



---

## PROFESSIONAL SERVICES AGREEMENT

Avista Contract No. R-41248

This Professional Services Agreement ("Agreement") is entered into between Avista Corporation ("Avista"), a Washington corporation, and MST Financial Solutions, LLC dba Chapman Financial Services ("Consultant"), an Idaho limited liability company licensed in Idaho and Washington (sometimes individually, a "Party" and collectively, the "Parties").

**Background and Purpose:** Avista desires to retain the services of the Consultant to provide collection services for delinquent customer utility accounts (the "Services"), and Consultant desires to provide the required Services in return for equitable compensation, subject to the terms of this Agreement. Therefore the Parties agree as follows:

### Section 1 Statement of Services and Scope of Services

- 1.1 Consultant shall furnish the labor, materials, and equipment necessary to provide the Services in accordance with the conditions of this Agreement and the requirements stated in the attached Statement of Work incorporated into this Agreement as "Exhibit A".
- 1.2 Modifications to the Statement of Work requested by Avista will be performed in accordance with written Work Authorizations or Change Orders, mutually agreed to by the Parties. Work Authorizations and/or Change Orders will be incorporated into this Agreement by this reference upon execution by both Parties.

### Section 2 Term of Agreement

This Agreement will become effective on January 1, 2017, (the "Effective Date") and remain in effect until terminated upon 30 days' prior written notice from the terminating Party to the other Party, subject to the terms of this Agreement.

### Section 3 Compensation

- 3.1 In return for the satisfactory performance of the Services, Consultant's compensation will be calculated by applying █% to "Non-legal" collections; █% to "Legal" collections; and █% to "Forwarded" collections ("Consultant's Fees"). Consultant shall remit all collections to Avista, less Consultant's Fees, in accordance with Exhibit A.
- 3.2 Consultant shall keep accurate and complete accounting records in support of all costs billed to Avista in accordance with generally recognized accounting principles and practices. Avista or its audit representative will have the right at any reasonable time or times to examine, audit, and/or reproduce the records, vouchers, and their source documents which serve as the basis for compensation. Such documents will be made available for examination, audit, and/or reproduction by Avista for three years after completion of the Services.

### Section 4 Party Representatives

- 4.1 Avista's Customer Service Manager – Credit & Collections will be the point of contact for Avista in all matters (subject to Avista financial authority limits), in connection with the Consultant's performance under this Agreement.
- 4.2 Consultant's Representative, Dan Jess, will be the point of contact for the Consultant in all matters in connection with Consultant's performance under this Agreement, including supervision of the Services furnished. Consultant's Representative, Darline Lukens (email, [dlukens@chapmanfs.com](mailto:dlukens@chapmanfs.com); direct line, 208-292-1259; ) will be the point of contact for day-to-day collections issues.

### Section 5 Notices to the Parties

- 5.1 All notices, demands, requests, and other communications under this Agreement must be in writing and sent by mail (postage prepaid), or delivered to the other Party either electronically or by a recognized commercial courier, addressed as set forth below. Such notices, demands, requests and other communications will be deemed given as of the date delivered, or if sent electronically or by mail, upon receipt.

---

5.2 Notices to Avista:

Project/Technical Communications: Attn Customer Service Mngr – Credit & Collections, MSC-34  
Legal, Contractual, Insurance Notices: Attention Supply Chain Management, MSC-33

At the following address:

Avista Corporation  
1411 E. Mission Ave  
PO Box 3727  
Spokane, WA 99220-3727  
Ref.: Avista Contract R-41248

5.3 Notices to Consultant:

Chapman Financial Services  
316 N. 4<sup>th</sup> Street  
Coeur d'Alene, ID 83814  
Attention: Dan Jess

5.4 Either Party may change its address, designated Representative, or other point-of-contact or delegate by providing written notice to the other Party as set forth above.

**Section 6 Insurance Requirements**

Consultant shall secure, and, for the duration of this Agreement, continuously carry with insurance carriers licensed to conduct business in the state in which the Services are to be performed, the minimum level of insurance coverage identified below. Such carriers must have an A.M. Best rating of A-, Class VIII or better.

- 6.1 Workers Compensation/Employer's Liability: insurance coverage with respect to all persons performing Services in accordance with the applicable laws of the state in which the Services are to be performed.
- 6.2 Commercial General Liability: insurance coverage on an occurrence basis with a minimum single limit of \$1,000,000. The coverage must include: (i) Bodily Injury and Property Damage Liability, (ii) Contractual Liability specifically related to the indemnity provisions of this Agreement, and (iii) Products and Completed Operations Liability to extend for a minimum of three years past acceptance or termination of the Services.
- 6.3 Business Automobile Liability: insurance coverage with a minimum single limit of \$1,000,000 for bodily injury and property damage with respect to Consultant's vehicles whether owned, hired, or non-owned, assigned to, or used in the performance of the Services.
- 6.4 Professional Liability (Errors and Omissions): insurance coverage in a form acceptable to Avista with a minimum single limit of \$500,000 to cover claims arising out of Consultant's professional services under this Agreement. This policy must be maintained for five (5) years after Avista's acceptance of Consultant's Services.
- 6.5 Other Insurance Policy and Endorsement Requirements
- 6.5.1 The insurance coverages set forth above may be met by a combination of the dollar limit of the specified insurance type and an excess or umbrella insurance policy, provided that the excess or umbrella policy includes coverage for the specified insurance types to achieve the appropriate minimum coverages.
- 6.5.2 Commercial General and Business Automobile Liability Insurance policies must include provisions or endorsements naming Avista, (including its directors, officers and employees) as additional insureds.
- 6.5.3 All required insurance policies must include provisions that such insurance is primary insurance with respect to Avista's interests and that any other insurance maintained by Avista is excess and not contributory insurance with the required insurance. Consultant shall notify Avista within 30 days of any cancellation or change in limits of liability of any required insurance policy.





