

DATA PROCESSOR AGREEMENT

THIS AGREEMENT is made on 2015

BETWEEN

- (1) GAS NETWORKS IRELAND, a private limited company, incorporated in Ireland with registered number 555744 and having its registered office at Gasworks Road, Cork ("**GNI**"); and
- (2) [**Name of Shipper**] of [**address**] (the "**Shipper**").

RECITALS:

- (A) The parties acknowledge and agree that in certain circumstances GNI carries out services on behalf of the Shipper which involve the processing of Personal Data (as defined below) by GNI on behalf of the Shipper.
- (B) The parties further acknowledge and agree that in certain circumstances the Shipper carries out services on behalf of GNI which involve the processing of Personal Data by the Shipper on behalf of GNI.
- (C) The circumstances in which GNI processes Personal Data on behalf of the Shipper (the "**GNI Data Processing Purposes**"), and in which the Shipper processes Personal Data on behalf of GNI (the "**Shipper Data Processing Purposes**") are set out in the Schedule.
- (D) The parties have entered into this Ancillary Agreement (as defined in the Code) to supplement the Code and to ensure that each party complies with its respective obligations under the DPA (as defined below) in respect of the GNI Data Processing Purposes and the Shipper Data Processing Purposes.
- (E) In addition, the parties have entered into this Agreement for the purposes of procuring (i) GNI's consent to the Shipper processing GNI Personal Data for the Shipper Data Processing Purposes set out in Schedule 1, and (ii) the Shipper's consent to GNI processing Shipper Personal Data for the GNI Data Processing Purposes set out in Schedule 1.

1. DEFINITIONS

"**Code**" shall mean the Code of Operations Version 4.0 (as amended, updated or replaced from time to time).

"**DPA**" shall mean the Data Protection Acts 1988 and 2003 (as amended, extended or replaced from time to time).

"**Personal Data**", "**data controller**" and "**data processor**" shall each have the meanings set out in the DPA.

"**Technical and Organisational Security Measures**" shall mean those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

"Vulnerable Customers" shall mean I) a household customer critically dependent on electrically powered equipment, which shall include but is not limited to life protecting devices, assistive technologies to support independent living and medical equipment, II) or a household customer particularly vulnerable to disconnection during winter months for reasons of advanced age or physical, sensory, intellectual or mental health or III) any person who is:

- Elderly (Aged 66 or over, living alone or with other persons over 66 or with minors) or
- Mobility impaired or
- Visually impaired or
- Hearing impaired or
- Mentally Impaired or
- Speech Impaired or
- Language Difficulty or
- Learning Difficulty or
- Dexterity Impaired.

THE PARTIES HEREBY AGREE AS FOLLOWS:

2. PRIORITY OF THE CODE

- 2.1 The parties agree that the provisions of this Agreement are subject always to the provisions of the Code. In the event of any conflict between the provisions of the Code and the provisions of this Agreement, the provisions of the Code shall prevail.

3. DATA CONTROLLER ACKNOWLEDGEMENT

- 3.1 GNI hereby acknowledges that:

- (a) it is the data controller in respect of any Personal Data processed by the Shipper on its behalf in connection with the Shipper Data Processing Purposes;
- (b) it has primary responsibility for controlling the contents and uses of such Personal Data;
- (c) the Shipper, as data processor, merely holds and processes such Personal Data on behalf of, and on the instructions of, GNI; and
- (d) the Shipper's sole obligations in respect of such Personal Data are as set out in clause 4 of this Agreement.

- 3.2 The Shipper hereby acknowledges that:

- (a) it is the data controller in respect of any Personal Data processed by GNI on its behalf in connection with the GNI Data Processing Purposes;
- (b) it has primary responsibility for controlling the contents and uses of such Personal Data;
- (c) GNI, as data processor, merely holds and processes such Personal Data on behalf of, and on the instructions of, the Shipper; and
- (d) GNI's sole obligations in respect of such Personal Data are as set out in clause 4 of this Agreement.

- 3.3 Each party hereby agrees to comply with its obligations as a data controller under the DPA, and agrees that it shall not, by act or omission, cause the other party to be in breach of its obligations under the DPA or clause 4 of this Agreement.

