

BORD GAIS EIREANN

and

[SHIPPER]

**INTEGRATED UTILITY SYSTEM ACCESS AGREEMENT (INTERIM
VERSION)**

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This is an **AGREEMENT** between:

- (1) **BORD GAIS EIREANN** (“the Transporter”), a statutory corporation having its registered office at Gas Works Road in the City of Cork; and
- (2) **[SHIPPER]** a company incorporated on the **[Date]** (Company Registration No. **[No.]**) (“Shipper”) having its registered office at **[Address]**.

to facilitate access by the Shipper to the IUS System as hereinafter defined.

WHEREAS:

- A. The Transporter owns and operates the Transportation System. In conjunction with operating the Transportation System, the Transporter maintains the IUS System.
- B. The Shipper desires to have access to the IUS System for the purpose of shipping Natural Gas in accordance with its rights and obligations under the **[STA]** executed by the Shipper as of **[Date]** and the Code.
- C. This Agreement contains the terms and conditions under which Shippers are authorised to access the IUS System and licensed to use the Hardware and the Software.

NOW IT IS HEREBY AGREED as follows:

1. Definitions

In this Agreement unless the context otherwise requires:

“The Distribution System” shall have the meaning assigned to it in the Code;

“The Transporter” shall have the meaning assigned to it in the Code;

“The Shipper” shall have the meaning assigned to it in the Code. All references to “the Shipper” in this Agreement shall be deemed to include its employees, agents and other representatives;

“STA” shall have the meaning assigned to it in the Code;

“The Hardware” means any hardware, including, but not limited to, pre-configured, lockdown desktops and printers, the use of which is licensed by the Transporter to the Shipper to facilitate access to the IUS System in accordance with this Agreement;

“IUS System” shall mean the IT system used within the Transporter to facilitate certain transportation and network related activities;

“The Software” shall mean any software the use of which is licensed by the Transporter to the Shipper to facilitate access to the IUS System in accordance with this Agreement.

“The Code” shall mean the Code of Operations of the Transporter in force at the time of this Agreement;

2. Licence

2.1 Subject to the terms and conditions of this Agreement, and for the use permitted under Clause 5.1 of this Agreement, the Transporter licences the Shipper:

- (a) to have access to and use of the IUS System;
- (b) to use the Hardware and the Software;
- (c) make use of any manual or other materials provided by the Transporter in respect of IUS System.

2.2 The licence granted in this Section 2 to the Shipper is royalty free, non-exclusive, and non-transferable.

3. Login Codes and Passwords

3.1 The Transporter will provide the Shipper with one or more login codes and passwords.

3.2 The Shipper agrees to the following:

- (a) the Transporter may change login codes and passwords at any time and from time to time;
- (b) certain passwords may expire on a periodic basis requiring the Shipper to input a new password;
- (c) the Shipper will not share its login codes and passwords with anyone else;

- (d) the Shipper will not allow any other person to access IUS System using the Shipper's login codes and passwords;
- (e) to immediately notify the Transporter if the Shipper has any reason to believe that any of the login codes or passwords issued to the Shipper has been compromised;
- (f) if the Shipper ceases to be a Shipper (as defined in the Code) then the Shipper will give immediate notice of such fact to the Transporter; and
- (g) the Transporter may conclusively assume that any party (other than the Transporter) accessing the IUS System using login codes and passwords issued to such Shipper is acting with the consent and on the authority of the Shipper.

4. Security

4.1 The Shipper hereby agrees to the following:

- (a) the Shipper shall be liable for access to and use or misuse of the IUS System, and all data, information or orders entered into the IUS System using login codes and passwords issued to the Shipper by the Transporter;
- (b) the Shipper shall maintain security procedures acceptable to the Transporter to ensure that the Shipper's computer systems are sufficiently secure to prevent unauthorised access to the IUS System.
- (c) the Shipper shall use its best endeavours and to the extent practicable to ensure that no unauthorised access or use of the IUS System occurs through its computer systems or any other systems under its power or control by means of, but not limited to:
 - **Hacking** (i.e., unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network).
 - **Interception** (i.e., unauthorised monitoring of data or traffic on any network or system without express authorization of the owner of the system or network).

- **Intentional Interference** (i.e., interference with service to any user, host or network including, without limitation, denial-of-service attacks, other flooding techniques, deliberate attempts to overload a system and broadcast attacks).
 - **Falsification of Origin** (i.e., forging of any TCP-IP packet header, e-mail header or any part of a message header).
 - **Avoiding System Restrictions** (i.e., using manual or electronic means to avoid any use limitations placed on the users).
- (d) the Shipper shall not transmit any unlawful, threatening, libellous, defamatory, obscene, scandalous, inflammatory, pornographic or profane material to or through the IUS System.
- (e) the Transporter shall be entitled to take all steps necessary to protect the security, modify, optimise or improve the IUS System at any time without notice to the Shipper.
- (f) the Transporter shall be entitled to contact or cooperate with any law enforcement, regulatory or other competent authority in connection with the Shipper's access to the IUS System and use of the Hardware and Software. Such contact and cooperation may include disclosure of the identity of, and the information transmitted or received by, any person accessing the IUS System.

5. Permitted Use

- 5.1 The Shipper may only access and use the IUS System and use the Hardware and Software for activities related to the shipping of Natural Gas consistent with the purposes contemplated by the STA and the Code.

6. Intellectual Property

- 6.1 The Hardware and the Software and all copyright and other intellectual property rights of whatever nature therein are and shall at all times remain the property of the Transporter and, where applicable, any licensor of the Software to the Transporter.
- 6.2 The Shipper shall use its best endeavours not to do or omit to do anything which prejudices the proprietary rights of the Transporter in the IUS System, the Hardware or the Software, including, but not limited to:

- (a) copying the Software and any manuals or other materials provided by the Transporter in respect of the IUS System (save for where the Shipper has obtained the prior written consent of the Transporter);
- (b) sub-licence the use of the Software, the Hardware and any manual or other materials provided by the Transporter in respect of the IUS System;
- (c) de-compile, disassemble or modify the whole or any part of the Software.

7. Non-Operation of IUS System

- 7.1 Where the Transporter declares the IUS System is not operational in whole or in part, the Shipper shall not be entitled to have access to or use of the IUS System and the Transporter shall not be obliged to provide the Shipper with access to or use of the IUS System.
- 7.2 For the avoidance of doubt, the Transporter may declare the IUS System non-operational in whole or in part in respect of the Shipper.

8. Confidentiality

- 8.1 The Shipper acknowledges that by virtue of the Transporter providing access to the IUS System, the Shipper will have access to information of the Transporter that is confidential and constitutes the property of the Transporter. The Shipper agrees that during or subsequent to the term of this Agreement neither, it, nor its agents or employees will disclose to others, use, copy (in whole or in part) or permit to be copied, modified or adapted without the Transporter's prior written consent, any confidential or proprietary information of the Transporter or any other Shipper, and which is not otherwise available to the public.
- 8.2 If through the IUS System, the Shipper obtains or receives unauthorised access to information concerning another Shipper, or receives a communication sent to another Shipper, the receiving Shipper shall promptly inform the Transporter and will close the screen on which such information of communication appears and delete the same from its computer systems without making any copy thereof (in destroying any copy accidentally made) and make no further use of such information.
- 8.3 The provisions of this Clause 8 are in addition to and without prejudice to any other confidentiality obligations owed by the Shipper to the Transporter.

9. Data Protection

- 9.1 The Shipper shall to the extent that it controls and/or processes personal data in the performance of its obligations and in the exercise of its rights pursuant to this Agreement and for any purpose contemplated by this Agreement comply with the provisions of the Data Protection Acts 1988 and 2003, any amendments or re-enactments thereof, and all regulations made thereunder.
- 9.2 Without prejudice to the generality of Clause 9.1, the Shipper warrants that any personal information it processes in the performance of its obligations or the exercise of its rights pursuant to this Agreement shall only be processed for the purposes permitted pursuant to this Agreement. The Shipper further warrants that it shall have obtained the prior written consent of the person or persons to whom such data relates in the event that it processes such data for any other lawful purpose.
- 9.3 The Shipper acknowledges that the Transporter shall in reliance upon the warranties in this Clause 9.2 permit the Shipper access to such personal data in accordance with the Code upon receiving a request from the Shipper for disclosure of such data.
- 9.4 The terms “personal data” and “processing” shall have the meanings assigned to them in the Data Protection Acts 1988 and 2003.
- 9.5 The provisions of this Section shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