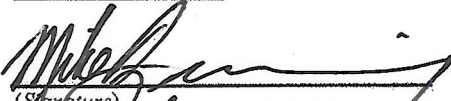
- 6.5.4 Unless specifically waived by Avista in writing, a certificate of insurance and its respective endorsement(s) certifying to the issuance of the insurance coverage and endorsements required above must be furnished to and accepted by Avista prior to the start of Services pursuant to this Agreement. The acceptance of the certificate of insurance by Avista is not intended to and will not reduce, limit, affect, or modify the primary obligations and liabilities of Consultant under the provisions of this Agreement. Noncompliance with the insurance requirements of this Agreement may, at Avista's option, be deemed a material breach of this Agreement.
- 6.5.5 Consultant shall ensure that any policy of insurance that Consultant or any subcontractor carries as insurance against property damage or against liability for property damage or bodily injury (including death) shall include a provision providing a waiver of the insurer's right to subrogation against Avista as the additional insured. To the extent permitted by the policies of insurance, Consultant hereby waives all rights of subrogation against Avista as the additional insured.
- 6.6.6 Consultant shall require all subcontractors performing Work under this Agreement to secure and, for the duration of this Agreement, continuously carry with insurance carriers licensed to conduct business in the state in which the Work is to be performed, insurance policies in the levels set forth above. Nothing in this Subsection shall relieve Consultant of its obligations under this Agreement and Consultant's responsibility for all subcontractors performing Work under this Agreement.

**Section 7 Other Provisions**

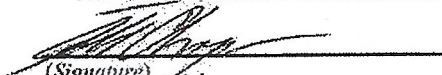
- 7.1 This Agreement consists of the following documents which are: (i) incorporated into this Agreement, (ii) listed in descending order of precedence, and (iii) attached or referenced: the *Professional Services Agreement*, the *General Conditions for Services Agreements Rev 9/29/15* the *Exhibits* and executed *Work Authorizations* and *Change Orders* (including all applicable attachments).
- 7.2 Any representation, promise, modification, or amendment to this Agreement will not be binding upon either Party unless reduced to writing and signed by each Party. This Agreement, Amendments, Work Authorizations, and/or Change Orders may be signed in any number of counterparts, each of which when signed will be an original, but all such counterparts will constitute one and the same instrument. The term "counterparts" includes full copies of such signed instruments delivered electronically.

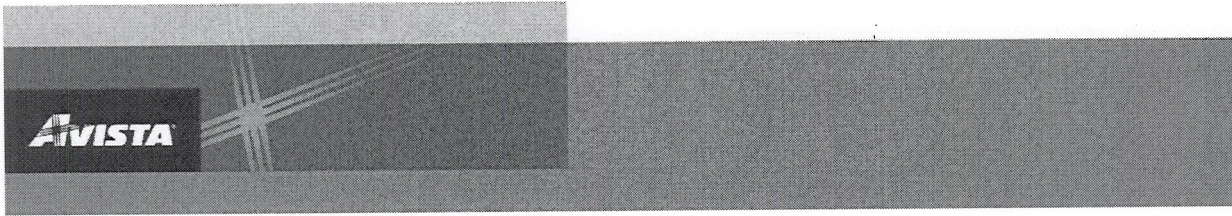
This Agreement has been signed by each Party's authorized representative on the date(s) set forth below.

Avista Corporation

  
 (Signature)  
 MIKE BROEMELING  
 (Printed Name)  
 DIRECTOR CUSTOMER SVC  
 (Title)  
 1/3/17  
 (Date Signed)

MST Financial Solutions, LLC  
dba Chapman Financial Services

  
 (Signature)  
 Todd Chapman  
 (Printed Name)  
 President  
 (Title)  
 12-29-16  
 (Date Signed)



## **GENERAL CONDITIONS FOR SERVICES AGREEMENTS**

Avista Corporation  
East 1411 Mission Avenue  
PO Box 3727  
Spokane, WA 99220-3727



## GENERAL CONDITIONS

---

Capitalized terms used in these General Conditions will have the meaning ascribed to them in either the Agreement, the Statement of Work, these General Conditions, or other documents incorporated into the Agreement.

### GC-1 PERFORMANCE BY CONSULTANT

#### 1.1. Qualifications and Expertise

Consultant represents that its officers and employees have the necessary knowledge, skill and expertise to manage and perform the Services required by this Agreement. Consultant warrants that its officers and employees comply with all of the federal, state and local laws and regulations which apply to the Services. Consultant and approved subcontractors shall hold such current and valid contractor's or professional licenses as required by law in the state in which the Services are to be performed under this Agreement, for the term of the Agreement. Consultant represents that it has obtained and holds all of the permits and certificates that are necessary as a precondition to the performance of the Services. The knowledge, expertise and qualifications of Consultant and its officers and personnel to perform or supervise the performance of the Services, including the possession of appropriate permits and certificates, is the essence of this Agreement.

#### 1.2. Standard of Performance

The standard of care and skill for all professional and related Services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

#### 1.3. Delegation and Subcontracting

Consultant shall not (by contract, operation of law or otherwise) delegate or subcontract performance of any Services to any other person or entity without the prior written consent of Avista. Any such delegation or subcontracting without Avista's prior written consent will be voidable at Avista's option. No delegation or subcontracting of performance of any of the Services, with or without Avista's prior written consent, will relieve Consultant of its responsibility to perform the Services in accordance with this Agreement.

#### 1.4. Consultant Employees

Consultant shall not employ any Avista employee to perform any of the Services. Consultant shall employ persons to perform the Services who are fully experienced and properly qualified to perform the same. If requested to do so by Avista, Consultant shall remove from performance of the Services any person Avista determines to be incompetent, careless or otherwise objectionable. Consultant shall assign any key personnel specified in the Agreement to the performance of the Services and shall not (for so long as they remain in Consultant's employ) reassign or remove such personnel without the prior written consent of Avista. If any such personnel leave Consultant's employ or are reassigned or removed by Consultant, Consultant shall replace them with personnel approved by Avista. Consultant shall be solely responsible for meeting all training, supervisory, inspection, certification and retraining requirements necessary to enable its employees and/or the employees of its subcontractors to safely and competently complete the Services, including, without limitation, compliance with 29 CFR §1910.269 and 29 CFR §1926.950 as applicable, and any other laws or regulations applicable to the Services.

#### 1.5. Independence

The Parties intend that an independent contractor relationship will be created between or among them by this Agreement. Consultant personnel performing the Services under this Agreement will not be construed to be employees of Avista; Consultant shall be solely responsible for payment of compensation to such persons. Avista, therefore, will not be responsible for the payment of withholding taxes, unemployment insurance, worker's compensation, social security, pensions, licenses or other fees on behalf of Consultant's personnel in connection with the performance of the Services; such payments are the responsibility of Consultant. Consultant shall be free of any control by Avista in selecting the means, methods, techniques and procedures of work and safety precautions applicable to the Services furnished. This Agreement will not render Consultant a partner or joint venture with Avista. Consultant has no authority to represent Avista in any capacity or assume or create any obligation in the name of or on behalf of Avista, except as expressly authorized in this Agreement.



## GENERAL CONDITIONS

---

### 1.6. Compliance with Laws and Regulations

1.6.1. As a federal contractor Avista must comply with the provisions of certain federal regulations and include such provisions in its contracts and purchase orders. To the extent applicable to the Services applicable under this Agreement, Consultant shall comply, and shall ensure that Consultant's suppliers and subcontractors of every tier comply, with all applicable laws, ordinances, rules, regulations, orders, licenses, permits and other requirements, in effect now or in the future, of any governmental authority (including, but not limited to, such requirements as may be imposed upon Avista that are applicable to the Services). Consultant shall furnish such documents to Avista as may be required to effect or evidence such compliance. All laws, ordinances, rules, regulations and orders required to be incorporated in agreements of this character are incorporated into this Agreement by this reference.

1.6.2. To the extent applicable, Consultant shall comply with Executive Order No. 11246, "Equal Opportunity Employment," the "Rehabilitation Act of 1973" and the "Vietnam Era Veterans' Readjustment Assistance Act of 1972" and all of the orders, rules and regulations promulgated under those acts (including, but not limited to, 41 CFR Part 60-1, 41 CFR Part 60-250 and 41 CFR Part 60-741), as may have been or may be amended. Consultant (and its subcontractors of any tier) shall comply with:

- The "Affirmative Action Obligations for Individuals with Disabilities" clause set forth in 41 CFR 60-741.5(a) which prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action to employ and advance in employment qualified individuals with disabilities.
- The "Affirmative Action for Veterans" clause set forth in 41 CFR 60-300.5(a) which prohibits discrimination against qualified protected veterans, and requires affirmative action to employ and advance in employment qualified protected veterans.
- The "equal opportunity clause" set forth in 41 CFR Section 60-1.4 which is incorporated into these General Conditions by this reference.
- The "Non-Segregated Facilities" clause set forth in CFR Section 60-1.8 and the "Notification of Employee Rights under Federal Labor Laws" set forth in 29 CFR Part 471, Appendix A to Subpart A of Executive Order 13496.

The regulations set forth in this Subsection 1.6.2 do not apply to services or work performed outside of the U.S. by employees who were not recruited in the U.S.

1.6.3 Upon request by Avista, Consultant shall provide Avista and any federal or state agency access to (and the right to examine, audit and copy) such information and records providing verification of Consultant's compliance with federal and state regulations applicable to Consultant's performance under the Agreement.