4. DATA PROCESSOR OBLIGATIONS

4.1 GNI acknowledges that in carrying out services in connection with the GNI Data Processing Purposes, it will process Personal Data on behalf of the Shipper. In such circumstances GNI agrees:

- (a) that it will process such personal data solely in accordance with the instructions of the Shipper;
- (b) that it will implement such Technical and Organisational Security Measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data and that, having regard to the state of technological development and the costs of implementing any measures, will ensure a level of security appropriate to the harm that might result from such authorised or unlawful processing or accidental loss, destruction or damage and the nature of the personal data to be protected including as a minimum the security measures set out in Appendix 1 to this Agreement;
- (c) to provide access to the Shipper (or its authorised representative(s)) at reasonable times and on reasonable notice, to audit the Technical and Organisational Security Measures adopted by GNI to ensure that such measures comply with the data security obligations in the DPA;
- (d) to notify the Shipper as soon as reasonably practicable on becoming aware of any data security breach actual or suspected and to provide the Shipper with such reasonable co-operation and assistance as may be required to mitigate against the effects of any such breach;
- (e) to inform the Shipper immediately in the event of receiving a data subject access request and to provide all such co-operation and assistance as may be reasonably required to enable the Shipper to deal with any subject access request in accordance with the provisions of the DPA;
- (f) to provide the Shipper with full visibility of where personal data is being processed by GNI or its employees or subcontractors on behalf of the Shipper and to ensure that no personal data shall be transferred outside of the European Economic Area by GNI or any of its employees or subcontractors without the prior written consent of the Shipper which consent may be subject to terms and conditions including, without limitation, that GNI and any of its sub contractors enters into model clauses in the form approved by the European Commission and, where relevant, complies with the provisions regarding sub-processors contained in such model contracts in respect of its subcontractors;
- (g) subject to the provisions of clause 4.1(f), where any subcontractors of GNI will be processing personal data on behalf of the Shipper, GNI shall ensure that a written contract exists between GNI and the relevant subcontractor containing clauses equivalent to those imposed on GNI in this clause and GNI shall enter such contract on behalf of itself and as agent for the Shipper;
- (h) to promptly inform the Shipper if:-
 - (a) any Personal Data processed on behalf of the Shipper is lost or destroyed, damaged or unusable and restore, where possible to do so, such Personal Data at its own cost; or
 - (b) it becomes aware of any actual or suspected unauthorised or unlawful

processing of the Personal Data processed on behalf of the Shipper.

- (i) GNI will indemnify the Shipper fully against all losses, damages, claims, demands and expenses suffered by the Shipper which arise in any way from any negligence, wilful default or breach of contract in relation with GNI, its directors or its employees' obligations under this clause 4.1.
- 4.2 GNI further agree that it shall not, without the prior consent of the Shipper, process Shipper Personal Data for any purpose other than the GNI Data Processing Purposes.
- 4.2 A) The parties acknowledge and agree that any amendment to this Agreement shall be in accordance with section 1, Part I of the Code (Modifications).
- 4.3 The Shipper acknowledges that in carrying out services in connection with the Shipper Data Processing Purposes, it will process Personal Data on behalf of GNI. In such circumstances the Shipper agrees:
- (a) that it will process such personal data solely in accordance with the instructions of GNI;
 - (b) that it will implement such Technical and Organisational Security Measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data and that, having regard to the state of technological development and the costs of implementing any measures, will ensure a level of security appropriate to the harm that might result from such authorised or unlawful processing or accidental loss, destruction or damage and the nature of the personal data to be protected including as a minimum the security measures set out in Appendix 1 to this Agreement;
 - (c) to provide access to GNI (or its authorised representative(s)) at reasonable times and on reasonable notice, to audit the Technical and Organisational Security Measures adopted by the Shipper to ensure that such measures comply with the data security obligations in the DPA;
 - (d) to notify GNI as soon as reasonably practicable on becoming aware of any data security breach, actual or suspected, and to provide GNI with such reasonable co-operation and assistance as may be required to mitigate against the effects of any such breach;
 - (e) to inform GNI immediately in the event of receiving a data subject access request and to provide all such co-operation and assistance as may be reasonably required to enable GNI to deal with any subject access request in accordance with the provisions of the DPA;
 - (f) to provide GNI with full visibility of where personal data is being processed by the Shippers or its employees or subcontractors on behalf of GNI and to ensure that no personal data shall be transferred outside of the European Economic Area by the Shipper or any of its employees or subcontractors without the prior written consent of GNI which consent may be subject to terms and conditions including, without limitation, that the Shipper and any of its subcontractors enters into model clauses in the form approved by the European Commission and, where relevant, complies with the provisions regarding sub-processors contained in such model contracts in respect of its subcontractors;
 - (g) subject to the provisions of clause 4.3(f), where any subcontractors

