

GASOLOGY MERCHANT AGREEMENT

1. INTRODUCTION

Gasology, LLC ("**Gasology**", "**we**", "**us**", or "**our**"), a Delaware limited liability company, provides access to the Gasology's proprietary e-commerce motor fuel web-based Gasology For Merchants Application ("**G4M App**") as defined herein and part of the Gasology Platform for the sale or resale of motor fuel Products by the independent motor fuel merchant identified in the Gasology Merchant New Account Registration Form, and if applicable, any of its Affiliates (collectively, "**Merchant**", "**you**", "**your**"), subject to your acceptance of and compliance with this Gasology Merchant Agreement ("**Agreement**"). This Agreement constitutes a legally binding agreement between Gasology and the Merchant (each a "Party" and collectively the "Parties" to this Agreement) under which Merchant may establish a Gasology Merchant corporate account ("**Merchant Corporate Account**"), which Gasology makes available to Merchant through the G4M App, as set forth herein. Merchant's access to and use of the G4M App is subject to the terms of this Agreement, as this Agreement may be periodically modified or updated by Gasology in accordance with Gasology's Update Procedures whereby the most current version of this Agreement will always be available on the Gasology website at www.gasology.com/legal. Merchant is responsible for maintaining updated contact information through the G4M App and regularly reviewing notifications generated by Gasology in accordance with Gasology's Update Procedures. Merchant's continued use of the G4M App after the effective date of such updates shall constitute Merchant's acceptance and consent to such changes.

The G4M App is part of a combination of Gasology's e-commerce marketplace technology, data, web-based applications and mobile applications for the purchase and sale of motor fuel Products from Gasology Merchants to Consumers registered on the Gasology Platform. A principal function of the G4M App on the Gasology Platform is for Gasology Merchants to generate future delivery period Product offers by sequentially connecting with other Gasology Merchants on the Gasology Platform in a manner that will ultimately reach Consumers at the Delivery Point where such Consumers need and want the Product.

The G4M App facilitates a series of sequential merchant to merchant, seller and reseller relationships for the contingent offer of future delivery period volumes of Product ("**Contingent Thread**") in which no Product volume is transacted between such Contingent Merchants until a Consumer initiates a purchase on the Platform, whereupon the G4M App then simultaneously implements a buy and/or sale with each Contingent Merchant in the Contingent Thread upon the terms in each merchant to merchant Contingent Thread transaction established on the G4M App, thereby creating a thread of transactions resulting in a sale of Product(s) ("**Transaction Thread**").

Once a Transaction Thread has been completed and recorded on the G4M App, the respective obligations of each of the Contingent Merchants are no longer contingent, and each such Contingent Merchant is then obligated to deliver the Product according to the delivery period and terms of the Transaction to the respective Contingent Merchant and/or Consumer based upon the relationship(s) defined in the Contingent Thread chain and resulting in a Transaction Thread. Upon delivery and satisfaction of the terms of the Transaction by each Contingent Merchant in the resulting Transaction Thread, which may not occur necessarily in a synchronous order, the G4M App will then facilitate payment of each Contingent Merchant's respective proceeds from the Transaction, less any Transaction Charges payable to Gasology, all as herein more specifically provided.

2. DEFINITIONS.

(a) **Defined Terms.** Except as may be updated or modified by a posting by Gasology on its website, the following terms, as may be used in this Agreement, shall have the meanings set forth below, and the defined terms herein below and elsewhere in this Agreement shall be subject to the rules of usage, as set forth below:

"Active Account" shall mean a Gasology user account in which the owner of the account: (i) has registered for and currently maintains an active personal user account, which requires the entry of certain personally identifiable information, (ii) is complying with, and causes its Authorized Users to comply, with the End User Terms, and (iii) has confirmed the mobile number and email provided during the registration process. Gasology's policies for the collection and use of any personal data to establish an Active Account shall be as set forth on the Gasology Privacy Policy, available at www.gasology.com/legal, as may be periodically updated by Gasology in accordance with Gasology's Update Procedures.

"Affiliate" shall mean an entity that, directly or indirectly, controls, is under the control of, or is under common control with a party, where "control" means having (i) more than fifty percent (50%) of the voting stock or other ownership interest, (ii) the majority of the voting rights of such entity, (iii) the ability to ensure that the activities and business of such entity are conducted in accordance with the wishes of the controlling entity or (iv) the right to receive (a) the majority of the income of that entity on any distribution by it of its income or (b) the majority of its assets on a winding up of the affairs of such entity.

"Application Data" shall mean all Merchant Corporate Account information, Facility information, index, strategy, structure, program, product offer design, blending, contingent relationships, limits, Transactions and Transaction Charges, Product delivery and receipt information, Delivery Point information, invitations sent and received between parties, delivery costs, prices, search results and other information, including general data and metadata, gathered and displayed on the Platform.

“Authorized User” shall mean an individual authorized to use and link to the Merchant Account, or an individual that is authorized to use Gasology Platforms in connection with the Merchant Account.

“Business Consumer” shall mean a company that has entered into the Gasology Business Consumer Agreement constituting a legally binding agreement between Gasology and the Business Consumer under which the Business Consumer has established a Gasology Business Consumer corporate account through the G4B App.

“Business Day” shall mean any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

“Contingent Merchants” shall mean a Gasology Merchant that establish a Contingent Relationship with another Gasology Merchant on the G4M App as provided in Section 8 of this Agreement.

“Data Protection Law” shall mean all laws and regulations applicable to the personal data under this Agreement.

“Delivery Point” shall mean, for any given Transaction, the specific geographic location at which a Product is required to be either delivered or picked up by the Contingent Merchant or the Gasology Consumer, depending upon the party that transacted with the Merchant for the Product.

“End User Terms” shall mean the terms and conditions applicable to all Users of the Platform, available at www.Gasology.com/legal, as such may be periodically updated by Gasology in accordance with Gasology’s Update Procedures.

“Facility” shall mean a sales location identified by the Merchant in the Gasology Merchant New Account Registration Form on the G4M App.

“Force Majeure” shall mean any circumstance (including but not limited to severe storms and other similar acts of God, strikes and other labor disturbances of a national or regional origin and application, blockage, embargo or other governmental action, and wars or terrorist activity) which is beyond the control of the buyer or seller of a Product and precludes either party from making or taking delivery of the Product. In no event shall Force Majeure apply to any payment of money, unless and to the extent that an act of Force Majeure precludes the physical or electronic transfer of funds.

"G4M App" shall mean Gasology's proprietary e-commerce web-based application developed for the facilitation of the purchase and sale of motor fuel, for the exclusive use under the terms and conditions set forth herein by Gasology Merchants, which include, without limitation, motor fuel refineries, transportation and distribution companies and gas stations and other fueling stations. The G4M App is part of the Gasology Platform that facilitates Merchant's connections to Other Gasology Merchants (including Contingent Merchants) and Gasology Consumers.

"Gasology Consumer" or **"Consumer"** shall mean a registered Gasology business or an individual User that makes a purchase of Product(s) from a Gasology Merchant using the Platform.

"Gasology Entities" shall mean Gasology, its Affiliates, and its and their officers, directors, consultants, contractors, agents, attorneys, employees, partners, and third-party service providers.

"Gasology Merchants" shall mean, collectively, Merchant and all Other Gasology Merchants registered on the G4M App.

"Gasology Platform" or **"Platform"** shall mean the combination of Gasology's e-commerce marketplace technology, data, web-based applications and mobile applications, including the G4M App, for the purchase and sale of motor fuel Products.

"Information Security Event" shall mean any occurrence related to assets or the environment indicating a possible compromise of policies or failure of controls, or an unmapped situation that can impact security.

"Information Security Incident" shall mean one or more information security events that compromise business operations and information security.

"Linking Data" shall mean the data requested in the G4M App which is necessary for the authentication and verification of Users or prospective Users who wish to be provided access via the establishment of a Merchant Corporate Account, as set forth herein in Section 4(c)(i).

"Other Gasology Merchants" shall mean other independent, third-party motor fuel Product merchants registered on the G4M App, including Contingent Merchants, as applicable.

"Person" shall mean a natural person or any entity (such as a partnership, company, association or corporation) considered as having many of the rights and responsibilities of a natural person.

“**Personal Data**” shall mean any information in connection with this Agreement that can reasonably be used to identify a Person, or that may otherwise be considered personal data.