### 1.7. Correction of Non-Compliant Services or Deliverables

Consultant shall, at its expense, promptly and satisfactorily correct any Services furnished or Deliverables found to be non-compliant with the requirements of this Agreement. If Avista directs Consultant to correct such non-compliance and Consultant fails to comply or indicates its inability or unwillingness to comply, then Avista may, upon 10 days advance written notice to Consultant of Avista's intention to do so, correct (or cause to be corrected) the noncompliance or otherwise achieve compliance by the most expeditious means available to it (by contract or otherwise) and charge to or otherwise recover (e.g., by offset against compensation payable under this Agreement) from Consultant the cost of such corrective measures. Avista's right to make corrections and otherwise achieve compliance and recover from Consultant the cost of corrections is in addition to all other rights and remedies available to Avista under this Agreement or otherwise by law. Consultant's obligation to correct non-compliances will not in any way limit or qualify any other obligation of Consultant under this Agreement.



---

**GC-2 CHANGES IN THE AGREEMENT**

**2.1. Change Orders**

After the Effective Date of the Agreement, no amendment or modification of the provisions of the Agreement will be effective unless made by written Amendment or Change Order executed by both Parties. Changes, additions to, or deletions of the Statement of Work, Specifications, Compensation or Schedules and/or Deliverables, will be accomplished by written Change Orders issued by Avista and signed by both Avista and Consultant. If any change made pursuant to an executed Change Order results in a decrease in the Services to be performed, Consultant will not be entitled to anticipated profit on Services not performed and the loss of anticipated profit will not reduce the decrease in compensation under this Agreement resulting from such change. Further, Consultant will not be entitled to any reallocation of cost, profit, or overhead.

**2.2. Work Authorization**

The performance of Services by Consultant under this Agreement may be authorized, as required by Avista's Representative, by written Work Authorizations that authorize the start of work on a particular task or group of tasks. The tasks may be pre-defined in this Agreement or, in the case of "on-call" services or work, may be defined in the Work Authorization.

**GC-3 INDEMNITY**

**3.1. Indemnity – General**

Subject to applicable law, Consultant expressly agrees to indemnify and, upon request, defend Avista, 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 (individually or collectively, "Loss"), brought against or incurred by Avista resulting from, arising out of, or in any way connected with any act, omission, fault, or negligence of Consultant or its employees, agents, suppliers and subcontractors of any tier in the performance or nonperformance of Consultant's obligations under this Agreement. In the event that any such Loss is caused by the concurrent negligence of both Avista and Consultant, including their employees, agents, suppliers and subcontractors, the Loss will be borne by Consultant and Avista in the proportion that their respective negligence bears to the total negligence causing such Loss.

**3.2. Indemnity – Claims by Government Authorities**

Consultant agrees to indemnify and, upon request, defend Avista, its officers, directors, employees, successors and assigns, from any liability, damage, suit, penalties, demand, and expense (including without limitation, reasonable attorney's fees and court costs) for claims by governmental authorities or others (including Consultant's subcontractors and the employees of Consultant and said subcontractors) of any actual or asserted failure of Consultant to comply with any law, ordinance, regulation, rule or order of any governmental or quasi-governmental body including without limitation, actual or asserted failure of Consultant to comply with employee safety and health regulations, environmental regulations or employment laws in connection with the Services performed pursuant to this Agreement.

**3.3. Indemnity - Infringement or Wrongful Use**

Consultant specifically and expressly agrees to indemnify and, upon request, defend Avista, its officers, directors, employees, successors and assigns, from all claims, suits, losses, liabilities, damages, expenses (including court costs and reasonable attorneys' fees) and royalties, based upon infringement (or alleged infringement) of any patent, copyright, trade name or trademark or upon Consultant's or its subcontractor's wrongful use (or alleged wrongful use) of any confidential or proprietary concept, method, process, product, writing, information or other item arising out of or in connection with this Agreement, performance of the Services, or the use of any of the Services. Furthermore, if any of the Services or any use of the Services constitutes an infringement of any patent, copyright, trade name or trademark or wrongful use of any confidential or proprietary concept, method, process, product, writing, information or other item, Consultant shall at its expense either (i) procure for Avista the right to use the infringing item, (ii) replace the infringing item with a substantially equal but non-infringing item, or (iii) modify the infringing item so that it becomes non-infringing.



## GENERAL CONDITIONS

---

### 3.4. Waiver of Immunity

To the extent permitted by law, Consultant waives any immunity, defense or other protection that may be afforded by Workers' Compensation, Industrial Insurance or similar laws in the state where Services are performed pursuant to this Agreement (including but not limited to, the Washington Industrial Insurance Act, Title 51 RCW) to the extent Consultant is required under the indemnity provisions of this Agreement to indemnify and defend Avista with respect to any claim or action brought against Avista by an employee of Consultant. The Parties have specifically negotiated this section and contractor makes the foregoing waiver with the full knowledge of the consequences.

### GC-4 CONFIDENTIALITY OBLIGATIONS

4.1. Each Party acknowledges that it may come into contact with or possession of confidential information belonging to the other Party during the course of this Agreement. Confidential information acquired by, or disclosed to, any employee, agent, or representative of a Party is deemed to have been acquired by, or disclosed to, the Party. Such information may be in the form of, but not limited to, the following: computer programs, techniques, methods, rules, algorithms, procedures, protocols, forms, instructions, trade secrets, copyrights, patents, customer information, employee information, financial performance information and any other proprietary information used in connection with, or in any way relating to, the Services provided, or the activities of each Party.

4.2. Each Party agrees not to divulge, disclose, or otherwise make available in any form to any person or entity, such information belonging to the other Party unless: (i) the information was already known to the receiving Party at the time of the disclosure; (ii) the information was in the public domain at the time it was disclosed to the receiving Party; (iii) the information was obtained by the receiving Party from a third party who was not prohibited from making the disclosure; or (iv) the receiving Party is required to disclose the information to comply with any applicable law, regulation, ruling or order.

4.3. In the event that disclosure is compelled by applicable law, regulation, ruling, or order, the receiving Party will provide the disclosing Party with prompt written notice so that the disclosing Party may seek a protective order or other appropriate remedy. Each Party shall instruct its employees and agents to protect such information of the other Party using the same care and discretion that it would use with respect to its own confidential information. Furthermore, each Party agrees not to use confidential information of the other Party for any purpose other than the performance of this Agreement.

4.4. Avista considers all information provided by Avista, or developed or gathered by Consultant, in connection with the Services, as Avista confidential information. Until the information gathered by Consultant has been released by Avista for public disclosure, such information must be held and protected by Consultant as confidential. Consultant expressly agrees that its evaluations, analyses, reports and other assessments of Avista's plans, facilities, and operations (whether presented orally or in writing or other tangible form) performed by or produced by Consultant pursuant to this Agreement will become the property of Avista and will be deemed Avista Confidential Information.

4.5. Consultant agrees to hold the terms of this Agreement in confidence and will not disclose said terms to third parties, except as may be necessary to its accountants, attorneys, tax advisors, insurance carriers and bankers. Upon Avista's request, or upon termination of this Agreement, Consultant shall return to Avista, or destroy, all documents or other materials containing Avista's Confidential Information and shall retain no copies. Within two weeks after receipt of such request or the termination of this Agreement Consultant shall certify to Avista, in writing, that all materials containing Avista's Confidential Information in its possession have either been returned to Avista or destroyed.

4.6. Consultant represents that its employees performing Services under this Agreement have executed written agreements with Consultant containing appropriate non-disclosure and intellectual property ownership provisions sufficient to enable Consultant to comply with the confidentiality and non-disclosure provisions of this Agreement.

4.7. The Parties acknowledge that the unauthorized disclosure of Confidential Information as defined in this Agreement may give rise to irreparable injury, which may not be adequately compensated by monetary damages. Accordingly in the event of a breach, or a threatened breach of Confidential Information, the non-



## GENERAL CONDITIONS

---

breaching Party will be entitled to injunctive relief, in addition to any other remedies available at law or equity.

### **GC-5 INTELLECTUAL PROPERTY RIGHTS**

**5.1.** To the extent that Consultant is performing Services and furnishing Deliverables under this Agreement related to Consultant's own pre-existing proprietary software, Avista agrees that Consultant owns and will continue to own all proprietary rights including, but not limited to, any patent, copyright, trade secret, trademark and other proprietary rights, in and to such software and any derivative works. Consultant grants Avista a permanent, non-exclusive, assignable, royalty-free license to use any pre-existing software, firmware, programs and any other documentation or technology furnished by Consultant as Deliverables under this Agreement, which is necessary to operate, use, or maintain the Deliverables.

**5.2.** Otherwise all Services performed by Consultant, and all materials, products, deliverables developed or prepared for Avista by Consultant pursuant to the Agreement, are the property of Avista and all title and interest in such will vest in Avista and will be deemed to be a work made for hire made in the course of the Services rendered under this Agreement. To the extent that title to any such works may not, by operation of law, vest in Avista or such works may not be considered works made for hire, all rights, title and interest in such works are irrevocably assigned to Avista by Consultant. All such materials will belong exclusively to Avista, with Avista having the right to obtain and to hold in its own name, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals of same. Consultant agrees to give Avista and any person designated by Avista, reasonable assistance, at Avista's expense, as might be required to perfect the rights defined in this paragraph. Unless otherwise requested by Avista, upon the completion or termination of the Services Consultant shall turn over to Avista all materials and deliverables developed pursuant to the Agreement.

**5.3.** The copyrights to all user manuals, training products, instructions and software manuals (the "Documents") furnished by Consultant in connection with any Products and Services provided under this Agreement will remain the property of Consultant or Consultant's supplier(s). Avista may make copies of the Documents subject to the following: (i) the Documents may be used for backup or archival purposes, Avista employee training, support of Avista's operational use of the Products and Services, and non-commercial purposes, (ii) the Documents may not be modified or altered in any way and (iii) all copies made must bear the copyright owner's copyright notice.

### **GC-6 TERMINATION**

#### **6.1. Termination for Convenience**

Avista may at any time, by written notice to Consultant, terminate this Agreement as to all or any portion of the Services not then performed, whether or not Consultant is then in breach or default, upon 30 days' prior written notice. Upon receipt of any such notice of termination, Consultant shall, except as otherwise directed by Avista, immediately stop performance of the Services to the extent specified in such notice. In the event termination is not the result of Consultant's breach or default, Consultant will be compensated for the percentage of the Services satisfactorily completed at the time of termination. Consultant will not in any event be entitled to anticipated profit on Services not performed on account of such termination. Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination.

#### **6.2. Termination for Cause**

Either Party may terminate this Agreement at any time upon 30 days' prior written notice in the event of a material breach by the other Party, provided the breaching Party has not cured such breach during such 30-day period. A material breach includes, without limitation, a material breach of any warranty, insolvency, bankruptcy, general assignment for the benefit of creditors, or becoming the subject of any proceeding commenced under any statute or law for the relief of debtors, or if a receiver, trustee or liquidator of any property or income of either Party is appointed, or if Consultant is not performing the Services in accordance with this Agreement.

## GENERAL CONDITIONS

---

### **6.3. Termination Assistance**

In the event the Agreement is terminated prior to the completion of the Services, Consultant shall provide whatever termination assistance (including without limitation, knowledge, and documentation transfer) Avista may request to affect the orderly transfer of information and performance responsibility with minimal disruption to Avista and/or the new service provider selected by Avista.

### **GC-7 DISPUTE RESOLUTION/ESCALATION PROCESS**

**7.1.** If any dispute arises between the Parties regarding issues of interpretation of the Agreement, the Services to be performed pursuant to the Agreement, the payments to be made, the work to be added or changed by Change Order or Work Authorization, the Parties agree to first negotiate informally, in good faith, to resolve such dispute, claim or protest arising between the Parties. Such informal negotiations will be conducted between the Representatives of each Party and their respective contracting officials.

**7.2.** If the representatives are unable to resolve the dispute after five days of discussion then, upon the written request of either Party, each of the Parties shall designate an officer to meet at a mutually convenient time and place to evaluate the position or contention of each Party and endeavor to negotiate a resolution of the dispute. If the dispute is not resolved in the meeting between the Parties' officers, either Party may request non-binding mediation by written notice to the other Party. Within seven calendar days after a request for mediation from either Party, the Parties will select a mutually acceptable mediator, and commence non-binding mediation. Each Party will bear its own cost of mediation and one-half of the cost of the mediator. The venue of the mediation proceedings will be in Spokane, Washington. If the Parties are unable to resolve the dispute after conclusion of mediation, then all unresolved disputes will be resolved in a court of competent jurisdiction.

### **GC-8 MISCELLANEOUS PROVISIONS**

#### **8.1. Assignment by Consultant**

Consultant shall not assign this Agreement or any right or interest in this Agreement without the prior written consent of Avista, which consent will not be unreasonably withheld. Assignment without Avista's prior written consent will be voidable at Avista's option. No such assignment, with or without Avista's prior written consent, will relieve Consultant from its responsibility to perform the Services in accordance with this Agreement

#### **8.2. Assignment by Avista**

Avista may assign this Agreement without consent to an affiliate or subsidiary, or to a successor which acquires all or substantially all of the property and assets of Avista. Subject to the restriction on assignment by Consultant set forth in Section 8.1 above, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the successors, assigns, and legal representatives of the respective Parties to this Agreement.

#### **8.3. Conflict of interest**

Consultant represents that it is not aware of the existence of any relationship, family, or business (contractual or otherwise) between themselves, their principals, officers or employees and Avista, its directors, officers or employees; and it will not perform any work for or enter into any contract with others that may conflict with its contractual, professional, equitable or other obligations to Avista without first obtaining the written approval of Avista.

#### **8.4. Ethics**

Consultant shall not, in connection with this Agreement and performance of the Services: (i) pay any commissions or fees, or grant any rebates to any employee or officer of Avista; (ii) favor any employee or officer of Avista with gifts or entertainment of significant cost or value; or (iii) enter into any business arrangements with officers or employees of Avista in their individual capacities, without the prior written approval of Avista's Representative.

#### **8.5. Outstanding Legal Claims**

Consultant represents that there are no outstanding legal claims, suits, or proceedings which would in any way conflict with the performance by Consultant of the obligations set forth in this Agreement. Consultant



## GENERAL CONDITIONS

---

shall promptly notify Avista if any such legal claim, suit, or proceeding is instituted against Consultant during the term of this Agreement.

### **8.6. Publicity/Advertising**

No public statements, announcements, advertisements, or publications relating to this Agreement or its subject matter may be issued by Consultant without the express prior written consent of Avista. Consultant agrees not to display or use, in advertising or otherwise, any of Avista's trade names, logos, trademarks, service marks, or other indicia of origin without the express prior written consent of Avista. Either Party may disclose the other Party's name and a factual description of the Services being performed under the Agreement whenever required by reason of legal, accounting, or regulatory requirements.

### **8.7. Codes and Standards**

Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, will mean the latest version of such standard, specification, manual, code or laws or regulations in effect on the Effective Date of the Agreement except as may be otherwise specifically stated elsewhere in the Agreement.

### **8.8. Cumulative Rights and Remedies**

All rights and remedies of either Party under the Agreement, at law and in equity, will be cumulative and not mutually exclusive; the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. Except as otherwise provided for in the Agreement, nothing contained in any provision of the Agreement will be construed to limit or exclude any right or remedy of either Party (arising because of the breach or default by the other Party or otherwise) existing under any other provision of this Agreement.

