

BORD GAIS EIREANN

and

[SHIPPER]

BGT SYSTEMS ACCESS AGREEMENT

Revision 1.0 February 25th 2005

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 NAME] (“the Shipper”) having its registered office at [Address].

to facilitate access by the Shipper to the BGT Systems.

WHEREAS:

- A. The Transporter owns, maintains and operates the Transportation System. In conjunction with operating the Transportation System, the Transporter owns, maintains and operates the BGT Systems, the Hardware, and the Software.
- B. The Shipper requires access to the BGT Systems for the purpose of activities relating to shipping Natural Gas in accordance with its rights and obligations under the Code and, where applicable, the Siteworks Agreement.
- C. This Agreement contains the terms and conditions under which the Shipper is authorised to access one or more electronic information systems comprised within the BGT Systems, as applicable, and, if applicable, licensed to use the Hardware and the Software.
- D. This Agreement is an Ancillary Agreement for the purpose of the Code.

NOW IT IS HEREBY AGREED as follows:

1. Definitions

In this Agreement, capitalised terms shall have the meaning given in the Code. In addition, unless the context otherwise requires, the following terms shall have the following meanings:

“**Authorised User**” shall mean those persons (including agents or sub-contractors of the Shipper) authorised by the Shipper and notified by the Shipper in writing to the Transporter pursuant Clause 3.2(a) of this Agreement as being authorised to have access to and use of one or more electronic information systems comprised within the BGT Systems, as applicable, on its behalf.

“**The Code**” shall mean the Code of Operations of the Transporter, as may be modified from time to time;

“**GTMS System**” shall mean the IT system identified as the Gas Transportation Management System;

“**Hardware**” shall mean 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 (which forms part of the BGT Systems) in accordance with this Agreement;

“IUS System” shall mean the electronic information exchange network and associated IT system identified as the Integrated Utility System;

“Siteworks Agreement” shall mean any agreement made between the Transporter and the Shipper for the provision of Siteworks services to the Shipper, including, for the avoidance of doubt, an Operational Siteworks Services Agreement and Connection Siteworks Agreement.

“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;

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 hereby licences the Shipper through its Authorised Users:

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

2.2 The licence granted in this Clause 2 to the Shipper is royalty free, non-exclusive, and non-transferable. The Shipper shall be liable for all costs and charges incurred arising out of or in conjunction with its use of and access to BGT Systems, save where otherwise outlined in the schedule of charges approved by the Commission.

2.3 The Shipper shall at the written request of the Transporter return or destroy any version of the Software for which a revised version has been issued.

3. **Usernames and Passwords**

3.1 The Transporter:

- (a) subject to Clauses 3.2(a) and 6.1 of this Agreement, shall provide the Shipper with one or more usernames and passwords which will enable its Authorised Users to access and use the BGT Systems in accordance with the notification made under Clause 3.2(a) for the purposes set out in this Agreement;
- (b) may change usernames and passwords and/or require the Shipper to change passwords and shall give reasonable prior

notice to the Shipper of such change. The Transporter shall not be required to provide prior notice where such change is required urgently to protect the security of the BGT Systems. Where no prior notice is provided to the Shipper, the Transporter shall advise the Shipper as soon as practicable thereafter;

- (c) shall not share the Shipper's usernames and passwords with anyone other than the Shipper;
- (d) shall conclusively assume (in the absence of manifest error on the part of the Transporter) that any person (other than the Transporter) accessing the BGT Systems using usernames and passwords issued to such Shipper is acting with the consent and on the authority of the Shipper; and
- (e) shall as soon as practicable discontinue access to the BGT Systems by a Shipper and/or all or any of its Authorised Users where it has been notified in writing by the Shipper in accordance with Clause 3.2(f) or Clause 3.2(g) .

3.2 The Shipper:

- (a) shall notify the Transporter in writing of the identity and relevant details of each of its Authorised Users and in respect of each Authorised User the electronic information systems comprised within the BGT Systems in respect of which access is sought;
- (b) agrees that certain passwords may expire on a periodic basis (as may be advised by the Transporter from time to time) requiring the Shipper to input a new password;
- (c) shall be solely responsible for notifying changes to usernames and passwords to each of its Authorised Users. The Transporter shall have no responsibility in this regard;
- (d) shall not share each username and password with anyone other than the Authorised User in respect of which such username and password have been issued. Use of each username and password shall be confined to the Authorised Users in respect of which such username and password have been issued;
- (e) will endeavour to prevent access to the BGT Systems using each of the usernames and passwords issued to each of its Authorised Users by persons other than each of the Authorised Users in respect of which each such username and password has been issued;

- (f) shall notify the Transporter in writing where it reasonably believes that any of the usernames or passwords issued to the Shipper have been compromised;
- (g) shall inform the Transporter in writing whenever it desires to terminate access to the BGT Systems that has been granted to any Authorised User of that Shipper. The Shipper shall be solely responsible for any and all unauthorised or otherwise improper use of usernames and passwords by any of its Authorised Users, including those whom are no longer employed or controlled by the Shipper, save to the extent that the Transporter has failed to comply with its obligations pursuant to Clause 3.1(e); and
- (h) shall notify the Transporter immediately if it ceases to be a Shipper (as defined in the Code).

4. Security

4.1 The Shipper hereby acknowledges:

- (a) save to the extent that the Transporter has failed to comply with its obligations pursuant to Clause 3.1(e), the Transporter shall be entitled to rely on information and data submitted by the Shipper through its access to and use of the BGT Systems using usernames and passwords issued to the Shipper;
- (b) the Transporter shall be entitled to take all steps necessary to protect the security of the BGT Systems at any time, including, but not limited to, immediately discontinuing access by the Shipper and its Authorised Users to the BGT Systems where the Transporter suspects that the security of the BGT Systems has been or is likely to be compromised. The Transporter shall not be required to give prior notice where it requires to take steps to urgently protect the security of the BGT Systems;
- (c) the Transporter shall be entitled to take all reasonable steps to modify, optimise or improve the BGT Systems at any time and shall give reasonable prior notice thereof to the Shipper; and
- (d) 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 BGT Systems 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 BGT Systems.

4.2 Each party shall:

- (a) maintain security procedures to ensure that its premises (from which the BGT Systems are accessed), its computer network, and its computer systems are sufficiently secure to prevent unauthorised access to the BGT Systems;
 - (b) not transmit any unlawful, threatening, libellous, defamatory, obscene, scandalous, inflammatory, pornographic or profane material to or through the BGT Systems;
 - (c) use reasonable endeavours to ensure that no unauthorised access to or use of the BGT Systems occurs from its premises (from which the BGT Systems are accessed), or through its computer network, or through its computer systems by means of, but not limited to:
 - (i) **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).
 - (ii) **Interception** (i.e., unauthorised monitoring of data or traffic on any network or system).
 - (iii) **Intentional Interference** (i.e. unauthorised 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).
 - (iv) **Falsification of Origin** (i.e., forging of any TCP-IP packet header, e-mail header or any part of a message header).
 - (v) **Avoiding System Restrictions** (i.e., unauthorised use of manual or electronic means to avoid any use limitations placed on the users).
 - (d) implement and maintain policies and procedures consistent with standard industry practice to protect against harmful code, viruses or programming instructions from being transmitted or received to the other party by reason of the performance of their obligations under this Agreement and each party shall notify the other party if it has reason to believe that any such code, virus or programming instruction has been so transmitted or received.
- 4.3 The Shipper shall procure that each of its Authorised User's premises, computer networks and computer systems complies with the requirements of Clauses 4.2(a) and (c), above.

5. **Permitted Use**

- 5.1 The Shipper may only access and use the BGT Systems and use the Hardware and Software for activities related to the shipping of Natural Gas consistent with the purposes contemplated by the Code and, where applicable, the Siteworks Agreement.

6. **Training and Provision of Support and Information**

- 6.1 The Transporter shall not be obliged to furnish a username and password to the Shipper for use by an Authorised User until such time as each such Authorised User has to the satisfaction of the Transporter completed a course of training provided by or on behalf of the Transporter with respect to the BGT Systems. For the avoidance of doubt, where the Shipper requires access to only one or other of the IUS Systems and the GTMS System, its Authorised User shall only be required to complete a course of training in respect of the IUS System or GTMS System, as the case may be.
- 6.2 The Transporter agrees to make available to the Shipper such training, information, manuals and other materials as may be reasonably required in connection with access to and use of the BGT Systems in accordance with this Agreement.
- 6.3 In the event that the Shipper encounters difficulties with accessing and/or using the BGT Systems, the Transporter shall meet all reasonable requests for support and information in addressing such difficulties from the Shipper.
- 6.4 In the event that the Transporter is required by the Shipper to attend at the Shipper's premises in performing its obligations under Clauses 6.2 or 6.3, the Transporter shall be entitled to charge for each such visit on the basis of a quotation provided to the Shipper.

7. **Intellectual Property**

- 7.1 The Transporter warrants that the Hardware, the Software, and intellectual property rights therein are and shall at all times for the duration of this Agreement remain the property of the Transporter and, where applicable, any licensor of the Software to the Transporter.
- 7.2 The Shipper's sole rights in respect of the BGT Systems, Hardware and/or the Software shall be those conferred under this Agreement
- 7.3 The Shipper shall (and the Shipper shall procure that each of its Authorised Users shall) not do or omit to do anything which prejudices the proprietary rights of the Transporter in the BGT Systems, the Hardware, the Software or any information, manuals or materials

provided by the Transporter to the Shipper, including, but not limited to:

- (a) copying the Software and any manuals or other materials provided by the Transporter in respect of the BGT Systems (save to the extent permitted by law or where the Shipper has obtained the prior written consent of the Transporter);
- (b) using the BGT Systems to prepare a derivative work or attempting to reverse-engineer or reverse-engineering the BGT Systems or the Software.
- (c) sub-licensing the use of the Software, the Hardware and any manual or other materials provided by the Transporter in respect of the BGT Systems;
- (d) de-compiling, disassembling or modifying the whole or any part of the Software.