“**Product**” shall mean a specific type, grade and specification of motor fuel offered for sale by Gasology Merchants on the Gasology Platform, for which a detailed schedule of such Products can be found at www.gasology.com/products, which may be periodically updated by Gasology in accordance with Gasology’s Update Procedures.

“**Provisioning Tool**” shall mean the technology that utilizes Linking Data to authorize Users to have access to establish and utilize a Merchant Corporate Account.

“**Transactions**” shall mean all transactions involving the sale of Products on the Platform or otherwise transacting commerce using the G4M App, under the terms of this Agreement. Merchant acknowledges that Gasology and the Gasology Platform, including the G4M App, are e-commerce tools that facilitate the Merchant’s ability to offer Products for sale and the Consumer’s ability to purchase such Products offered by such Merchants, whereby Gasology is not a party to such a Transaction and that the respective Merchants provide Performance Guarantees for all Products transacted on the Gasology Platform, as herein provided.

“**Transaction Charges**” shall mean, collectively, any Transaction Fees, Payment Processing Fees and other fees payable to Gasology under the terms of this Agreement, together with all other charges to be incurred by Merchant to complete a Transaction as herein contemplated.

“**Update Procedures**” shall mean the procedures that Gasology will undertake to inform a User and/or Merchant of changes to this Agreement, the Gasology End User Terms of Service Agreement, related fees or other matters that, in Gasology’s sole discretion are deemed material. Gasology will notify affected Users via an email to the email associated with the User’s registration information of upcoming updates or changes, and when such changes will become effective. By continuing to access or use the G4M App after such changes have become effective, Users agree to be bound by such updates and changes.

“**User**” shall mean any Person that has completed or caused to have been completed the Gasology user registration process, accepted and agreed to the Gasology End User Terms of Service Agreement, available at www.gasology.com/legal, and having an Active Account with Gasology.

(b) **Rules of Usage.** Defined terms will be given their common and ordinary meanings when they appear uncapitalized in the text. Undefined terms will be given their common and ordinary meanings pursuant to custom and industry parlance. Unless the context in this Agreement otherwise clearly requires: (i) the definitions of terms will apply equally to the singular and plural forms of the terms defined; (ii) whenever the context may require, any pronoun will include the corresponding masculine, feminine and neuter forms; (iii) the words “include”, “includes” and “including” will be deemed to be followed by the phrase “without limitation”; (iv) the verb “will” shall be construed to have the same meaning and effect as the verb “shall”; and (v) any definition of or reference to this Agreement will be construed as referring to such agreement as may be amended, supplemented, substituted, novated, assigned or otherwise modified (subject to any restrictions on such amendments, supplements, substitutions, novations, assignments or modifications set forth in this Agreement).

3. ACCOUNT ADMINISTRATION

- (a) **Merchant Registration and Access to G4M App.** Upon execution of this Agreement, Gasology will establish a Merchant Corporate Account for the Merchant that will enable Merchant to access Gasology’s browser-based online registration for the G4M App (“**Registration**”). Gasology’s contact with Merchant shall be by way of any individual representative designated by Merchant as an “administrator” through the Registration (“**Administrator**”). In addition, the Registration will enable Merchant to (a) invite and authorize users (“**Authorized Users**”) and establish permissions on the G4M App, (b) add and remove Administrators, and (c) manage and update the Merchant pricing, offers, treasury information, connectivity relationships, and other related information on file regarding Merchant. Gasology agrees to use commercially reasonable efforts to provide the G4M App to Merchant as set forth herein.
- (b) **Administration.** Merchant shall appoint a primary Administrator but may also appoint other authorized Administrators at its discretion. Merchant agrees to (a) maintain all G4M App Administrator login credentials in confidence, (b) only permit an authorized Administrator to access the Administrator sections of the G4M App, and (c) update as necessary all information of the primary Administrator and other authorized Administrators to ensure that it is current, accurate, and complete. Merchant shall be responsible for all activity that occurs under its G4M App Administrator login credentials.
- (c) **Authorized User and Administrator Updates.** It is Merchant’s sole responsibility to keep and maintain an accurate list of current Authorized Users and Administrators authorized to access the Merchant Corporate Account. Gasology may in its discretion periodically review the current list of Authorized Users and Administrators, as may be the case, to maintain and support the Gasology Platform, and to ensure compliance with this Agreement.

- (d) **Responsibility for User Activity.** Merchant agrees that Merchant is responsible for all Transaction Charges incurred by Authorized Users and Administrators via the Merchant Corporate Account, regardless of whether or not such Transaction Charge received appropriate internal approvals from the Merchant. Further, Merchant agrees that Gasology shall not be responsible for Transaction Charges incurred by an Authorized User or Administrator, as may be the case, after Merchant has attempted removal of such Authorized User or Administrator from the Merchant Corporate Account to the extent Merchant provides incomplete or inaccurate Authorized User or Administrator removal information via the G4M App. Finally, as between Merchant and Gasology, Merchant shall be responsible for the Transaction Charges incurred due to fraudulent or other unpermitted activity on the part of an Authorized User's or Administrator's use of the Merchant Corporate Account to access Gasology Platforms. Merchant shall notify Gasology promptly upon discovery of any fraudulent or unpermitted activity occurring under Merchant's Corporate Account.
- (e) **Restrictions.** Merchant agrees to use the Merchant Corporate Account and G4M App solely as set forth in this Agreement. Merchant shall not, and shall not authorize others to, (a) decompile, disassemble, reverse engineer or otherwise attempt to derive the source code or underlying technology, methodologies or algorithms of the G4M App, Gasology Platform or any application related thereto, except to the extent specifically allowed by applicable law, (b) sublicense, lease, rent, sell, give or give access to, or otherwise transfer or provide the G4M App or the Gasology Platform to any unaffiliated third party, (c) upcharge, increase or otherwise modify the Transaction Charges for any usage of the G4M App and the Gasology Platform, or (d) impose any additional fees or charges on an Authorized User or Administrator related to use of the G4M App or Gasology Platform. Gasology reserves all rights not expressly granted to Merchant, including Authorized Users and Administrators, under this Agreement.

4. **USAGE OF G4M APP.**

- (a) **Access to G4M App.** Upon execution of this Agreement, Gasology will use commercially reasonable efforts to enable Merchant to access the G4M App which will enable Merchant to: (a) create and maintain a Merchant Corporate Account, (b) view a current list of all Authorized Users and Administrators with access to the Merchant Corporate Account, (c) add and remove Authorized Users to the Merchant Corporate Account, (d) disable any or all current Authorized Users from their Merchant Corporate Account, (e) authorize Users to have the ability to buy or sell Products, as applicable on the G4M App on behalf of the Merchant, (f) authorize Users to have the ability to initiate and create a Contingent Relationship with Other Gasology Merchants to buy or sell Products on the G4M App on behalf of the Merchant, and (g) authorize Users to perform other functions on the G4M App.

(b) Active Account Required.

- (i) Active Account. Merchant agrees that in order for an individual to be considered an Authorized User on a G4M App, such individual or the Person for which such individual is acting must have an Active Account at all times in which they intend to use the G4M App.
- (ii) Violations. Merchant acknowledges that certain Authorized Users may be suspended or banned from use of the Platform due to violations of the End User Terms (“**Violations**”), and that Gasology shall have no obligation or liability related to an Authorized User that is unable to obtain or maintain an Active Account due to Violations. In the event that an Authorized User’s Active Account is suspended or terminated pursuant to the End User Terms, such Authorized User’s access to the Merchant Corporate Account shall also be immediately suspended.

(c) Merchant Corporate Account Linking.

- (i) Linking Mechanics. In order to enable a proposed Authorized User to securely establish a link to a Merchant Corporate Account, Merchant must use the G4M App to send a Gasology-generated email invitation to the proposed Authorized User by providing the proposed Authorized User’s: (i) full name, (ii) Merchant-issued email address, and (iii) all other mandatory information requested in the G4M App (“**Linking Data**”), which is necessary for authentication and verification purposes.
- (ii) Accuracy. Merchant shall ensure that Linking Data is accurate and complete, and Gasology shall not be liable to Merchant, an Authorized User, a proposed Authorized User, or any other Person with respect to inaccurate or incomplete Linking Data supplied by Merchant.
- (iii) Unlinking. The Merchant may unlink an Authorized User from the Merchant Corporate Account at any time by the Merchant unlinking such Authorized User through the G4M App.
- (iv) Restrictions. Merchant agrees and shall cause each of its Authorized Users linked to their Merchant Corporate Account to use the G4M App solely as set forth in this Agreement and the End User Terms.

- (d) **Responsibility for User Activity**. Gasology reserves the right to suspend participation in the G4M App to Merchant and any of its Authorized Users for violations of this Agreement or the End User Terms. In the event that an Authorized User’s Active Account is suspended or terminated pursuant to the terms of this Agreement or the End User Terms, such Authorized User’s access to the G4M App shall also be suspended.

5. G4M APP COMPONENTS

- (a) G4M App Services. The G4M App provides Merchant with access to Gasology's cloud-based e-commerce marketplace and suite of applications designed to enable Merchant with the ability to offer motor fuel Products for sale through the Platform.
- (b) Delivery Period. The G4M App provides Merchant with the ability to offer Products for sale for specific pre-defined delivery periods ("**Delivery Periods**"). The available Delivery Periods may be found on the Gasology website at www.gasology.com/calendar, which may be periodically updated by Gasology in accordance with Gasology's Update Procedures. Delivery Periods are segregated into daily, monthly and yearly Delivery Periods and contain specific dates for which Products are offered for sale and specific dates for which Products are allowed and/or required to be picked up by, or delivered to, Consumers.
- (c) Contingent Sales. The G4M App will provide Merchant with the marketplace and technology tools that will give Merchant the option to interconnect with Other Gasology Merchants, using a Contingent Thread for a specific Product and a specific Delivery Period, whereby no volumes of Product(s) are bought or sold between Contingent Merchants until a Gasology Consumer purchases Product from the last of the Contingent Merchants in the thread of inter-connected and sequenced Contingent Merchants in the Contingent Thread. Upon a purchase by such Consumer, a simultaneous sale, purchase or both is executed accordingly with each sequenced and interconnected Contingent Merchant in the respective Contingent Thread. Prior to joining a Contingent Thread as a Contingent Merchant, Merchant, using the G4M App, acknowledges and agrees to the limits, pricing differentials and other commercial terms offered by a Contingent Merchant in the Contingent Thread, and as a participating Contingent Merchant, agrees to the **Contingent Thread Terms and Conditions** (defined below) herein.
- (d) External Data Services. The G4M App will provide Merchant with access to Gasology Microsoft® Excel add-in downloads that provide Merchant with the ability to dynamically upload certain pricing information as well as download certain transaction information, using the G4M App.
- (e) Invitation to Join a Gasology Contingent Thread. The G4M App will provide Merchant with the ability to invite Other Gasology Merchants to connect on the G4M App to (i) join and participate in a Contingent Thread, as Contingent Merchants; or (ii) as a Contingent Merchant, to develop a new Contingent Thread.
- (f) Invitation for Sales to Business Consumers. The G4M App will provide Merchant with the ability to invite prospective Business Consumers) to connect on the Platform to shop and purchase Products from Merchant.
- (g) Transaction and Payment Processing Services. Gasology will provide Merchant with online e-commerce transaction payment services, when using the G4M App. Specific terms and conditions related to Gasology transaction and payment processing services

are set forth on Gasology's website at www.gasology.com/merchant, which may be periodically updated by Gasology in accordance with Gasology's Update Procedures ("**Payment Processing Services**").

- (h) Performance Guarantee and Resolution Services. As more fully provided in Section 9 below, in order to provide the best service to all Users participating on the Platform, each Gasology Merchant delivering Product(s) provides a Performance Guarantee to Consumers, all as more fully set forth in Section 9(a) below ("**Merchant Performance Guarantee**") and Gasology provides resolution services in connection with such Merchant Performance Guarantee as provided in Section 9(b) ("**Resolution Services**").

6. GASOLOGY PAYMENT SERVICES AND FEES

- (a) Platform Transaction Fees. Merchant will pay Gasology the transaction fees (each a "**Transaction Fee**") as set forth in the transaction fee schedule ("**Gasology Merchant Transaction Fee Schedule**") assessable to Merchant at www.gasology.com/merchant, which may be periodically modified by Gasology in accordance with Gasology's Update Procedures, on all Product(s) sold by Merchant on the Platform. Merchant is responsible for payment of all Transaction Fees due under this Agreement at the time a Product is deemed sold by Merchant on the Platform. The proceeds from Product(s) sold by Merchant on the Platform shall be reduced for all Transaction Fees due Gasology in accordance with the Merchant Transaction Fee Schedule. Merchant should ensure that Product prices offered by Merchant on the Platform have been adjusted to account for such Transaction Fees that will be due and payable by Merchant to Gasology. All prices under this Agreement, including all Transaction Charges, and prices for Product(s), shall be denominated and payable in the currency indicated in the G4M App.
- (b) Payment Processing Fees. As part of the Transaction and the Payment Processing Services, Gasology will seek to collect from its Consumers that commit to purchase Product on the Platform, full payment for all Product(s) at the time the commitment to purchase is registered from such Consumer on the Platform. Gasology's fees for processing such payments ("**Payment Processing Fees**") are set forth on Gasology's website at www.gasology.com/merchant which may be periodically modified or updated by Gasology in accordance with Gasology's Update Procedures ("**Payment Processing Fee Schedule**"). The proceeds from Merchant's Product sales on the Platform shall be reduced by Gasology for all Payment Processing Fees in accordance with the Payment Processing Fee Schedule, and all Transaction Fees in accordance with the Gasology Merchant Transaction Fee Schedule. Merchant should ensure that Product prices offered by Merchant on the Platform have been adjusted to account for all Transaction Charges due by Merchant upon sale.
- (c) Alternative Payment Processing. Upon Merchant's request initiated by an Authorized User on the G4M App, Gasology may, in Gasology's sole discretion, agree in accordance with the Gasology On Account Request and Agreement ("**On Account Agreement**") the

form of which On Account Agreement can be found on the Gasology website at www.gasology.com/merchant which may be periodically modified or updated by Gasology in accordance with Gasology's Update Procedures, to alternative payment processing. Such alternative payment processing will be available for direct sales by Merchant to a Gasology Consumer but shall not be available for sales to Gasology Consumers where the sale to any such Consumer involves the use of a Contingent Thread. Utilizing the On Account Agreement, Merchant may offer specified credit terms to a Gasology Business Consumer ("**On Account Terms**") through the Platform and G4M App as set forth and mutually agreed to in the On Account Agreement. Accordingly, for such Transactions where (i) the Merchant offers direct sales of its Products to its Gasology Business Consumer, and (ii) such Business Consumer was offered and accepted Merchant's On Account Terms on the G4M App, Merchant will directly invoice such Business Consumer in lieu of utilizing the Payment Processing Services offered by Gasology. In such a case, Merchant shall be solely responsible for (1) all invoicing of Product sales to such Business Consumer on the Platform via the G4M App, (2) the credit risk related to collection of any amounts due Merchant from such Business Consumer and (3) remitting all related Transaction Fees to Gasology at the time of the Product sale. Any and all Transaction Fee amounts shall come due and be payable in full to Gasology immediately upon the sale and regardless of any Gasology Business Consumer payment terms agreed in the On Account Agreement. Transaction Fees associated with On Account Agreement Product sales to Business Consumers shall be invoiced by Gasology to Merchant on a monthly basis for which payment shall be due to Gasology within 15 days of the respective invoice date. If the Transaction Fee for the Transaction is not paid to Gasology in full by Merchant within the 15 days of the invoice date for such Transaction Fees, Gasology may setoff such Transaction Fee amounts due against any other amounts held by Gasology on Merchant's behalf.

- (d) Gasology Proceeds Retention Pending Performance. Gasology will hold all Consumer payments received by Gasology in a separate, third-party collateral account ("**Collected Proceeds Account**"), subject to a security interest in favor of Gasology, as provided in Section 6(g) below. Merchant will not receive interest on any funds held by Gasology in the Collected Proceeds Account. The Collected Proceeds Account shall be a separate and segregated account to be administered by Gasology, and Gasology will not invest, use, comingle, or otherwise use in its business any sales proceeds it holds in the Collected Proceeds Account. Gasology shall further act as agent of the Collected Proceeds Account, as herein provided in Section 6(g) below, and Gasology will remit to Merchant, from the Collected Proceeds Account, Merchant's respective portion of net sales proceeds, after the deduction of Gasology Transaction Fees and Payment Processing Fees, as applicable, upon confirmation using the G4M App that Merchant has delivered Product to the Consumer or, in the case of a Gasology Contingent Thread transaction, a Contingent Wholesale Buyer (as defined in Section 8 below) pursuant to the terms of the relevant Transaction. Notwithstanding the foregoing, Gasology may withhold payment to any Contingent Merchant in a Gasology Contingent Thread Transaction if such Contingent Merchant shall have breached its performance obligations, pending any cure

or resolution of such breach by a Contingent Merchants' performance under its Merchant Performance Guarantee.

- (e) Gasology Right to Setoff. Merchant grants Gasology the right to setoff all amounts owed to Gasology against Merchant's sales proceeds, including, but not limited to, any Transaction Fees and Payment Processing Fees due to Gasology or any other amounts with respect to Resolution Services pursuant to Section 9(b), and any other amounts due to Gasology from Merchant. Gasology's right to setoff Merchant's funds in the Collected Proceeds Account or enforce its security interest granted hereunder shall be in addition to, and not in substitution for, all other rights and remedies available to Gasology by law or in equity, or under the other provisions of this Agreement.
- (f) Payment Disputes and Interest. Any dispute related to Transaction Fees and Payment Processing Fees must be submitted in writing to Gasology within thirty (30) calendar days of the date of such payment or deduction, as applicable; otherwise such dispute is waived, and the payment or deduction will be final and not subject to challenge. If the deducted amount is inadequate or if Merchant fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment by Merchant at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.
- (g) Security Interest and Agency for Collected Proceeds Account. Merchant authorizes Gasology to act as its agent for purposes of receiving and holding funds in the Collected Proceeds Account, and the processing of payments from the Collected Proceeds Account, including, in all Transactions: processing payments, refunds, deductions of fees and other adjustments, receiving and holding sales proceeds on Merchant's behalf, and remitting sales proceeds to Merchant or to a Contingent Wholesale Seller, as applicable, in accordance with this Agreement. All proceeds of Product sales collected by Gasology and all amounts deposited in the Collected Proceeds Account, will represent a secured claim against fees owed to Gasology and other amounts due Gasology in such Transaction. Merchant hereby grants to Gasology a first-priority pledge and security interest in all funds in the Collected Proceeds Account for which Merchant shall have entitlement (subject to the terms of this Agreement, including Gasology rights of setoff), to satisfy all monies owed to Gasology, including Transaction Fees, Payment Processing Fees or any other amounts due to Gasology from Merchant. Gasology may at any time and from time to time collaterally assign its security interests in the Collected Proceeds Account to any lenders providing debt or other financing to Gasology for the implementation and development of the G4M App and/or the Platform.

7. MERCHANT OBLIGATIONS

Merchant agrees to follow and to cause its Affiliates to follow the requirements of this Agreement, including, but not limited to, to deliver Product(s) in compliance with the

Merchant Performance Guarantee and paying all Transaction Charges and other amounts that may accrue under this Agreement. Merchant must successfully complete the Platform Registration process using the G4M App, and be approved by Gasology in order to participate on the Platform using the G4M App.

- (a) Physical Sales. The Platform and G4M App provides an e-commerce marketplace that facilitates physical Product sales by Merchant whereby Merchant stipulates and agrees:
- (i) Gasology is not a party to any physical Product sales conducted on the G4M App except for the advocacy and oversight capacity as specified herein.
 - (ii) The creation and execution of all supporting transaction documents (“**Merchant Transaction Documents**”), necessary to physically sell, transport, store, buy or sell physical Product(s), shall be the sole responsibility of the Merchant. Merchant shall be solely responsible for ensuring that such transaction parties possess all valid authorizations, licenses, permits, and the like, to conduct such activities in the ordinary course of business. Gasology will have no responsibility for any Merchant Transaction Documents, or for any claims or disputes arising out of the Merchant Transaction Documents, to the extent not included by Gasology as part of the Resolution Services.
 - (iii) G4M App Transaction terms are primary, binding and controlling and shall take precedence over any other agreements, including the Merchant Transaction Documents, between the parties to the Transaction, including Contingent Thread Transactions, whereby the Product(s), price(s), volumes, Delivery Periods and other basic terms for the Transaction(s) will be as reflected and agreed in the G4M App.
- (b) Agent for the Consumer. Each Transaction on the G4M App will be deemed a Transaction on behalf of a Consumer and accordingly, any and all Product associated with such Transaction that is received, stored, blended, transported or delivered shall be on behalf of such Consumer, whereby Merchant shall act as a “Custodial Agent” for such Consumer, and maintain insurance covering its Facilities and other properties and obligations with financially sound and reputable insurers in such amounts, with such deductibles, and covering such risks as are customarily carried by companies of the same or similar size engaged in similar businesses and owning similar Facilities in the localities where it operates or as otherwise required by Gasology, in its discretion, at any time. Merchant acknowledges Gasology does not sell, transport or store any Product. In any Transaction, Merchant shall be solely liable for any loss of or damage

- to Product (including any line loss, evaporation, spills or contamination) while such Product is in the custody of Merchant, as applicable.
- (c) Taxes. While the Platform uses robust tax computation algorithms to assist the Merchant in offering Products for sale on the Platform for most motor fuel sales constructs, the responsibility for all tax filings, remitting all taxes due to regulatory authorities for sales of Products, and ensuring that all taxes paid are properly configured and correct, will be the sole responsibility of Merchant. Gasology will provide a notification to Users of the Platform that certain tax calculation may vary from the taxes displayed on the Platform and that the User shall be responsible for any additional taxes that may be due on the date of delivery.
- (d) Delivered Transaction Fees. Merchant agrees that the delivery terms for Transactions that are offered shall be deemed as “Delivered” or “FOB Destination” or “FOB Buyer”, as applicable, and the pricing for all Transactions shall include all delivery fees, which shall be disclosed and included in the Product price offered on the Platform. No additional delivery costs or fees of any kind are to be added, changed, or otherwise adjusted by Merchant.
- (e) No Undisclosed Fees. Merchant agrees that no undisclosed additional fees are to be added or separately invoiced to Consumers or Other Contingent Merchants that have transacted for Product on the Platform. Prices offered are to be inclusive of all costs and fees and will reflect the net amount payable by Consumers or Other Contingent Merchants to Merchant, for the Product.
- (f) Flexibility Add-on Offers and Fees. Merchant agrees it must obtain Gasology approval and Platform integration to offer additional flexibility features to Gasology Consumers. All Flexibility Add-On offers are to be completely discretionary and Merchant shall not require a Gasology Consumer to purchase any such Add-On as part of a Product sale on the Platform and shall not be a required component of any offer or Transaction on the Platform.
- (g) Merchant Training. As part of its Registration, Merchant agrees to designate at least two (2) of its personnel to complete all Gasology Merchant initial training, prior to utilizing the Platform and the G4M App. Merchant will not enter into any Transactions until the completion of the initial Gasology Merchant training of its personnel is complete. At all times while on the Platform, Merchant shall keep at least two (2) people on staff who have been formally trained by Gasology and notify Gasology within one (1) Business Day of any Gasology trained personnel change. Gasology may periodically offer recurrent training or special training sessions, in the event of upgrades or other changes in the Platform or in the G4M App, including policy changes

- in accordance with Gasology's Update Procedures, and Merchant expressly assumes the risk of its personnel using the G4M App and the Platform, as Authorized Users, without proper training. Merchant can request of Gasology in writing for special or advanced training of its Authorized Users, which Gasology may provide, under the terms of a separate agreement, and at Merchant's sole cost and expense. No amount of training by Gasology will shift the Merchant's risk of allowing its Authorized Users to use the G4M App and the Platform, without proper training.
- (h) Invitations. Merchant agrees only to invite Other Gasology Merchants and Business Consumers to connect on the Platform, and not to send any invitations to retail Consumers.
- (i) Authorized Users. Merchant (i) is responsible for maintaining the confidentiality of Merchant's and/or Merchant's authorized employees' and representatives' usernames and passwords, and (ii) must use commercially reasonable best-efforts to prevent unauthorized access to the G4M App and Platform, utilizing the same or similar security measures that Merchant uses to prevent unauthorized access to its proprietary networks and systems. Gasology shall not be liable for any loss or damage arising from the unauthorized use of a username or password.
- (j) Consumer Verification and Credit. The default method of transacting with Consumers on the Platform is to allow Gasology to immediately collect all proceeds due from Consumers at the time the Consumer places its order for future Delivery Periods on the Platform, using the G4M App, in order to reduce any Consumer credit risk from the Transaction. Gasology shall deposit the amounts paid by Consumers in the Collected Proceeds Account and Gasology's sole responsibility shall be to administer the funds in the Collected Proceeds Account as part of its Payment Processing Services, all in accordance with the terms of this Agreement. Gasology will have no involvement in, no responsibility for, or liability to Merchant for any matters related to any alternative payment methods deployed by Merchant in accordance with Section 6(c), and the related the creditworthiness of such Consumers.
- (k) Other. Merchant agrees to comply with the Telephone Consumer Protection Act, as amended, in dealing with Consumers, including not using an automatic telephone dialing system or an artificial or prerecorded voice without the Consumer's express prior written consent.

8. CONTINGENT THREAD TERMS AND CONDITIONS

The G4M App provides Gasology's proprietary e-commerce tools to allow Merchant to develop a contingent relationship ("**Contingent Relationship**") on the Platform, using the technology and application tools provided on the Platform, whereby:

- (a) Invitation. Merchant may use the G4M App to invite Other Gasology Merchants to supply Products to Merchant (each a "**Contingent Wholesale Seller**") or to offer Merchant's Products for sale to Other Gasology Merchants (each a "**Contingent Wholesale Buyer**"), and either of which could be deemed a "**Contingent Wholesale Merchant**," as applicable in the Contingent Relationship. Acceptance of any invitation for a Contingent Relationship requires the parties to accept, and likewise agree to, creating a "**Contingent Thread Relationship**" for specific Products, whether one or more, subject to the following basic terms, which collectively shall constitute a "**Contingent Offering**":
- (i) Volume Limits;
 - (ii) Delivery Periods Limits;
 - (iii) Delivered Pricing Terms; and
 - (iv) Other terms defined on the Platform.
- (b) Contingent Transaction. Given the dynamic nature of the motor fuel market, the pricing of a Contingent Offering may change instantaneously as any Merchant in the Contingent Thread Relationship may alter its pricing and terms for Product at any time, in which case the pricing and terms for Product in the relevant Contingent Offering will automatically adjust to the new pricing and terms. All of these changes and adjustments are handled seamlessly and instantaneously through the mechanics of the G4M App. Merchant understands and agrees that no Transaction is consummated by the establishment of a Contingent Thread Relationship or by participating in the making of a Contingent Offering until a Consumer executes a purchase Transaction on the basis of the specific firm offer of pricing, volume, delivery, timing and other terms for Product to be sold and delivered to Consumer in accordance with the terms of the Contingent Offering. Once a Consumer executes a Transaction with respect to a Contingent Offering, however, the Contingent Offering becomes a firm contractual obligation of each Merchant in the Contingent Thread Relationship to (i) source and purchase from; and (ii) sell and deliver to; as the case may be, each other Merchant in the Contingent Thread Relationship such Product(s) necessary to fulfill the terms of the applicable Transaction(s) on the relevant pricing and terms applicable to each Merchant participating in the Contingent Offering.

9. MERCHANT PERFORMANCE GUARANTEE AND RESOLUTION OBLIGATIONS

- (a) Merchant Performance Guarantee. In order to ensure the best possible outcome to all parties participating in the Platform, Merchant absolutely guarantees to

Gasology and to third-party buyers of Merchant's Product, as primary obligor, and accordingly, Merchant will therefore have the obligation to "make good" on the Transaction should Merchant's Contingent Wholesale Seller fail to deliver, or its Contingent Wholesale Buyer fail to pay and/or deliver Product(s) in performance of the Transaction terms, such that "specific performance" of each Transaction can be achieved for the benefit of all parties participating on the Platform.

In each Transaction, as part of its Merchant Performance Guarantee, Merchant unconditional and irrevocable guarantees (i) the specific performance by each Other Gasology Merchant who enters into a Transaction with Merchant on the Gasology Platform, of the due and prompt delivery of Product by Merchant and such Other Gasology Merchant immediately downstream from such Merchant in the Transaction Thread, in volumes, amounts, prices and for specific time periods as contracted through the G4B APP; and (ii) the observance and fulfillment of all terms, conditions, covenants, agreements, indemnities, liabilities and obligations of any kind whatsoever with respect to such Transaction (collectively, the "**Guaranteed Obligations**") by such Merchant and such Other Gasology Merchant immediately downstream from Merchant in the Transaction Thread, strictly in accordance with the terms contained in this Agreement (the "**Performance Guarantee**"). If for any reason whatsoever, a Gasology Merchant within the Transaction Thread shall fail to perform, pay or observe any of the Guaranteed Obligations (a "**Default**"; and in the case of the Merchant, a "**Defaulting Merchant**"), the Gasology Merchant immediately upstream in the Transaction Thread from the Defaulting Merchant (the "**Performance Guarantor**") shall forthwith perform, deliver, pay and observe, as applicable, any such of the Guaranteed Obligations of the Defaulting Merchant as they may be required to be performed (including payment and/or delivery, as applicable), in accordance with the Transaction as executed on the G4B App and the terms of this Agreement; and in such case the Performance Guarantor shall have a claim against the Defaulting Merchant, as a third-party beneficiary of the Merchant Performance Guarantee of such Defaulting Merchant, for any losses incurred in executing the Performance Guarantee, including reasonable business expenses, legal and other fees.

Merchant agrees that if Merchant enters into a Contingent Thread Relationship with a Contingent Wholesale Buyer, the Merchant, who would then be assuming the role of a Contingent Wholesale Seller, would become a Performance Guarantor and be providing a Merchant Performance Guarantee on behalf of such Contingent Wholesale Buyer. The Merchant Performance Guarantee in this Agreement is designed to ensure that Merchant, as a Contingent Wholesale Seller, is very selective in identifying Contingent Wholesale Buyers, and conducts appropriate due diligence before agreeing to participate in a Contingent Thread Relationship with a prospective Contingent Wholesale Buyer, in order to ensure the integrity of the

overall Contingent Thread Relationship. Merchant will undertake commercially reasonable efforts to ensure that the prospective Contingent Wholesale Buyer will perform or is otherwise capable of guaranteed performance on the Platform, without limiting Merchant's Performance Guarantee in this Agreement.

In any Transaction that Merchant is a seller on the Platform, Merchant will become a Performance Guarantor and source, offer, sell, and deliver all Products necessary to fulfill the terms of the applicable Transaction(s) and will be solely responsible for and bear all risk, expenses, and costs for those activities. As a Performance Guarantor, Merchant is solely responsible for any non-performance, defective Products (including off-spec Products, and any Product contamination), non-delivery, misdelivery, risk of loss, theft, private or public recall, or any other act, omission or mistake by Merchant or any supplier to Merchant, including any Default by a Contingent Wholesale Seller in any Contingent Thread Relationship in its Guaranteed Obligations. Further, in any Transaction that Merchant is a seller on the Platform, Merchant agrees that in addition to Gasology, the buyer of Product from Merchant in the Transaction, whether one or more, will be a third-party beneficiary of the Merchant Performance Guarantee. **Merchants shall have a duty to notify Gasology of any circumstances that may give rise to a declaration of Force Majeure related to the performance of any Transaction or this Agreement. If it becomes impossible to deliver Product at the transacted delivery location on the date(s) under the terms of a Transaction as a result of Force Majeure, the Merchant shall be obligated to source replacement Products, designate a different delivery location or delivery date(s), and be required to cover the Costs of such changes in the replacement Products, delivery location and delivery date(s), as part of the Resolution Services, as herein provided. Merchant stipulates that the global availability of Products makes Force Majeure inapplicable to the Merchant Performance Guarantee.**

In any Transaction where Merchant's Contingent Wholesale Buyer fails to perform and satisfy its delivery obligations in the Transaction, Merchant will cause its Contingent Wholesale Buyer to perform, or will otherwise be deemed to have immediately and irrevocably assumed the obligations of the Contingent Wholesale Buyer, whereupon Merchant, in lieu of such Contingent Wholesale Buyer, shall accept delivery of the Transaction Product(s) and otherwise fulfill the obligations of the Contingent Wholesale Buyer in the Transaction. Such undertaking by Merchant to cause the Contingent Wholesale Buyer to perform shall be in addition to Merchant's assumption obligations and shall include the enforcement of all applicable Merchant Transaction Documents, with terms no less stringent than the terms of this Agreement. Merchant will diligently enforce such terms, to the extent applicable, against each such Contingent Wholesale Buyer for its own benefit, and

the benefit of Gasology and the Platform. **If a Contingent Wholesale Buyer fails or to honor their Merchant Performance Guarantee obligations or otherwise declares an inability to perform as a result of Force Majeure, the Merchant shall have a duty to notify Gasology of such circumstances, in reasonable detail, AND be obligated to source replacement Products, designate a different delivery location or delivery date(s), and be required to cover the Costs of such changes in the replacement Products, delivery location and delivery date(s), as part of the Resolution Services, as herein provided.**

- (b) Resolution Services. In the event that Merchant fails to perform under its Merchant Performance Guarantee, Merchant shall make Gasology whole by paying all Costs of such Resolution Service. "Costs" means an amount equal to the difference between the cost for Gasology to replace and deliver the Product(s) and the Transaction price recorded (sometimes referred to as the "cost of cover," provided that a negative difference shall be deemed zero for purposes of this calculation), multiplied by Transaction volume, plus any and all direct costs incurred by Gasology in conjunction with completing the Transaction and in providing the Resolution Service. Gasology reserves for itself and for the party or parties having third-party beneficial rights of a specific Merchant Performance Guarantee the right to determine appropriate, necessary, and reasonable Resolution Services required to resolve such matters.

10. DELIVERY PERIOD EXPIRATION AND EXTENSIONS

Merchant agrees that Product offered shall be priced based upon pre-determined Delivery Points and Delivery Periods that contain specific delivery start and end dates whereby such Product is required to be either delivered or picked up by the Contingent Wholesale Merchant or the Gasology Consumer, depending upon the party that transacted with the Merchant for the Product. In the event that such a Contingent Wholesale Merchant or Gasology Consumer is unable, due to no fault of the Merchant, to pickup and/or receive the Product purchased within the pre-specified period, you may, at your option and as specified in the G4M App, define policies (called "**Program Flexibility Options**" on the Platform) that may subject such Product purchased to forfeiture, change fees, volumetric fees or any combination thereof, whereby such policies shall be displayed, designed and documented in advance on the Platform. Any Program Flexibility Options not specified in the G4M App and/or not agreed as part of the Resolution Services administered by Gasology, are void, and shall result in a material default of this Agreement.

11. MERCHANT REPRESENTATIONS AND WARRANTIES

Merchant represents, warrants, and covenants that:

- (a) it has the corporate and legal capacity, authority, and power, and all governmental and other licenses, authorizations, permits, consents, contracts, and other approvals (as applicable) (“**Required Authorizations**”) necessary to execute, deliver, and perform this Agreement, and it has complied with any conditions to the Required Authorizations applicable to the execution, delivery, and performance of this Agreement, and states that such Required Authorizations shall remain in full force during the term of this Agreement;
- (b) with respect to physical motor fuel sales and transportation of any motor fuels, it possesses the required franchise agreements, adequate insurance, and approvals (including regulatory approvals) with respect to Product it buys or sells on the Platform;
- (c) it has entered into this Agreement as principal (and not as advisor, agent, broker or in any other capacity, fiduciary, or otherwise), has a full understanding of the material terms and risks of this Agreement, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or suitable for it, based upon its own judgment and upon advice from such advisors as it has deemed necessary, and it is capable of assuming those risks;
- (d) it is not relying upon any representations of Gasology, other than those expressly set forth in this Agreement;
- (e) its obligations pursuant to this Agreement constitute its legal, valid, and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium, or similar laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law).

Merchant understands and agrees that each Transaction entered into on or through the G4M App and Platform impose physical delivery obligations to the respective Contingent Merchants and Gasology Consumers, and Merchant represents upon entry into each Transaction it executes through the Platform that it has the capacity and ability to satisfy such physical delivery obligations.

12. MUTUAL REPRESENTATIONS AND WARRANTIES. Each Party hereby represents and warrants to the other Party that (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder, (b) such Party’s acceptance of this Agreement, as well as such Party’s performance of the obligations set forth in this Agreement, does not and will not violate any other agreement to which such Party is a party, (c) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin, and (d) is in compliance and shall remain in compliance during

the Term, with all applicable local, city, state, federal, national, and international laws, rules and regulations, including those relating to data protection, privacy, identity theft, data breach, consumer protection, and data security, and any applicable industry standards relating to privacy and data security.

13. TERM AND TERMINATION. The term of this Agreement commences upon electronic acceptance of such terms as facilitated by the Platform and continues until terminated in accordance with the terms of this Agreement. Unless earlier terminated under the terms hereof, either Party may terminate this Agreement for any reason upon thirty (30) calendar days written notice to the other Party. Such termination will not affect any previously agreed to Transaction on the Platform by the Merchant and the Merchant is obligated to perform all outstanding Transactions, and such Transactions shall remain subject to the terms of this Agreement, even after this Agreement terminates.

14. RIGHT TO DENY ACCESS AND MODIFY G4M APP AND THE PLATFORM. Gasology reserves the right to deny use of, or access to, the G4M App to Merchant and/or any other person or entity for any or no reason. Gasology also reserves the right at any time and from time-to-time to modify or discontinue, temporarily or permanently, the G4M App (or any part thereof) with or without notice. Gasology has the right in its sole discretion to determine the content, appearance, design, functionality, and all other aspects of the G4M App and the Platform, including by redesigning, modifying, removing, or restricting access to the G4M App and Platform and by suspending, prohibiting, or removing any listing or Merchant from the G4M App and Platform.

15. EVENTS OF DEFAULT.

Notwithstanding Gasology's right, at its sole discretion to terminate this Agreement pursuant to Section 13, it shall be an "Event of Default" with respect to Merchant if:

- (a) Merchant fails to pay any amount due as required under this Agreement or any Transaction, within two (2) Business Days following receipt of Gasology's notice of such failure to pay, which notice may be in the form of a repeat invoice, and may be delivered to Merchant electronically;
- (b) Merchant fails to perform or repudiates any material obligation or breaches any representation, warranty or covenant under this Agreement;
- (c) Merchant or any Affiliate Merchant (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger) or files a petition in the bankruptcy court; (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; or (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; provided further that, Gasology may act as agent for Consumers in the termination

of Transactions that constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

If an Event of Default occurs, Gasology may exercise any or all of the following remedies: (i) remove Merchant and/or Affiliates of Merchant from the G4M App and the Platform and cancel all Transactions by such parties; (ii) invoice Merchant for the cost of any such cancellation of Transactions pursuant to subclause (i) above and/or any Resolution Services offered by Gasology, in its sole discretion, to its Consumers and Contingent Merchants that are party to Transactions with Merchant to mitigate the effects of such cancellation, and Merchant shall pay such invoice within two (2) business days of receipt of invoice; (iii) withhold and/or suspend payments to Merchant and setoff any amounts due to Gasology under this Agreement including, but not limited to, this Section 15 against any amount owed by Gasology to Merchant; (iv) otherwise terminate, liquidate, or setoff any obligations between Gasology and Merchant and/or Affiliate Merchant(s) under this Agreement or otherwise. All remedies provided herein are cumulative and in addition to any other remedies to which Gasology may be entitled to, at law or in equity.

16. PROPRIETARY RIGHTS

- (a) **License to Marks; Restrictions.** The term "Marks" shall mean the trademarks, service marks, trade names, logos, slogans and other identifying symbols and indicia of either Merchant or Gasology, each a “**Licensor**”. Each Licensor hereby grants the other Party (Gasology or Merchant, respectively), each a “**Licensee**”, solely during the Term, a limited, royalty-free, worldwide, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the Licensor’s Marks. All use of a Licensor’s Marks by Licensee will be in the form and format approved by Licensor, and Licensee will not otherwise use or modify Licensor’s Marks without Licensor’s prior written consent. All goodwill related to Licensee’s use of Licensor’s Marks shall inure solely to the benefit of Licensor. Marks will at all times remain the exclusive property of Licensor. Except as expressly set forth herein, Licensor does not, and shall not be deemed to, grant Licensee any license or rights under any intellectual property or other proprietary rights. All rights not granted herein are expressly reserved by Licensor. Licensor hereby grants Licensee the right to display Licensor’s Marks throughout the Term in accordance with this Section: (i) on Licensee’s website, and (ii) in any list of companies describing with whom Licensor has engaged in similar commercial activities, as long as such list includes at least two other companies and such use is in compliance with Licensor’s brand guidelines, if any. This right to use Licensor’s Marks shall not require prior written approval and shall continue after this Agreement is terminated, unless Licensor provides Licensee with written notice that Licensor is terminating such right.
- (b) **No Development.** EACH PARTY ACKNOWLEDGES AND AGREES THAT THERE SHALL BE NO JOINT DEVELOPMENT OR ANY OTHER DEVELOPMENT OF TECHNOLOGY, CONTENT, MEDIA OR OTHER INTELLECTUAL PROPERTY BY EITHER PARTY FOR THE

OTHER PARTY PURSUANT TO THIS AGREEMENT. Any development activities relating to any technology, content, media or other intellectual property must be the subject of a separate written agreement between Gasology and Merchant prior to the commencement of any such activities.

- (c) **Ownership.** Gasology and its Affiliates are and shall remain the owners of all right, title and interest in and to the G4M App, Gasology Platform, Gasology App, and Gasology Personal Data (including, without limitation, Application Data) including any updates, enhancements and new versions thereof, all data related to the use of the G4M App and Gasology Platforms, and all related documentation and materials provided or made available to Merchant or any proposed or current Authorized User in connection with this Agreement.
- (d) **No Publicity.** Other than as expressly set forth herein, neither Party may use or reference the other Party's name, logo, trademarks or service marks in a press release or otherwise without the prior consent of such other Party in each instance.

17. CONFIDENTIALITY.

The term "**Confidential Information**" shall mean any confidential or proprietary business, technical or financial information or materials of a Party ("**Disclosing Party**") provided to the other Party ("**Receiving Party**") in connection with this Agreement, whether orally or in physical form. However, Confidential Information shall not include information (a) previously known by Receiving Party without an obligation of confidentiality, (b) acquired by Receiving Party from a third-party which was not, to Receiving Party's knowledge, under an obligation of confidentiality, (c) that is or becomes publicly available through no fault of Receiving Party, or (d) that Disclosing Party provides written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure. Receiving Party agrees that (a) it will use Confidential Information solely for the purposes permitted under this Agreement and (b) it will not disclose the Confidential Information to any third-party other than Receiving Party's employees or agents who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein. In the event Receiving Party receives a subpoena, administrative or judicial order, or any other request for disclosure of any Confidential Information of Disclosing Party, Receiving Party will give Disclosing Party prompt written notice of such subpoena, order or request and allow Disclosing Party to assert any available defenses to disclosure. Receiving Party will protect the Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care.

18. PRIVACY AND DATA SECURITY.

- (a) **Roles of Parties.** Each Party is an independent controller of the Linking Data. Merchant will provide Linking Data to Gasology, for the provision of the G4M App as described in Section 4 of this Agreement.
- (b) **Lawfulness.** Merchant acknowledges that the linking process described in Section 4(c), above, requires a verification email to be sent to each Authorized User using the Linking Data, and Merchant agrees, where necessary, to have a legal basis for such processing and to inform the Authorized Users. Merchant consents to Gasology emailing such Authorized Users for the purpose of linking and establishing the Merchant Corporate Account within the Authorized Users' Active Account.
- (c) **Data Restrictions.** Gasology agrees to only process the Linking Data for the purposes described in this Agreement.
- (d) **Security.** Gasology shall promptly notify Merchant in the event that Gasology learns or has reason to believe that an Information Security Incident has occurred in relation to the Linking Data. The notification will include at least: (1) the nature of the breach of security measures; (2) the types of potentially compromised Linking Data; (3) the duration and expected consequences of the Information Security Incident; and (4) any mitigation or remediation measures taken or planned in response to the Information Security Incident. Upon any such discovery, Gasology will (a) take all reasonable steps to investigate, remediate, and mitigate the effects of the Information Security Incident, and (b) provide Merchant with assurances reasonably satisfactory to Merchant that such Information Security Incident will not recur. Additionally, if and to the extent any breach by Gasology occurs in connection with an Information Security Incident as a result of an act or omission of Gasology, and if Merchant determines that notices (whether in Gasology's or Merchant's name) or other remedial measures are warranted, Gasology will, at Merchant's request and at Gasology's cost and expense, undertake the aforementioned remedial actions.
- (e) **Damages.** Damages arising from Merchant's breach of this "Privacy and Data Security" section shall not be subject to the limits of liability set forth in Section 21 herein.

19. LIMITED LICENSES AND RESTRICTIONS OF USE.

As between Merchant and Gasology, Gasology is and will remain the sole and exclusive owner of all right, title, and interest in and to the G4M App and the Platform, including all intellectual property rights relating thereto, subject only to the authorization and license granted to Merchant in this Section 19. Gasology grants Merchant a limited, revocable, non-exclusive, non-sublicensable, non-transferable, royalty-free, worldwide right to access and use the Platform solely for fulfilling Merchant's obligations pursuant to the Agreement, provided that Merchant will not (i) modify or manipulate the G4M App

and/or the Platform, (ii) publicly display, copy, decompile, reverse engineer, or disassemble the G4M App and/or the Platform, (iii) grant or permit any third party to use or access the G4M App and/or the Platform, (iv) use the G4M App and/or the Platform for any unlawful purpose, (v) use the G4M App and/or the Platform to post or transmit any material that contains any viruses, Trojan horses, worms, time bombs, cancelbots, malware, adware, or other computer programming routines that may damage, interfere with, surreptitiously intercept, or expropriate any system, data, or personal information, (vi) interfere with or disrupt the integrity or performance of the G4M App and/or the Platform, or (vii) access the G4M App and/or the Platform to build a competitive product or service. Gasology reserves all rights not expressly granted in this Agreement.

20. INDEMNITY.

MERCHANT WILL DEFEND, INDEMNIFY, AND HOLD GASOLOGY, AND EACH OF ITS RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SHAREHOLDERS HARMLESS FROM ANY CLAIMS, ACTIONS, SUITS, LOSSES, COSTS, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE OUTSIDE ATTORNEYS' FEES) DIRECTLY OR INDIRECTLY RELATING TO OR ARISING OUT OF ITS USE OF THE G4M APP AND THE PLATFORM, IN CONNECTION WITH THIS AGREEMENT, OR ANY TRANSACTION, INCLUDING: (I) MERCHANT BREACH OF THIS AGREEMENT OR ANY TRANSACTION; (II) MERCHANT'S VIOLATION OR BREACH OF ANY LAW, CONTRACT, OR THE RIGHTS OF A THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, GASOLOGY CONSUMERS AND CONTINGENT THREAD PARTIES; (III) ANY ALLEGATION THAT ANY MATERIALS THAT MERCHANT SUBMITS TO GASOLOGY OR THROUGH THE G4M APP AND/OR THE PLATFORM INFRINGE OR VIOLATE THE COPYRIGHT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; (IV) ANY CLAIM RELATED TO THE OPERATION OF MERCHANT, AFFILIATE MERCHANT, AND/OR CONTINGENT THREAD PARTY'S BUSINESS, INCLUDING, BUT NOT LIMITED TO, THE OPERATION OF A GAS STATION OR OTHER FUELING STATION, OR THE SALE, USE, HANDLING, MARKETING, STORING, AND/OR TRANSPORTING OF MOTOR FUEL; (V) THE FAILURE BY ANY CONTINGENT THREAD PARTY FOR WHOM MERCHANT IS RESPONSIBLE TO COMPLY WITH THE TERMS OF THIS AGREEMENT, ANY MASTER AGREEMENT, SUPPLY AGREEMENT, OR TRANSACTION BETWEEN MERCHANT AND SUCH CONTINGENT THREAD PARTY; (VI) ANY INJURY TO OR DEATH OF, ANY PERSON OR DAMAGE TO PROPERTY RESULTING, DIRECTLY OR INDIRECTLY, FROM THE CONDUCT OF MERCHANT, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR ANY CONTINGENT THREAD PARTY, OR THEIR RESPECTIVE EMPLOYEES, AGENTS, OR REPRESENTATIVES; (VII) ANY AND ALL THIRD PARTY CLAIMS RELATING TO MERCHANT, ANY AFFILIATE MERCHANT OR ANY CONTINGENT WHOLESALE PARTY WITH RESPECT TO OBLIGATIONS UNDERTAKEN WITH MERCHANT PURSUANT TO THIS AGREEMENT AND/OR (VIII) ANY OTHER ACTIVITY IN CONNECTION WITH ANY RELEVANT SERVICE. THIS INDEMNITY SHALL BE APPLICABLE WITHOUT REGARD TO THE NEGLIGENCE OF ANY PARTY.

21. LIMITATION OF LIABILITY.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY NOR ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR AFFILIATES WILL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE OF DATA, INFORMATION AND/OR CONTENT OR OTHER INTANGIBLE LOSSES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, ANY INFORMATION AND CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE G4M APP OR THE PLATFORM IS ACCESSED AT MERCHANT'S OWN DISCRETION AND RISK, AND MERCHANT WILL BE SOLELY RESPONSIBLE FOR AND HEREBY WAIVES ANY AND ALL CLAIMS AND CAUSES OF ACTION WITH RESPECT TO ANY DAMAGE TO MERCHANT'S COMPUTER SYSTEM, INTERNET ACCESS, DOWNLOAD OR DISPLAY DEVICE, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH INFORMATION AND CONTENT. FURTHER, GASOLOGY'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED WILL NOT EXCEED AT ANY TIME THE TRANSACTION FEES REMITTED OR COLLECTED BY GASOLOGY FROM MERCHANT DURING THE PRIOR SIX (6) MONTH PERIOD IN CONNECTION WITH THE PARTICULAR TRANSACTION GIVING RISE TO THE CLAIM AND FROM WHICH SUCH TRANSACTION FEES WERE DERIVED.

22. WARRANTY DISCLAIMER.

MERCHANT WILL USE THE G4M APP AND THE PLATFORM AND ENTER INTO TRANSACTIONS AT ITS OWN RISK. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, GASOLOGY DISCLAIMS (I) ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THIS AGREEMENT, ANY SERVICES PROVIDED, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT; (II) IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE, AND (III) ANY OBLIGATIONS, LIABILITY, RIGHT, CLAIM, OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM GASOLOGY'S NEGLIGENCE. GASOLOGY DOES NOT WARRANT THAT THE FUNCTIONS OF THE PLATFORM WILL MEET MERCHANT'S REQUIREMENTS OR BE AVAILABLE, TIMELY, SECURE, UNINTERRUPTED, OR ERROR FREE, AND GASOLOGY WILL NOT BE LIABLE FOR SERVICE INTERRUPTIONS, SYSTEM FAILURES, OR OTHER INTERRUPTIONS THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION, OR SETTLEMENT OF ANY TRANSACTION OR ANY DAMAGES RESULTING FROM ANY FAILURE OF THE G4M APP OR ANY OTHER PLATFORM FAILURE, MAINTENANCE, INTERRUPTION, ETC.

23. DISPUTE RESOLUTION.

- (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana, with venue being in New Orleans, Louisiana. Only in the event that Merchant shall request to Gasology in writing the application of different law, the parties agree in advance to use the substantive laws of either Texas or New York (in that order), and in such event venue shall correspond to the applicable law, such that venue will be in either Houston, Texas, or New York City, applicable. Any choice of law shall be without regard to the state's choice or conflict of law provisions. Any dispute, controversy, or any claim arising out of or relating to this Agreement, or the interpretation, enforceability, performance, breach termination or validity thereof, including, without limitation, this arbitration clause, must be solely and finally settled by confidential arbitration in the applicable venue as specified above, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. An award rendered in connection with arbitration pursuant to this Section shall be final and binding upon the Parties, and any judgment upon such an award may be entered and enforced in any court of competent jurisdiction. No provision of this Section limits the rights of a Party to this Agreement to obtain provisional, injunctive, or ancillary remedies from a court of competent jurisdiction before, after or during the pendency of any arbitration.
- (b) Neither Party has the right to arbitrate on a class action basis any dispute, controversy, or claim arising out of or relating to this Agreement, or the interpretation, enforceability, performance, breach, termination, or validity hereof, including, without limitation, this arbitration clause.

24. MISCELLANEOUS.

- (a) Notices. Gasology may provide notices to Merchant by posting on the G4M App, email, or first-class mail. Merchant agrees to: (i) ensure that its contact and account information is current and correct, and (ii) promptly notify Gasology in writing of any changes to such information. Merchant acknowledges and agrees that Gasology will have no liability associated with or arising from Merchant's failure to maintain and supply Gasology with accurate contact information, including Merchant's failure to receive important information and updates about the services or this website. All notices to Gasology must be sent via recognized overnight courier or certified mail, return receipt requested, to: **General Counsel, Gasology, LLC, 935 Gravier Street, Suite 1100, New Orleans, Louisiana 70112.**
- (a) Entire Agreement. This Agreement sets forth the entire understanding and agreement between the Parties hereto with respect to the subject matter hereof and supersedes all previous understandings and agreements between the Parties, whether oral or written.

- (b) Press Release. Neither Party will issue any press release regarding the Agreement unless mutually agreed upon in writing.
- (c) Non-Waiver. No waiver by either Party of any breach by the other Party of any of the representations, covenants, warranties, terms, or conditions of this Agreement shall be construed as a waiver of any succeeding breach of the same or of any other covenant or condition hereof. No waiver shall have any effect unless it is specific, irrevocable and in writing.
- (d) Survivability. Any termination of this Agreement or suspension of access to the Platform will be without prejudice to the accrued rights of the Parties as of the date of termination or suspension, and, additionally, Sections 6, 7, 8, 9, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 of this Agreement will survive termination or suspension of the Agreement. If any provision of this Agreement is held or made invalid or unenforceable for any reason, such provision will not invalidate, void, or make unenforceable any other provision of this Agreement. The remaining terms and conditions shall remain in full force and effect, and the Parties will negotiate in good faith to reform this Agreement in order to give effect to the original intention of the Parties.
- (e) No Joint Venture. Nothing contained herein shall be deemed to establish a partnership, joint venture, association, or employment relationship between the Parties.
- (f) No Third-Party Beneficiaries. Except as expressly set forth in Section 9 regarding third-party beneficial rights to a Merchant Performance Guarantee, nothing expressed or implied in this Agreement is intended to create any rights, interests, obligations, or benefits, under this Agreement in any person other than the Parties and their respective successors and permitted assigns.
- (g) Assignments. Merchant shall not assign, sublicense, or transfer the Agreement or any right or duty under the Agreement to another Person, in whole or in part, without the prior written consent of Gasology. Any assignment, transfer, or attempted assignment or transfer in violation of this Section 24(g) will be void and of no force or effect. Gasology may, upon written notice to Merchant, assign, sublicense or transfer this Agreement pursuant to any restructuring, merger, consolidation, amalgamation or purchase of all or substantially all of its assets.
- (h) Interpretation. Headings of sections are for convenience only and are not intended to affect the interpretation or construction of any other provision of the Agreement. Merchant has had an opportunity to obtain legal advice and to understand its risks in entering into this Agreement. No presumption shall arise or adverse inference be drawn by virtue of authorship, and each Party hereby waives the benefit of any rule of law that might otherwise be applicable in connection with the interpretation of

this Agreement, including but not limited to any rule of law to the effect that any provision of this Agreement shall be interpreted or construed against the Party whose counsel drafted that provision.

- (i) Amendments. Upon prior notice, which may be provided by email, Gasology may change this Agreement at any time, and such revised Agreement will supersede and replace the earlier Agreement. Merchant's continued use of the G4M App after any such modifications, amendments or updates shall constitute Merchant's acceptance and consent to such changes.
- (j) Further Assurances. From time to time, and at any time during the Term of this Agreement each Party will execute, acknowledge and deliver such documents and assurances, reasonably requested by the other Party (in such form reasonably acceptable to the requested Party) and will take any other action consistent with the terms of this Agreement that may be reasonably requested by a Party for the purpose of effecting or confirming any of the Transactions contemplated hereby or thereby.
- (k) Imaged Documents and Counterparts. Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically ("**Imaged Documents**"). By Merchant accepting the terms of this Agreement, Merchant intends to create and Imaged Document. Imaged Documents may be introduced as evidence in any proceeding as if such were original business records and neither Party shall contest the admissibility of Imaged Documents as evidence in any proceeding.