

Homely App- End User Licence Agreement (EULA)

PLEASE READ THESE LICENCE TERMS CAREFULLY

THIS IS A LEGAL AGREEMENT. BY DOWNLOADING AND USING THE APP, YOU ARE ACCEPTING AND AGREEING TO THIS EULA ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT IN CONNECTION WITH THE ACCESS. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ACCEPT AND AGREE TO THIS EULA ON BEHALF OF YOURSELF OR THE ENTITY YOU REPRESENT. YOU REPRESENT THAT YOU ARE OF SUFFICIENT LEGAL AGE IN YOUR JURISDICTION OR RESIDENCE TO USE OR ACCESS THE PRODUCT SOFTWARE AND TO ENTER INTO THIS EULA. IF YOU DO NOT AGREE WITH ANY OF THE PROVISIONS OF THESE TERMS, YOU SHOULD CEASE ACCESSING OR USING THE APP.

As described below, you are consenting to automatic software update of the App. If you do not agree, you should not use the App.

WHO WE ARE AND WHAT THIS AGREEMENT DOES

We, Evergreen Energy Ltd of Evergreen House, Clowes Street, Salford, England, M3 5NA license you to use:

- Homely Mobile App mobile application software, the data supplied with the software, (**App**) and any updates or supplements to it.
- The related electronic documentation in the App (**Documentation**).
- The service you may connect to via the App being the management and operation of smart thermostat, and the content we provide to you through it (**Service**).

as permitted in these terms.

You may also access information on the tariff optimisation services via the App, if purchased via our website www.homelyenergy.com and made available to your account (which, in this instance, will form part of the Service).

YOUR PRIVACY

We only use any personal data we collect through your use of the App and the Services in the ways set out in our privacy policy available on <https://www.evergreenenergy.co.uk/privacy-policy/>

Please be aware that internet transmissions are never completely private or secure and that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

OTHER TERMS ALSO APPLY

The ways in which you can use the App and Documentation may also be controlled by either (i) the Google Play's terms and policies accessible directly or indirectly on https://play.google.com/intl/en_ie/about/play-terms/ as updated from time to time; or (ii) the Apple Appstore terms and policies accessible directly or indirectly on <https://www.apple.com/uk/ios/app-store/>.

USER ACCOUNT

When downloading the App you will be requested to create an account with us (unless you are accessing the Service using someone else's account- see Household Access), through which we are able to link you with the thermostat or other hardware which controls your heating system. This means we will be able to monitor usage and allow you to directly control your heating system (the level of such control will depend on the hardware, whether it is hard wired, wifi and/or smart technology).

You will be provided with a user identification code, password or any other piece of information as part of our security procedures, and you must treat such information as confidential and personal to you. Subject to 'Household Access' below, you must not disclose it to any third party nor use any third party's identification and security information to access our site.

We have the right to disable any user identification code or password at any time, if in our reasonable opinion you have failed to comply with any of the provisions of these Terms of Use. If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us using the Contacting Us details below.

Household Access

It is permitted for members of the same household to access one account registered with us, so that all members may control the heating system in the premises. If you are an additional household member, then you will need to provide the registration details of the existing user account when you download the App. You will be required to comply with these Terms of Use to the same extent as the account holder and they will apply to you in full.

If you are an account holder, you may share the account details and password with members of your direct household only, so they may also control the heating system, but you are responsible for ensuring they keep these details confidential. You must also notify us immediately if someone leaves your household and update your account details, so that access is restricted.

OPERATING SYSTEM REQUIREMENTS

We endeavour to ensure the App is available and functions on a broad range of devices and systems as possible, however, we provide no warranty or guarantee that the App will function on any particular device. If you are experiencing problems with our App please see the Support section below.

SUPPORT FOR THE APP AND HOW TO TELL US ABOUT PROBLEMS

Support. If you want to learn more about the App or the Service or have any problems using them please take a look at our support resources at <https://www.homelyenergy.com>.

Contacting us (including with complaints). If you think the App or the Services are faulty or misdescribed or wish to contact us for any other reason, you can contact us via the in App contact tabs, email our customer service team at homely@evergreenenergy.co.uk on 0161 818 9005.

How we will communicate with you. If we have to contact you we will do so via the App, by email, by SMS, by phone or by pre-paid post, using the contact details you have provided to us.

HOW YOU MAY USE THE APP, INCLUDING HOW MANY DEVICES YOU MAY USE IT ON

In return for your agreeing to comply with these terms you may:

- download or stream a copy of the App onto your mobile device and view, use and display the App and the Service on such devices for your personal purposes only.
- use any Documentation to support your permitted use of the App and the Service.
- receive and use any free supplementary software code or update of the App incorporating "patches" and corrections of errors as we may provide to you.

YOU MUST BE 18 TO ACCEPT THESE TERMS AND BUY THE APP

You must be 18 or over to accept these terms and use the App.

YOU MAY NOT TRANSFER THE APP TO SOMEONE ELSE

We are giving you personally the right to use the App and the Service as set out above. You may not otherwise transfer the App or the Service to someone else, whether for money, for anything else or for free. If you sell any device on which the App is installed, you must remove the App from it.

CHANGES TO THESE TERMS

We may need to change these terms to reflect changes in law or best practice or to deal with additional features which we introduce.

We will give you at least 30 days' notice of any change by sending you an SMS with details of the change or notifying you of a change when you next start the App.

If you do not accept the notified changes you will not be permitted to continue to use the App and the Service.

UPDATE TO THE APP AND CHANGES TO THE SERVICE

From time to time, we may automatically update the App and change the Service to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively, we may ask you to update the App for these reasons.

If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.

The App will always match the description of it provided to you when you bought it.

IF SOMEONE ELSE OWNS THE PHONE OR DEVICE YOU ARE USING

If you download or stream the App onto any phone or other device not owned by you, you must have the owner's permission to do so. You will be responsible for complying with these terms, whether or not you own the phone or other device.

WE MAY COLLECT TECHNICAL DATA ABOUT YOUR DEVICE

By using the App or any of the Services, you agree to us collecting and using technical information about the devices you use the App on and related software, hardware and peripherals to improve our products and to provide any Services to you.

WE ARE NOT RESPONSIBLE FOR OTHER WEBSITES YOU LINK TO

The App or any Service may contain links to other independent websites which are not provided by us. Such independent sites are not under our control, and we are not responsible for and have not checked and approved their content or their privacy policies (if any).

You will need to make your own independent judgement about whether to use any such independent sites, including whether to buy any products or services offered by them.

LICENCE RESTRICTIONS

You agree that you will:

- not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Services in any form, in whole or in part to any person without prior written consent from us;
- not copy the App, Documentation or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
- not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, Documentation or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the App and the Services on devices as permitted in these terms;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Services nor attempt to do any such things, except to

the extent that (by virtue of sections 50B and 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are necessary to decompile the App to obtain the information necessary to create an independent program that can be operated with the App or with another program (**Permitted Objective**), and provided that the information obtained by you during such activities:

- is not disclosed or communicated without the Licensor's prior written consent to any third party to whom it is not necessary to disclose or communicate it in order to achieve the Permitted Objective; and
 - is not used to create any software that is substantially similar in its expression to the App;
 - is kept secure; and
 - is used only for the Permitted Objective;
- comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service.

ACCEPTABLE USE RESTRICTIONS

You must:

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

INTELLECTUAL PROPERTY RIGHTS

All intellectual property rights in the App, the Documentation and the Services throughout the world belong to us (or our licensors) and the rights in the App and the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Documentation or the Services other than the right to use them in accordance with these terms.

OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU

We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

When we are liable for damage to your property. If defective digital content that we have supplied damages a device or digital content belonging to you, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us. We will not be liable for accidental damage or normal wear and tear.

We are not liable for business losses. The App is for domestic and private use. If you use the App for any commercial, business or resale purpose we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

No emergency notification system. You understand that the App are not a third-party monitored emergency notification system and that we do not monitor emergency notifications and will not dispatch emergency authorities to your home in the event of an emergency. In addition, our support contacts cannot be considered a lifesaving solution for people at risk in the home, and they are no substitute for emergency services. All life threatening and emergency events should be directed to the appropriate response services.

No guarantees in relation to energy savings. Unless explicitly promising a “guarantee,” we do not guarantee or promise any specific level of energy savings or other monetary benefit from the use of the App or any of its features. Actual energy savings and monetary benefits vary with factors beyond our control or knowledge. From time to time, we may use the App to provide you with information that is unique to you and your energy usage and suggest an opportunity to save money on energy bills if you adopt suggestions or features of the App. We do this to highlight an opportunity based on our analysis and information about you and your household. You acknowledge that these promotions are not a guarantee of actual savings, and you agree not to seek monetary or other remedies from us if your savings differ.

We cannot guarantee or verify all information within the App. The App may provide information about third-party products in your home or information related to data manually input by you. Unless otherwise expressly stated by us, we cannot guarantee that such information is correct or up to date. All Product Information is provided “as is” and “as

available". In cases where it is critical, accessing such information through the App is not a substitute for direct access of the information in the home.

Check that the App and the Services are suitable for you. The App and the Services have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Services (as described on the relevant appstore site and in the Documentation) meet your requirements.

We are not responsible for events outside our control. If our provision of the Services or support for the App or the Services is delayed by an event outside our control, then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event but if there is a risk of substantial delay you may contact us to end your contract with us and receive a refund for any Services you have paid for but not received.

We are not responsible for any increases in your heating costs. The App's purpose is to assist and facilitate with the management of your home heating. Although we have done extensive research which shows that when used according to our instructions and guidance the App may help reduce costs related to household heating services, we have no responsibility whatsoever should this not be the case or should you experience any cost increase instead. If you have any questions about how to use the App or if you would like to optimise its use, contact our support team for assistance.

We are not responsible for your or your households' negligent or malicious use. The App provides the user with the ability to manage your heating system and, as such, we exclude liability for any loss or damage to your property or heating system, in the event you or a member of your household with permitted access to the account (see [Household Access](#)), uses the App maliciously, recklessly or negligently.

WE MAY END YOUR RIGHTS TO USE THE APP AND THE SERVICES IF YOU BREAK THESE TERMS

We may end your rights to use the App and Services at any time by contacting you if you have broken these terms in a serious way. If what you have done can be put right, we will give you a reasonable opportunity to do so.

If we end your rights to use the App and Services:

- You must stop all activities authorised by these terms, including your use of the App and any Services.
- You must delete or remove the App from all devices in your possession.

WE MAY TRANSFER THIS AGREEMENT TO SOMEONE ELSE

We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

YOU NEED OUR CONSENT TO TRANSFER YOUR RIGHTS TO SOMEONE ELSE

You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

NO RIGHTS FOR THIRD PARTIES

This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

IF A COURT FINDS PART OF THIS CONTRACT ILLEGAL, THE REST WILL CONTINUE IN FORCE

Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

EVEN IF WE DELAY IN ENFORCING THIS CONTRACT, WE CAN STILL ENFORCE IT LATER

Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

WHICH LAWS APPLY TO THIS CONTRACT AND WHERE YOU MAY BRING LEGAL PROCEEDINGS

These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.