. Contractor, on notice from the Provider, shall defend against such action or proceeding, unless such action or proceeding is defended by counsel for any carrier of liability insurance provided herein.

3. Insurance. Contractor shall procure and maintain the following insurance and applicable endorsements until all of their obligations of this Agreement have been discharged, including the adjusting or paying of any claims for injury to persons or damage to property in connection with this Agreement. The *insurance requirements* herein are minimum requirements and shall not be construed to limit the indemnity covenants in any way. The Provider does not represent or warrant that the minimum limits contained herein are sufficient to protect from liabilities that arise out of the service provided under this agreement.

*COMMERCIAL GENERAL LIABILITY: policy to cover property damage, bodily injury, including death written on an occurrence basis in the amount of \$2,000,000 per occurrence and \$3,000,000 aggregate. Policy shall include coverage for personal and advertising injury, and blanket contractual liability specifically imposed/incurred by Provider through Section 19(b) of the Deployment Agreement. Policy shall be endorsed to include the City of Cheney, Washington its employees, agents, appointed and elected officials, as “additional insureds.”*

All coverage’s shall be evidenced on a Certificate of Insurance and provided to the City Clerk, City of Cheney via email at [mschuller@cityofcheney.org](mailto:mschuller@cityofcheney.org), with a copy mailed to City Administrator, Mark Schuller, 609 2<sup>nd</sup> Street, Cheney, WA 99004, including additional insured and waiver of subrogation endorsements no less than two (2) business days from the date of service and all are subject to verification. All insurers must be admitted insurers to do business in the State of Washington with an AM’s Best Rating of A- XII or greater. All coverages shall be primary above any and all other potentially available funding sources. With the exception of ten (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require thirty (30) days written notice to the City of Cheney City Clerk. Any material change to a policy that would affect the status of the City as an additional insured shall require written notice to the City Clerk, no later than thirty (30) days prior to the change.

4. Term. The term of this Agreement shall commence on the Effective Date, and terminate on the earlier of (a) the termination of the Marketing Agreement, or (b) the termination of the Master Agreement.

5. Additional Contractual Requirements. Pursuant to the Distribution Agreement (referenced above), Contractor shall deliver to Provider the "Program" identified in the Distribution Agreement to include all requirements and information that relate to Provider participating in the Company's (defined in the Distribution Agreement) Program. In addition, upon Contractor receiving Notice from the Company (as set forth in the Distribution Agreement) that the Distribution Agreement may be terminated, Contractor shall provide such notice immediately to Provider. Thereafter, Contractor shall engage in reasonable efforts to notify customers that the Distribution Agreement may be terminated to include a cessation of Products and related services.

6. Interpretation and Assumption of Duties. This Independent Contractor Agreement obligates Contractor to perform the duties and comply with the terms and conditions for Provider set forth in the "Marketing Agreement." See Attachment 1.

*[Signatures appear on the following page.]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**Provider:**

**The City of Cheney, Washington**

Signed by: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

**Contractor:**

**Avista Edge, Inc.**

Signed by: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_