8. **Availability of BGT Systems**

8.1 Subject to Clause 8.2, the Transporter shall use reasonable endeavours to maintain availability of the BGT Systems (subject to the Transporter carrying out scheduled and non-scheduled work on the BGT Systems intended to ensure proper functioning and maintenance of the BGT Systems which may result in temporary unavailability of the BGT Systems) and to correct any errors in the BGT Systems.

8.2 The IUS Systems Shall be available each business day from 08.30 to 17.00 hours. The GTMS System shall be available each Gas Day.

9. **Confidentiality**

The rights and obligations of the parties to this Agreement with respect to issues of confidentiality shall be as provided for in Part I (*Legal and General*), Section 9 (*Confidentiality and Data Protection*) of the Code.

10. **Data Ownership and Data Protection**

The rights and obligations of the parties with respect to data ownership and data protection shall be as provided for in Part I (*Legal and General*), Section 9 (*Confidentiality and Data Protection*) of the Code.

11. **Suspension and Termination**

11.1 The rights and obligations of the parties with respect to termination of this Agreement shall be as provided for in Part I (*Legal and General*), Section 4 (*Suspension and Termination*) of the Code and this Agreement.

11.2 Without prejudice to Clause 11.1, this Agreement shall terminate, in the event that the Code is modified to incorporate terms and conditions

governing access to and use of the BGT Systems and use of the Hardware and the Software, on the date of such Modification becomes effective.

11.3 Upon termination of this Agreement in accordance with Part I (*Legal and General*), Section 4.4 (*General Termination Rights*) of the Code:

- (a) the Transporter shall revoke access and use of the BGT Systems and use of the Hardware and the Software;
- (b) where requested by the Transporter the Shipper shall return the Software, Hardware, and all information, training manuals and materials in the possession or under its control to the Transporter and ensure that its Authorised Users discontinue access to and use of the BGT Systems, the Hardware and the Software; and
- (c) the Shipper shall cease to use all confidential information obtained as a result of accessing the BGT Systems and using the Hardware, information, training manuals and materials 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; and
 - (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.

11.4 In the event of the suspension in whole or in part of the Shipper's rights pursuant to the Code or any Ancillary Agreement in accordance with Part I (*Legal and General*), Section 4.1 (*Suspension*) of the Code or specific termination of any of the Shipper's rights pursuant to the Code or any Ancillary Agreement in accordance with Part I (*Legal and General*), Section 4.2 (*Specific Termination*) of the Code:

- (a) the Transporter shall revoke or limit (as appropriate) access to and use of the BGT Systems and use of the Hardware and Software permitted under Clause 5.1; and
- (b) the Shipper shall ensure that its Authorised Users comply with any limitation imposed by the Transporter pursuant to this Clause 11.4 on the Shipper's access to and use of the BGT Systems, the Hardware and the Software.

12. **Liabilities and Indemnities**

12.1 Neither party shall have any liability to the other party except as provided for in Part I (*Legal and General*), Section 2 (*Liabilities and Indemnities*) of the Code.

13. **Warranties and Disclaimer**

13.1 The Transporter warrants that it will make the BGT Systems available in accordance with the terms of this Agreement and to the standards expected of a Reasonable and Prudent Operator. Subject to the foregoing, the Transporter:

- (a) disclaims all warranties, express or implied, including, without limitation, the implied warranties of merchantability, title, and fitness for a particular purpose;
- (b) does not warrant that access to, or use of the BGT Systems will be uninterrupted or error-free, or that any software or services will meet any particular criteria of performance or quality; and
- (c) has not made any express or implied representations, assurances and/or warranties regarding the use or availability of the BGT Systems.

14. **Disputes**

14.1 Disputes arising out of or in connection with this Agreement shall be resolved in accordance with the provisions of Part I (*Legal and General*), Section 6 (*Disputes*) of the Code.

14.2 The Transporter will use reasonable endeavours to keep a chronological record of communications transmitted through the BGT Systems. Such record shall be in such form and for such period as may be required by law. In the event of a dispute regarding a communication transmitted through the BGT Systems, the Transporter will make available its records as directed by the Commission.

15. **General**

15.1 The provisions of Part I (*Legal and General*), Section 12 shall apply to this Agreement.

15.2 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: