

CONTROLPOINT APP TERMS OF USE

These terms of use ("**Terms of Use**") together with the documents referred to in it ("**the Documents**") form a legal agreement between you ("**authorised-user**" or "**you**") and ControlPoint Ltd of ControlPoint House, Carrwood Road, Chesterfield S41 9QB ("**ControlPoint**", "**us**" or "**we**") for the mobile device based software used to receive, capture and send data related to utility assets ("**ControlPoint App**").

IMPORTANT NOTICE

- The ControlPoint App is part of the joint inspection and evaluation service ("**the ControlPoint Solution**") which also includes the <http://www.jointmanager.com> ("**JointManager Website**"). You may only use the ControlPoint App where you are designated as an "Operator" or "Authorised User" under an agreement with you (or your employer on your behalf) and us ("**ControlPoint End-User Agreement**")
- We remain the owners of the ControlPoint App at all times.
- The ControlPoint App requires a mobile phone connected to a mobile phone network with internet access, and an operating system capable of running downloaded apps with a camera capable of taking photographs of sufficiently high resolution to enable them to be used with the ControlPoint Solution ("**Device**").
- If you do not agree to the terms of use, we will not grant you a right to use the ControlPoint App to you and you must stop the downloading process now. In this case the downloading process will terminate.

PLEASE READ CAREFULLY BEFORE DOWNLOADING THE CONTROLPOINT APP FROM THIS WEBSITE BY DOWNLOADING THE APP YOU AGREE TO THESE TERMS OF USE.

1. ACKNOWLEDGEMENTS

- 1.1 The terms of these Terms of Use apply to your use of the ControlPoint App, and the ControlPoint Solution (the use of which is additionally subject to the separate terms of the ControlPoint End-User Agreement) and any updates or supplements to the ControlPoint App, unless they come with separate terms, in which case those terms apply. If any open-source software is included in the ControlPoint App or any Service, the terms of an open-source licence may override some of the terms of these Terms of Use.
- 1.2 You will be assumed to have obtained permission from the owners of any Devices that are controlled, but not owned, by you and to download a copy of the ControlPoint 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 these Terms of Use for the use of the ControlPoint App or any Service on or in relation to any Device, whether or not it is owned by you.
- 1.3 The terms of our privacy policy from time to time, available on request ("**Privacy Policy**") are incorporated into these Terms of Use by reference and apply to your use of the ControlPoint App.
- 1.4 By using the ControlPoint 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 ControlPoint App or any Service may

be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

- 1.5 By using the ControlPoint App you consent to us collecting and using technical information about the Devices and related software, hardware and peripherals to provide the ControlPoint Solution to you.
- 1.6 Any words following the terms including, include, in particular or for example or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

2. GRANT AND SCOPE OF LICENCE

In consideration of you agreeing to abide by the terms of these Terms of Use, we grant you a non-transferable, non-exclusive licence to use the ControlPoint App on the Devices solely for the purpose of providing the ControlPoint Solution pursuant to the terms of the ControlPoint End-User Agreement. We reserve all other rights.

3. LICENCE RESTRICTIONS

Except as expressly set out in these Terms of Use or as permitted by any local law, you agree:

- 3.1 not to copy the ControlPoint App or Documents except where such copying is incidental to normal use of the ControlPoint App, or where it is necessary for the purpose of back-up or operational security;
- 3.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the ControlPoint App or Documents;
- 3.3 not to make alterations to, or modifications of, the whole or any part of the ControlPoint App, or permit the ControlPoint App or any part of it to be combined with, or become incorporated in, any other programs;
- 3.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the ControlPoint 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 ControlPoint App with another software program, and provided that the information obtained by you during such activities:
 - 3.4.1 is used only for the purpose of achieving inter-operability of the ControlPoint App with another software program;
 - 3.4.2 is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - 3.4.3 is not used to create any software that is substantially similar to the ControlPoint App;
- 3.5 to keep all copies of the ControlPoint App secure and to maintain accurate and up-to-date records of the number and locations of all copies of the ControlPoint App;

- 3.6 to include our copyright notice on all entire and partial copies you make of the ControlPoint App on any medium;
- 3.7 not to provide or otherwise make available the ControlPoint App in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- 3.8 to comply with all technology control or export laws and regulations that apply to the technology used or supported by the ControlPoint App or any Service ("**Technology**"),

(together the "**Licence Restrictions**").

4. ACCEPTABLE USE RESTRICTIONS

You must:

- 4.1 if required to provide a password, shall keep such a password secure and confidential
- 4.2 not use the ControlPoint App in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these Terms of Use, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the ControlPoint App, any Service or any operating system;
- 4.3 not infringe our intellectual property rights or those of any third party in relation to your use of the ControlPoint App or any Service including the submission of any material (to the extent that such use is not licensed by these Terms of Use);
- 4.4 not transmit any material that is:
 - 4.4.1 unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 4.4.2 facilitates illegal activity;
 - 4.4.3 depicts sexually explicit images;
 - 4.4.4 promotes unlawful violence;
 - 4.4.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 4.4.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;
- 4.5 not use the ControlPoint 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
- 4.6 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 being the "Acceptable Use Restrictions").

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 You acknowledge that all intellectual property rights in the ControlPoint App, the Documents and the Technology anywhere in the world belong to us or our licensors, that rights in the ControlPoint App are licensed (not sold) to you, and that you have no rights in, or to, the ControlPoint App, the Documents or the Technology other than the right to use each of them in accordance with the terms of these Terms of Use.
- 5.2 You acknowledge that you have no right to have access to the ControlPoint App in source-code form.

6. LIMITATION OF LIABILITY

- 6.1 You acknowledge that the ControlPoint App has been developed solely to assist with the provision of the ControlPoint Solution and not to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the ControlPoint App meet your requirements.
- 6.2 Subject to the provisions of condition 7.1, we shall have no liability under to you whether in contract, tort (including negligence) or otherwise under these Terms of Use and all our liability in respect of the ControlPoint App shall be governed by the terms of the ControlPoint End-User Agreement.
- 6.3 Nothing in these Terms of Use shall limit or exclude our liability for:
 - 6.3.1 death or personal injury resulting from our negligence;
 - 6.3.2 fraud or fraudulent misrepresentation; and
 - 6.3.3 any other liability that cannot be excluded or limited by English law.

7. TERMINATION

- 7.1 We may terminate these Terms of Use immediately by written notice to you:
 - 7.1.1 if you commit a material or persistent breach of these Terms of Use which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so;
 - 7.1.2 if you breach any of the Licence Restrictions or the Acceptable Use Restrictions; and
 - 7.1.3 on termination of the ControlPoint End-User Agreement.
- 7.2 On termination for any reason:
 - 7.2.1 all rights granted to you under these Terms of Use shall cease;
 - 7.2.2 you must immediately cease all activities authorised by these Terms of Use, including your use of the ControlPoint Solution;
 - 7.2.3 you must immediately delete or remove the ControlPoint App from all Devices, and immediately destroy all copies of the ControlPoint App and

Documents then in your possession, custody or control and certify to us that you have done so;

7.2.4 we may remotely access the Devices and remove the ControlPoint App from all of them and cease providing you with access to the ControlPoint Solution.

8. EVENTS OUTSIDE OUR CONTROL

8.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms of Use that is caused by any act or event beyond our reasonable control, including failure of public or private telecommunications networks ("Event Outside Our Control").

8.2 If an Event Outside Our Control takes place that affects the performance of our obligations under these Terms of Use:

8.2.1 our obligations under these Terms of Use will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control; and

8.2.2 we will use our reasonable endeavours to find a solution by which our obligations under these Terms of Use may be performed despite the Event Outside Our Control.

9. OTHER IMPORTANT TERMS

9.1 We may transfer our rights and obligations under these Terms of Use to another organisation, but this will not affect your rights or our obligations under these Terms of Use.

9.2 You may only transfer your rights or obligations under these Terms of Use to another person if we agree in writing.

9.3 If we fail to insist that you perform any of your obligations under these Terms of Use, 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. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

9.4 Each of the conditions of these Terms of Use operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.

9.5 Please note that these Terms of Use, its subject matter and its formation, are governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.

9.6 We may change these Terms of Use at any time by notifying you of a change when you next start the ControlPoint App or log onto the JointManager Website. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the ControlPoint App.