10. Term and Termination

- 10.1 This Agreement shall remain in effect from [Date] to implementation of the Unified Code of Operations (UCOP) unless terminated earlier in accordance with Clause 10.2 below.
- 10.2 The Transporter may terminate this Agreement upon:
 - (a) The Shipper ceasing to be a Shipper for the purpose of the Code;
 - (b) The Shipper breaching any of the terms or conditions of this Agreement and/or the Code, and/or the Shipper’s Standard Transportation Agreement;
 - (c) The Shipper becoming bankrupt or insolvent or being a corporation, commencing to be wound up.
- 10.3 Upon termination of this Agreement in accordance with this Clause 10:
 - (a) the Transporter shall revoke access by the Shipper to the IUS System;

- (b) the Shipper shall return the Software and Hardware to the Transporter and ensure that its employees and other representatives discontinue access to and use of the IUS System, the Hardware and the Software. Where the Shipper has damaged or destroyed the Software or Hardware it shall reimburse the Transporter any reasonable cost and expenses incurred by the Transporter in respect of such loss. The Shipper shall also at the written request of the Transporter return or destroy any version of the Software for which a revised version has been issued; and
- (c) the Shipper shall cease to use all information obtained as a result of accessing the IUS System and using the Hardware and Software and, in such event:
 - (i) the Shipper will return to the Transporter, or shall destroy (as the Transporter may direct), such of the original versions of any such information and copies thereof that are in its possession;
 - (ii) the Shipper shall destroy all documents, memoranda, notes and other writings whatsoever prepared by it or in its possession which incorporate any such information; and
 - (iii) if the Transporter should so require, the Shipper shall, when returning original versions of such information provide to the Transporter a statutory declaration duly executed by the Shipper confirming that, to the best of the declarant's knowledge, information and belief, the Shipper has complied with all its obligations under this Clause 10.3 (c).

11. Indemnification

- 11.1 The Shipper hereby agrees to indemnify and keep indemnified the Transporter from and against all costs, claims, demands, liabilities, expenses, damages or losses (including without limitation consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with the Shipper's access to, use or misuse of the IUS System, its negligence, default or breach of this Agreement. This indemnity shall apply whether or not the Transporter may have been negligent or at fault and does not limit any further compensation rights of the Transporter.

12. Liability of the Transporter

- 12.1 While the Transporter shall use reasonable endeavours to include accurate and up to date information in the IUS System, the Transporter

assumes no liability or responsibility for any errors or omissions in relation to such information.

- 12.2 The Transporter shall not be liable for any damages of any kind, whether direct, indirect, consequential or exemplary resulting from the Shipper's use or inability to use the IUS System.

13. Disclaimer

- 13.1 The Transporter disclaims all warranties, express or implied, including, without limitation, the implied warranties of merchantability, title, and fitness for a particular purpose. The Transporter does not warrant that access to, or use of the IUS System will be uninterrupted or error-free, or that any software or services will meet any particular criteria of performance or quality. By signing hereunder, the Shipper expressly acknowledges and agrees that the Transporter has not made any express or implied representations, assurances and/or warranties regarding the use or availability of the IUS System.

14. General

- 14.1 This Agreement shall be governed by Irish Law and subject to the non-exclusive jurisdiction of the Irish Courts.
- 14.2 Failure by the Transporter to enforce any provisions of this Agreement shall not constitute or be construed as a waiver of such provisions.
- 14.3 By signing below, the undersigned represents that he/she has the authority to execute this Agreement on behalf of the party for which he/she signs.

IN WITNESS WHEREOF, the parties by their duly authorised representatives have signed this Agreement.

Signed on behalf of **[Shipper]**

Name:

Title:

Date:

Signed on behalf of **the Transporter**

Name:

Title

Date: