

DATED

[]

2018

AGREEMENT FOR SUPPLY OF GOODS AND SERVICES

GAS TAG LIMITED

and

[]



THIS AGREEMENT dated [2018

BETWEEN:

- (1) **Gas Tag Ltd** incorporated and registered in England with company number 09437347 whose registered office is at Level 6, 4 St. Pauls Square, Liverpool, England, L3 9SJ (**Supplier**)
- (2) [] incorporated and registered in England and whose registered office is at [] (**Customer**).

RECITALS:

This agreement will govern the purchases by the Customer of goods and services from the Supplier

IT IS AGREED THAT

12. **Definitions**

12.4 In this agreement the following definitions apply:

Data: the data stored in and as set out in the System including, but not limited to, property details, engineer details, gas appliance records, landlord gas safety records and any other data collected via the System.

Effective Date: the date of this agreement.

Gas Tags: the goods provided by the Supplier to the Customer under this agreement as described in the Gas Tags Specification.

Gas Tags Specification: as set out in Part 1 of Schedule 2.

Implementation Date: as set out in Schedule 1.

Initial Period: as set out in Schedule 1.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

Services: the subscription services provided by the Supplier to the Customer under this agreement as described in the Services Specification.

Services Specification: as set out in Part 2 of Schedule 2.

System: the Gas Tag, the Gas Tag App, Gas Tag Cloud and Gas Tag Portal, each as further defined in Schedule 2.

13. **Duration**

13.4 This agreement will come into force on the Effective Date and it shall initially continue until the end of the Initial Period.

13.5 This agreement shall continue thereafter subject to termination by either party giving to the other written notice at any time after the end of the Initial Period.

3. **Customer onboarding**

3.1 The Supplier shall make or tender delivery of the Gas Tags indicated in Schedule 1 on or before the Implementation Date to the location agreed in writing between the parties.

- 3.2 The Supplier shall make or tender delivery of such additional Gas Tags (if any) in respect of which the Customer subsequently provides an order to the Supplier which is accepted by the Supplier in writing to the location agreed in writing between the parties.
- 3.3 The risk of loss, theft, damage or destruction of the Gas Tags shall pass to the Customer on delivery, however title shall not pass until the Supplier has been paid for such Gas Tags in full as set out in clause 6.
- 3.4 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Gas Tags shall conform with the Gas Tags Specification and be free from material defects in design, material and workmanship.
- 3.5 If the Customer gives notice in writing during the Warranty Period that some or all of the Gas Tags do not comply with the warranty in clause 3.4 then, provided that:
- 3.5.1 the Supplier is given a reasonable opportunity of examining the Gas Tags if requested; and
- 3.5.2 the Customer, if requested, returns the Gas Tags to the Supplier's place of business,
- the Supplier shall, at its option, repair or replace the defective Gas Tags, or refund the price of the defective Gas Tags in full and this shall constitute the Customer's sole remedy in respect thereof.
- 3.6 The Supplier shall not be liable for any failure to comply with the warranty in clause 3.4 if:
- 3.6.1 the Customer makes any further use of such Gas Tags after giving notice in accordance with clause 3.5;
- 3.6.2 the defect arises because of a failure to follow the Supplier's instructions as to the storage, installation, use or maintenance of the Gas Tags;
- 3.6.3 the Customer alters or repairs such Gas Tags without the written consent of the Supplier; or
- 3.6.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.
- 3.7 The terms of this agreement shall apply to any repaired or replacement Gas Tags supplied by the Supplier under clause 3.5.
4. **Supply of Services**
- 4.4 The Supplier shall provide the Services to the Customer in all material respects in accordance with the Services Specification and the service levels set out at Schedule 3 and with reasonable care and skill.
- 4.5 The Supplier does not warrant that the Customer's use of the Services will be uninterrupted or error-free.
- 4.6 The Supplier is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
5. **Customer's Obligations**
- 5.4 The Customer shall purchase and pay for, in accordance with this agreement, no less than the number of Gas Tags indicated in Schedule 1 and Services in respect of no less than the number of properties indicated in Schedule 1.
- 5.5 The Customer acknowledges that it is responsible for the acts or omissions of any of its employees, agents, consultants and subcontractors who use the Gas Tags and/or Services.
- 5.6 The Customer shall:
- 5.6.1 co-operate with the Supplier in all matters relating to the Services and comply with all reasonable instructions given by the Supplier;