### **8.9. Severability and Waiver of Provisions**

The invalidity or unenforceability of any provision of the Agreement will not affect any other provisions; this Agreement will be construed in all respects as if such invalid or unenforceable provisions were omitted. The failure of Avista to insist upon or enforce strict performance by Consultant of any of provisions or to exercise any rights under this Agreement will not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same will be and remain in full force and effect.

### **8.10. Entire Agreement; No Third Party Beneficiaries**

This Agreement is the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties concerning its subject matter, whether or not written. Nothing in this Agreement is intended to confer any right or benefit on a person or entity not a party to this Agreement or impose any obligations of either Party to this Agreement on persons or entities not a party to this Agreement.

### **8.11. Time is of the Essence**

Whenever this Agreement sets forth a time for an act to be performed by Consultant, such time will be deemed of the essence. Any failure of Consultant to perform within the time allotted will be sufficient grounds for Avista to invoke any appropriate remedy including, without limitation, termination of this Agreement.

### **8.12. Attorney's Fees**

If any legal action or proceeding is brought by either Party against the other in connection with this Agreement, the prevailing Party will be entitled to recover from the other Party, reasonable attorney's fees to be fixed by the court, together with all costs incurred by the prevailing party in connection with such action or proceeding.

### **8.13. Survival**

Any provisions of this Agreement that, by their sense and context, are intended to survive performance by either or both Parties pursuant to the Agreement will survive the completion of performance and termination of this Agreement. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in the Agreement,

## GENERAL CONDITIONS

---

will survive final payment, completion and acceptance of the Services and termination or expiration of the Agreement.

### **8.14. Headings**

Section headings are for convenience only and will not be given effect in interpretation of this Agreement.

### **8.15. Further Assurances**

Each Party agrees to do all things necessary or advisable, including but not limited to the preparation, execution, delivery, and recording of any instruments or agreements, in order to confirm and assure the intent and purposes of the Agreement.

### **8.16. Governing Law and Venue**

Any action at law or in equity to enforce the terms of this Agreement will be brought in Spokane County, Washington. This Agreement will be construed and interpreted in accordance with the laws of the State of Washington excluding any choice of law rules that may direct the application of laws of a jurisdiction other than Washington.

**[END OF GENERAL CONDITIONS]**



## Exhibit A

### Avista Contract R-41247 Statement of Work

1. Assignment of Accounts:
  - 1.1 Avista will assign valid claims on existing accounts to Consultant, in electronic format (each an "Assignment"), for collection.
  - 1.2 Avista will convey all pertinent information related to an Assignment in a timely manner to expedite Consultant's performance of the Services.
  - 1.3 Consultant shall collect and receive all sums due and payable to Avista for such Assignments and deposit such collected sums into the "Avista Account" described in Section 2.7 below.
2. Performance by Consultant:
  - 2.1 Consultant shall use all lawful means to effect collection of Assignments including without limitation, letters, telephone calls and skip tracing.
  - 2.2 Consultant shall abide by all applicable federal, state and local laws and requirements governing Consultant's performance of the Services, including, without limitation, the Fair Debt and Collection Practices Act.
  - 2.3 Consultant shall perform the Services in a courteous and business-like manner consistent with Avista's image and reputation.
  - 2.4 Consultant certifies that it will be duly licensed in the state in which such collections will be enforced, prior to initiating a debt collection, and that it will maintain such license in good standing during the term of the Agreement.
  - 2.5 Consultant shall take all reasonable precautions necessary to protect the confidentiality and privacy of customer information conveyed by Avista for collection of an Assignment, including adherence to all applicable rules, laws and regulations governing confidentiality and privacy of such customer information.
  - 2.6 Consultant shall not use information conveyed to Consultant by Avista under the Agreement for any other reason except to collect debts owed to Avista.
  - 2.7 Consultant shall deposit all collections into an account designated specifically for disbursements to Avista ("Avista Account").
  - 2.8 Consultant shall remit all collections to Avista, less Consultant's Fee (defined in Section 3.1 of the Agreement), by the Friday immediately following the weekly collection period ("Collection Period"), or any mandatory hold period required by law. In addition to its weekly remittance payment, Consultant shall provide a detailed report, in the same format as the attached "Weekly Compensation Report" template, incorporated into this Statement of Work as "Attachment 1", grouping the information reflected on Attachment 1, by account number (9-digit versus 10-digit), by state, with sub-totals for each.
  - 2.9 Avista authorizes Consultant to endorse and deposit into the Avista Account, all checks, money orders and drafts collected under an Assignment that are made payable to Avista, or paid to Consultant on Avista's behalf.
  - 2.10 Consultant shall not collect interest from Avista customer on any Assignment prior to a legal judgment issued in favor of Consultant on the debt, except as specifically mandated by law governing collection of said monies.
  - 2.11 Consultant shall not initiate legal action for an Assignment without Avista's prior written approval, and in no event will Avista or an Avista debtor be liable for any fees associated with the collection of an Assignment under legal action *not authorized* by Avista.
  - 2.12 Consultant shall bring legal action in its own name to further indemnify Avista.
  - 2.13 Consultant is not obligated to file suit on any Assignment referred to Consultant by Avista. As such, Consultant shall be responsible for all legal fees and court costs associated with such suits.

- 2.14 Consultant shall not initiate legal action for an Assignment within the first thirty (30) days of receipt of such Assignment without the express, prior written consent of Avista.
- 2.15 Avista may, upon written notice to Consultant, cancel an Assignment for any reason at Avista's sole discretion, and Consultant shall immediately cease all collection activities on such cancelled Assignment; provided however, that any account in legal judgment which Avista has previously authorized for collection is exempt from cancellation under this provision.
- 2.16 In the event of a bankruptcy:
- Consultant shall be responsible for filing the required proof of claim on Avista's behalf on an Assignment, in accordance with applicable law.
  - Consultant may cancel an Assignment, only if: (i) the statute of limitations period has passed; (ii) a bankruptcy ruling has deemed the Assignment discharged or closed by a court of competent jurisdiction ("Court"); or (iii) a court-ordered event supersedes Avista's legal right to collect on the Assignment. In the event of an open (on-going) bankruptcy, Consultant may suspend action on the Assignment until the Court has made its ruling regarding said Assignment at which, time Consultant shall act in accordance with the Court's ruling.
- 2.17 Consultant may forward an Assignment to another agency for collection upon written notice to Avista; provided however, that forwarding an Assignment shall not relieve Consultant of its obligations applicable under the Agreement on any such forwarded Assignment(s). Consultant shall be responsible for ensuring that such other agencies maintain confidentiality and privacy of Avista's customer information including but not limited to, social security numbers, addresses and other pertinent information.
- 2.18 Consultant shall notify Avista of any disputes that arise between an Avista customer and Consultant regarding collection of an Assignment in accordance with the reporting provisions outlined in this Statement of Work ("SOW"). Consultant shall not proceed on a disputed Assignment until Avista has provided a written response to Consultant regarding such dispute.
- 2.19 Each Party shall notify the other of any Assignments affected by a bankruptcy filing at the initial, ongoing and conclusion of such bankruptcy.
- 2.20 In the event Consultant utilizes a subsidiary or affiliate to collect an Assignment under the Agreement, Consultant shall provide Avista with the name of the subsidiary/affiliated company and each Assignment collected by same.
3. Reporting Requirements
- 3.1 In addition to the detailed information set forth on the attached "Weekly Status Report" incorporated into this SOW as "Attachment 2", Consultant shall provide the following information, either by email or facsimile, on a weekly basis, within two (2) business days after the close of the last working day of the previous week, addressed in accordance with Section 5.2 of the Agreement.
- A detailed list of all Assignments provided to Consultant by Avista for the Collection Period and written verification of receipt of such Assignments;
  - A list of all Assignment cancellations for the Collection Period;
  - Information received by Consultant on bankruptcy proceedings affecting or that may affect an Assignment which has not been submitted to Consultant by Avista;
  - A list of all Assignments for which legal action has been taken.
  - A detailed list of fees retained for each Assignment, by state.
- 3.2 Consultant shall provide the information set forth below to Avista, on a monthly basis, within five (5) business days after the close of the last working day of the previous month:
- A list summarizing Consultant's cumulative collection history for all Assignments over the applicable month;
  - A detailed list of all Assignments forwarded to a company not associated with Consultant, by company;
  - A detailed list of all Assignments forwarded to an affiliate/subsidiary of Consultant, by affiliate/subsidiary.



# Avista of Idaho

P.O. Box 3727 MSC-57  
Spokane, WA 99220

ABC Agency INVOICE #7777700000077

DATE: Dec 16 2016

PAGE 1

DEBTOR NAME YOUR ACCT # SERVICE FOR	OUR ACCT #	BAL AGE	DATE PMT INT/OTH	S/C	PAID US	PAID YOU	TOTAL COMM	DUE YOU
Doe, John 7171710000 1313 Mockingbird Lane	999998	\$0.00 90	120816	PIF	\$100.00		\$10.00	\$90.00
Hancock, John 1717170000 2121 WishiWas Avenue	989898	\$82.00 60	120916		\$200.00		\$20.00	\$180.00
<b>TOTAL IDAHO 10-digit ACCTS</b>								
Hattalittilamb, Mary 333444555 8888 Chuck Woolery Blvd.	757575	\$70.00 30	120816		\$100.00		\$10.00	\$90.00
Thumb, Thom 111222888 5545 I HaveTwo Court	999999	\$0.00 90	121316	PIF	\$50.00		\$5.00	\$45.00
<b>TOTAL IDAHO 9-digit ACCTS</b>								
							<b>\$15.00</b>	<b>\$135.00</b>

Avista of Washington

etc....

Attachment 1 to Exhibit A (SOW)  
Sample Remittance Report

Avista Corporation  
Weekly Status Report

Status Changes  
11/28/16 thru 12/2/16

Agency #	Customer Name	Avista #	Date Changed	Old Status	New Status	Amount Assigned	Date Assigned	Reason for Change
1								
2								
3								
4								

Bankruptcies  
11/14/16 thru 11/18/16

Agency #	Customer Name	Avista #	Amount Included	Date Assigned
1	Chapt X filed XX/XX/XX			
	Case 16-XXXXX State Filed in			
2	Chapt X filed XX/XX/XX			
	Case 16-XXXXX State Filed in			
3	Chapt X filed XX/XX/XX			
	Case 16-XXXXX State Filed in			