- 5.6.2 provide the Supplier, its employees, agents, consultants, contractors and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- 5.6.3 provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services including, but not limited to, all applicable property details and landlord gas safety records and the Customer shall ensure that such information is accurate in all material respects and updated as soon as possible but at least on a monthly basis;
- 5.6.4 provide the information and materials referred to in clause 5.3.3 to the Supplier at such times as the Supplier shall indicate and, in any event, all applicable property details must be provided to the Supplier no later than 2 weeks before the Implementation Date and, in the case of any subsequent orders referred to in clause 3.2, prior to the Supplier making or tendering delivery of the applicable additional Gas Tags related thereto;
- 5.6.5 obtain and maintain all necessary licences, permissions and consents which may be required for use of the Services;
- 5.6.6 ensure the Gas Tags are properly installed in accordance with the Supplier's instructions and are only used in conjunction with the Services;
- 5.6.7 ensure the Gas Tags are only used by Gas Safe registered engineers who have been instructed to carry out work by the Customer;
- 5.6.8 ensure its employees, agents, consultants, contractors and subcontractors who have access to the System are aware of and comply with the terms of the EULA attached at Schedule 4; and
- 5.6.9 ensure that it promptly reports any errors in the Services to the Supplier and during the beta testing phase indicated by the Supplier provides feedback to the Supplier on a weekly basis.
- 5.7 The Customer shall not except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - 5.7.1 and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services in any form or media or by any means; or
 - 5.7.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services; or
 - 5.7.3 access all or any part of the Services in order to build a product or service which competes with the Supplier's products or services or provides services to third parties.
- 5.8 The Customer shall prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 5.9 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
 - 5.9.1 the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - 5.9.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations; and

5.9.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

6. Charges and payment

6.4 The price for Gas Tags shall be as set out in Schedule 1 which, unless stated otherwise in Schedule 1, is inclusive of all costs and charges of packaging and transport of the Gas Tags to the Customer.

6.5 The annual charges for Services shall be as set out in Schedule 1, subject to clause 6.9.

6.6 In respect of Gas Tags, the Supplier shall invoice the Customer on or at any time after the Supplier makes or tenders delivery of the Gas Tags to the Customer.

6.7 In respect of Services, the Supplier shall invoice the Customer annually in advance on or at any time after the Implementation Date and, in the case of any subsequent orders referred to in clause 3.2, annually in advance on or at any time after the date on which the Supplier makes or tenders delivery of the applicable additional Gas Tags related thereto.

6.8 The Customer shall pay each invoice submitted by the Supplier:

6.8.1 within 28 days of the date of the invoice; and

6.8.2 in full and in cleared funds to a bank account nominated in writing by the Supplier and time for payment shall be of the essence.

6.9 All amounts payable by the Customer under this agreement are non-refundable and are exclusive of amounts in respect of value added tax chargeable from time to time which the Customer shall pay in addition.

6.10 If the Supplier has not received payment within 28 days after the due date, and without prejudice to any other rights and remedies of the Supplier:

6.10.1 the Supplier may, without liability to the Customer, disable the Customer's access to all or part of the Services and shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

6.10.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of the Bank of England base rate from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

6.11 The Customer shall pay all amounts due under this agreement in full without any set-off, counterclaim, deduction or withholding except as required by law.

6.12 The Supplier reserves the right to increase its annual charges for Services by agreement with the Customer at any time on or after the Initial Period.

7. Termination

7.4 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party at any time (notwithstanding the provisions of clause 2.2) if:

7.4.1 the other party commits a breach of this agreement which is not remedied within 30 days after the non-breaching party has given written notice to the breaching party requiring such breach to be remedied;

7.4.2 the other party has a winding up petition presented or enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency) or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over any of its assets or generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.

- 7.5 Any termination of this agreement shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into force or continue in force on or after such termination (including, but not limited to, clauses 5.3, 7, 8, 9 and 10).
- 7.6 On termination of this agreement for any reason:
- 7.6.1 all rights and licences granted under this agreement shall immediately terminate;
 - 7.6.2 the Customer shall not make any more use of the Services; and
 - 7.6.3 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination, shall not be affected or prejudiced.
 - 7.6.4 the Supplier shall provide the Customer with an electronic copy of all data required to demonstrate compliance, including LGSRs, held on the database for properties belonging to the Customer.
 - 7.6.5 The Customer shall be entitled to a refund of the annual subscription, which shall be pro rata to the unexpired portion of the annual subscription.
8. **Intellectual Property Rights**
- 8.4 The Customer acknowledges that the Supplier and/or its licensors own all Intellectual Property Rights in the System, Services and Data and the Customer does not have nor does it acquire any rights therein save that the Customer is hereby granted a non-exclusive, non-transferable licence under such Intellectual Property Rights solely as strictly necessary for the purpose of enabling the Customer to use the Services and System for their intended purpose in respect of works relating to gas applications, installations, maintenance, repair and servicing and in accordance with this agreement during the term of this agreement.
9. **Confidentiality**
- 9.4 A party (**Receiving Party**) shall keep in strict confidence all technical or commercial information, data, know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services, which the Receiving Party may obtain (collectively **Confidential Information**).
- 9.5 The Receiving Party shall only use such Confidential Information as strictly necessary for the purpose of performing obligations and exercising rights under this agreement and shall only disclose such Confidential Information to those of its employees, agents and subcontractors who need to know it for such purpose and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the agreement. The Receiving Party may also disclose such of the Confidential Information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
10. **Limitation of liability**
- 10.4 Nothing in this agreement shall limit or exclude the Supplier's liability in respect of death or personal injury caused by its negligence or for any other matter in respect of which it would be unlawful for the Supplier to limit or exclude liability.
- 10.5 Subject to clause 10.1:
- 10.5.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the agreement; and

10.5.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total charges paid by the Customer in respect of Services during the period of 12 months commencing on the Effective Date.

11. General

- 11.4 The Supplier may at any time assign, subcontract or deal in any other manner with all or any of its rights or obligations under this agreement. If the Supplier does subcontract, they will obtain prior written consent from the Customer. The Customer shall not, without the prior written consent of the Supplier, assign, subcontract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 11.5 No failure or delay by either party in enforcing its rights under this agreement shall be a waiver of or prejudice those rights. No waiver shall be valid unless confirmed in writing by the waiving party.
- 11.6 The Supplier shall not be in breach of this agreement nor liable to the Customer including under the Service Levels set out at Schedule 3 for or as a result of any delay or failure to perform its obligations under this agreement as a result of an event beyond the reasonable control of the Supplier including, but not limited to, any act, omission or default of the Customer, failure of a utility service, telecommunications network or transport network, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 11.7 All notices under this agreement shall be in writing and shall be sent to the address of the recipient indicated at the start of this agreement. Any notice may be delivered personally or by first-class post and shall be deemed to have been served if by hand when delivered and if by first class post forty-eight (48) hours after posting.
- 11.8 No variation to this agreement shall be binding unless made in writing and signed by an authorised representative of both parties.
- 11.9 The parties hereby agree that no person or entity who/which is not a party to this agreement shall be entitled to enforce any term of this agreement against either party pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 11.10 This agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in this agreement.
- 11.11 This agreement will be governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts

12. Data Protection

- 12.1 The Supplier confirms that any Personal Data (as defined in the Data Protection Act 1998) supplied by the Customer to the Supplier will only be used for the purposes for which it has been supplied and/or as may otherwise be required in connection with the provision of the Services or other services provided by the Supplier.
- 12.2 All of the Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause **Error! Reference source not found.**2 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- 12.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is a data processor and the Customer is the data controller. 05 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.

- 12.4 Without prejudice to the generality of clause 12.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement.
- 12.5 Without prejudice to the generality of clause 12.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:
- 12.5.1 process that Personal Data only on the instructions of the Customer (as set out in 0), unless otherwise required by applicable laws;
 - 12.5.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 12.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - 12.5.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - 12.5.4.1 the Supplier has provided appropriate safeguards in relation to the transfer;
 - 12.5.4.2 the Data Subject has enforceable rights and effective remedies;
 - 12.5.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 12.5.4.4 the Supplier complies with the reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - 12.5.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with Customer obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 12.5.6 notify the Customer immediately on becoming aware of a Personal Data breach;
 - 12.5.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer (as directed) on termination or expiry of the Agreement unless required by applicable law to store the Personal Data;
 - 12.5.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 12 and co-operate with and contribute to audits by the Customer or the Customer designated auditor.
- 12.6 The Customer hereby agrees that the Supplier may authorise a third party to process the Personal Data provided that it places on such third party, obligations which are substantially the same as those set out in this agreement and that the Supplier shall notify the Customer before appointing or changing such sub-processors.
- 12.7 Either Party may, at any time on not less than 30 Business Days' written notice to the other Party, revise this clause 12 by replacing it with any applicable processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).

12.8 The provisions of this clause 12 shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

This agreement has been signed by duly authorised representatives on behalf of the parties as set out below

SIGNED for and on behalf of
Gas Tag Ltd

)
)

.....
Signature

.....
Name

.....
Title

.....
Date

SIGNED for and on behalf of
The Customer

)
)

.....
Signature

.....
Name

.....
Title

.....
Date

Schedule 1

Contract Details

| | |
|-------------------------------------|--|
| Implementation Date: | [] |
| Initial Period: | A period starting on the Effective Date and ending on the expiry of a period of [5] year(s) after the Effective Date. |
| Original Volume: | The Original Volume of properties under this agreement is [] |
| Price of Onboarding: | £[] (excluding VAT) per Gas Tag |
| Annual charges for Services: | £[] (excluding VAT) per property per annum |
| Additional properties | Charges for properties in aggregate in addition to the Original Volume shall be payable at £[] per property. An additional invoice will be raised monthly for a pro-rata amount to the anniversary of the original Implementation Date for any new properties added in the month. |

Schedule 2

Part 1

Gas Tags Specification

Gas Tag

A small plastic 'tag' containing an NFC (Near Field Communication) chip, which is used as the focal point of all works relating to gas applications, installations, maintenance, repair and servicing carried out at each property where a Gas Tag is fitted

Part 2

Services Specification

The Gas Tag App

This is the multi-platform application that the engineer downloads to their mobile device.

The Gas Tag App communicates with the Gas Safe Register and validates the credentials of the engineer against the records on the Gas Safe Register Database. Once the engineer has access to the Gas Tag App, he then taps his device against the Gas Tag which communicates with the mobile device.

For devices that are not 'NFC Ready', the Gas Tag also contains a Data Matrix that can be scanned as well as a Tag Number as alternatives to using NFC.

Once the device has recognised the Gas Tag, all relevant information is retrieved from the Gas Tag Cloud into the Gas Tag App.

The engineer then completes all works relating to gas applications, installations, maintenance, repair and servicing through the Gas Tag App (e.g. Installs / Maintenance / Servicing).

All work completed through the Gas Tag App (including photographs taken) is geo-tagged and time /date stamped in order to prove that the engineer is on site when he completes the work and that he has completed the work within the allocated annual timeframe.

If the engineer finds any dangerous appliances and needs to condemn them, he can flag this through the Gas Tag App and the landlord is notified of this.

The Gas Tag Cloud

The Gas Tag Cloud is the storage area for all of the data collected via the Gas Tag App. The Gas Tag Cloud is hosted on behalf of the Supplier by a third party.

The Gas Tag Portal

This is the interface by which the Customer can view information about the Gas works that have been carried out at its properties.

The Customer will be provided with a login to the Gas Tag Portal. Once the Customer is logged in, it will be taken to a 'Dashboard' of KPIs (Key Performance Indicators), which will provide it with immediate visibility (using Graphs, Charts etc.) of how its property portfolio is performing in relation to Gas Safety.

The user can then 'drill down' into the detail to view additional information.

A functional specification will be provided to the customer on signature detailing all the features of the platform which forms the basis of the offer.

Schedule 3
Service Levels

- Monday to Friday (excluding bank holidays) are working days. The Supplier's normal business hours are 9:00am to 5:00pm during working days.
- The Supplier will answer 80% of all inbound calls during normal business hours within 30 seconds.
- The Supplier will respond to any messages left on its out of hours system within 24 hours from the start of the next working day.
- The Supplier will endeavor to respond to all e-mails and correspondence received via post ('white mail') either within 48 hours of receipt during normal business hours on the working day it is received or (if received on a bank holiday or weekend or otherwise outside normal business hours) within 48 hours of the start of the next working day.
- The Gas Tag Portal will have a service availability up-time of 99%. The tolerance allowed is for periodic maintenance.
- Best practice security and access controls. - SSL Certificates used across the Gas Tag portal and API and Two Factor Authentication available for Gas Tag portal Log In.

Schedule 4

EULA

GAS TAG END-USER LICENCE AGREEMENT

PLEASE READ CAREFULLY BEFORE DOWNLOADING OR STREAMING THE APP

This end-user licence agreement (**EULA**) is a legal agreement between you (**you**) and Gas Tag Ltd of Floor 6, 4 St Paul's Square, Liverpool, L3 9SJ (**us** or **we**) for the Gas Tag mobile application software (**App**); and the cloud based storage area for data collected via the App (**Gas Tag Cloud**).

We license use of the App and Gas Tag Cloud to you on the basis of this EULA and subject to any rules or policies applied by any appstore provider or operator from whose website (**Appstore**), you downloaded the App (**Appstore Rules**). We do not sell the App to you. We remain the owners of the App at all times.

BY DOWNLOADING THE APP FROM THE APPSTORE OR CLICKING ON THE "ACCEPT" BUTTON BELOW YOU AGREE TO THE TERMS OF THIS EULA WHICH WILL BIND YOU.

IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, WE WILL NOT LICENSE THE APP TO YOU AND YOU MUST STOP THE DOWNLOADING PROCESS NOW.

IT IS AGREED THAT:

13. Acknowledgements

- 13.4 The terms of this EULA apply to the App, Gas Tag Cloud and any of the services accessible through the App or Gas Tag Cloud (**Services**), including any updates or supplements thereto, unless they come with separate terms, in which case those terms apply.
- 13.5 We may change the terms of this EULA at any time by notifying you of a change when you next use the App. You will be required to read and accept them to continue your use of the App and Services.
- 13.6 From time to time updates to the App may be issued. You may not use the App or Services until you have downloaded or streamed the latest version of the App and accepted any new terms which accompany that latest version.
- 13.7 You are assumed to have obtained permission from the owners of the mobile telephone or handheld devices that are controlled, but not owned, by you and described in clause 14.5 (**Devices**) to download or stream a copy of the App onto the Devices. You and they may be charged by your and their service providers for internet access on the Devices. You accept responsibility in accordance with the terms of this EULA for the use of the App or any Service on or in relation to any Device, whether or not it is owned by you.
- 13.8 The terms of our privacy policy, available at our website www.gastag.co.uk (**Privacy Policy**) are incorporated into this EULA by reference. By using the App or any Service, you acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the App or any Service may be read or intercepted by others.
- 13.9 By using the App or any of the Services, you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals for Services that are internet-based or wireless to improve our products and to provide Services to you.
- 13.10 The App and Services will make use of location data sent from the Devices. You consent to us and our affiliates' and licensees' transmission, collection, retention, maintenance, processing and use of your location data and queries to provide and improve location-based services.

14. Grant and Scope of Licence

- 14.4 In consideration of you agreeing to abide by the terms of this EULA, we grant you a non-transferable, non-exclusive licence to use the App on the Devices for its intended purpose in respect of works relating to gas applications, installations, maintenance, repair and servicing, subject to the

terms of this EULA as updated from time to time, the Privacy Policy and the Appstore Rules, incorporated into this EULA by reference. We reserve all other rights.

- 14.5 You may download or stream a copy of the App onto Android, iOS and Windows based devices (**Devices**) and view, use and display the App on the Devices.

15. **Licence Restrictions**

- 15.4 Except as expressly set out in this EULA or as permitted by any applicable local law, you agree:

- 15.4.1 not to copy the App except where such copying is incidental to normal use of the App, or where it is necessary for the purpose of back-up or operational security;
- 15.4.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the App;
- 15.4.3 not to make alterations to, or modifications of, the whole or any part of the App, or permit the App or any part of it to be combined with, or become incorporated in, any other programs;
- 15.4.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the App or attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the App with another software program, and provided that the information obtained by you:
 - 15.4.4.1 is used only for the purpose of achieving inter-operability of the App with another software program;
 - 15.4.4.2 is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - 15.4.4.3 is not used to create any software that is substantially similar to the App;
- 15.4.5 to keep all copies of the App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the App;
- 15.4.6 to include our copyright notice on all entire and partial copies you make of the App on any medium;
- 15.4.7 not to provide or otherwise make available the App in whole or in part (including object and source code), in any form to any person without our prior written consent; and
- 15.4.8 to comply with all technology control or export laws and regulations that apply to the technology used or supported by the App or any Service

(together **Licence Restrictions**).

16. **Acceptable Use Restrictions**

- 4.1 You must:

- 16.4.1 not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the App, any Service or any operating system;
- 16.4.2 not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service (to the extent that such use is not licensed by this EULA);
- 16.4.3 not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;

- 16.4.4 not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- 16.4.5 not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service

(together **Acceptable Use Restrictions**).

17. **Terms of Use**

17.4 You must:

- 17.4.1 use your own Gas Safe Register credentials to register to use the App or any Service and ensure that you are the only person using the App on your Device;
- 17.4.2 ensure you have sufficient available battery charge and data on your Devices to use the App and upload to the Gas Tag Cloud via the App;
- 17.4.3 ensure that Bluetooth is switched on and enabled on your Device;
- 17.4.4 ensure location services are switched on and enabled on your Device;
- 17.4.5 ensure all installations, maintenance, servicing and certification of gas appliances (**Gas Works**) carried out by you is uploaded to the Gas Tag Cloud via the App within 12 hours of the Gas Works being completed by you and any photographs of any such work are of the actual work completed by you and are of satisfactory quality so as to clearly evidence any such work;
- 17.4.6 ensure all necessary information is downloaded to complete the Gas Works; and
- 17.4.7 ensure only information relevant to Gas Works is uploaded to the Gas Tag Cloud via the App

(together **Terms of Use**).

18. **Intellectual Property Rights**

- 18.4 You acknowledge that all intellectual property rights in the App and Services anywhere in the world belong to us, that rights in the App and Services are licensed (not sold) to you, and that you have no rights in, or to, the App and Services other than the right to use each of them in accordance with the terms of this EULA.
- 18.5 You acknowledge that you have no right to have access to the App in source-code form.

19. **Limitation of Liability**

- 19.4 We are only responsible for loss or damage you suffer that is a foreseeable and direct result of our breach of this EULA or our negligence up to the limit specified in clause 19.5. We are not responsible for any unforeseeable or indirect loss or damage. Loss or damage is foreseeable only if it is an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into this EULA.
- 19.5 Our maximum aggregate liability howsoever arising under or in connection with this EULA (including your use of the App and Services) whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to £5.
- 19.6 Notwithstanding any other provisions in this EULA, nothing in this EULA shall limit or exclude our liability for death or personal injury resulting from our negligence, fraud or fraudulent misrepresentation and any other liability that cannot be excluded or limited by English law.

20. **Termination**

20.4 We may terminate this EULA immediately by notice to you if you breach any of the terms of this EULA, including any of the Licence Restrictions, Acceptable Use Restrictions or Terms of Use.

20.5 On termination for any reason:

20.5.1 all rights granted to you under this EULA shall cease;

20.5.2 you must immediately cease all activities authorised by this EULA, including your use of the App and any Services;

20.5.3 you must immediately delete or remove the App from all Devices, and immediately destroy all copies of the App then in your possession, custody or control and certify to us that you have done so; and

20.5.4 we may remotely access the Devices and remove the App from all of them and cease providing you with access to the Services.

21. **Communication Between Us**

21.4 If you wish to contact us in writing please email us at engineers@gastag.co.uk.

21.5 If we have to contact you or give you notice, we will do so by e-mail to the address you provide to us in your request for the App.

22. **Events Outside Our Control**

22.4 We will not be in breach of this EULA or in any way liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications or cloud networks.

23. **Other Important Terms**

23.4 We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights under this EULA. You may only transfer your rights or obligations under this EULA to another person if we agree in writing.

23.5 If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations.

23.6 Each of the terms of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining terms will remain in full force and effect.

23.7 This EULA, its subject matter and its formation, are governed by the laws of England and Wales. You and we both agree that the courts of England and Wales will have exclusive jurisdiction.

Schedule 5 **Data processing**

1. The Supplier shall comply with any further written instructions in respect of processing received from the Customer and any such further instructions shall be incorporated into this Schedule.

2. Processing by the Supplier

2.1 Scope and nature of processing

- See Schedule 1 for an explanation of the scope of the Services undertaken. Personal Data is provided by the Customer to the Supplier for the purposes of the Services.

2.2 Purpose of processing

- To enable appointments and services to be provided by a gas engineer with the relevant tenant at each properties
- To record details of work undertaken at properties
- To create records of gas service records for each property

2.3 Duration of processing

- Tenant's name and telephone number will be deleted once relevant agreement has been concluded.
- Service records for each property will be retained for 6 years but will not contain personal data.

2.4 Types of Personal Data

- Tenants name and telephone number
- Address of Property when linked to Tenant's name
- Unique Property Reference number when linked to Tenant's name

2.5 Categories of Data Subject

- Individual Tenant's of each Customer.