of the Shipper will be processing personal data on behalf of GNI, the Shipper shall ensure that a written contract exists between the Shipper and the relevant subcontractor containing clauses equivalent to those imposed on the Shipper in this clause and the Shipper shall enter such contract on behalf of itself and as agent for GNI;

- (h) to promptly inform GNI if:-
 - (a) any Personal Data is lost or destroyed, damaged or unusable and restore such Personal Data at its own cost; or
 - (b) it becomes aware of any actual or suspected unauthorised or unlawful processing of the Personal Data.
- (i) Notwithstanding clause 2.11.3, Part I of the Code, the Shipper will indemnify GNI fully against all losses, damages, claims, demands and expenses suffered by GNI which arise in any way from any negligence, wilful default or breach of contract in relation with the Shipper, its directors or its employees' obligations under this clause 4.3 on the part of the Shipper or its directors or employees.

4.4 The Shipper further agree that it shall not, without the prior consent of GNI, process GNI Personal Data for any purpose other than the Shipper Data Processing Purposes.

5. Schedule

The parties agree that the Schedule may be amended from time to time, and following each party countersigning an updated schedule such updated schedule shall be deemed to be incorporated into this agreement.

6. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of Ireland.

IN WITNESS WHEREOF the parties have executed this Agreement on the date written above.

SIGNED BY

for and on behalf of

Gas Networks Ireland

in the presence of:

SIGNED BY

for and on behalf of

[SHIPPER]

in the presence of:

Schedule GNI Data Processing Purposes

The Shipper hereby agrees that GNI is permitted to process Personal Data on behalf of the Shipper in the following circumstances:

- Debt flagging;
- Facilitating the exchange of Personal Data between Shippers for any purpose related to a change of shipper request by a customer;
- Sending reminders to customers to submit meter readings;
- Making disclosures of Personal Data to the following third parties:
 - An Garda Siochana for the purposes of criminal investigations;
 - Housing and local authorities (subject to the data subject's prior consent, where required under the DPA);
 - Requests from customers for a copy of their Personal Data in accordance with Sections 3 or 4 of the DPA;
- All purposes reasonably connected with the performance of GNI's legal and regulatory obligations.
- Vulnerable Customers, (as described in section 1 above (Definitions)) with the exclusion of sensitive data
- Eligibility Listing of all Industrial & Commercial Customers
- GPRO for Meter Mix Ups
- GPRN Listing for Meter Read Schedule

Shipper Data Processing Purposes

GNI hereby agrees that the Shipper is permitted to process Personal Data on behalf of GNI in the following circumstances:

- Debt flagging
- Facilitating the exchange of Personal Data between Shippers for any purpose related to a change of shipper request by a customer
- Sending reminders to customers to submit meter readings
- Making disclosures of Personal Data to the following third parties:
 - An Garda Siochana for the purposes of criminal investigations;
 - Housing and local authorities (subject to the data subject's prior consent, where required under the DPA);
 - Requests from customers for a copy of their Personal Data in accordance with Sections 3 or 4 of the DPA;
- Vulnerable Customers (as described in section 1 above (Definitions)) with the exclusion of sensitive data
- Eligibility Listing of all Industrial & Commercial Customers

- GPRO for Meter Mix Ups
- GPRN Listing for Meter Read Schedule
- All purposes reasonably connected with the performance of the Shipper's legal and regulatory obligations.

Appendix 1

Security Measures

The Data Processor will ensure that wherever reasonably practicable the following requirements are met:

- The protection of all external internet gateways with appropriate firewalls and security patches and the conducting of appropriate vulnerability scanning on external internet gateways and significant findings remediated accordingly.
- The protection of other external communications access routes (e.g. out of band internet or remote access) with appropriate measures in line with good industry practice.
- The restriction of remote user access including appropriate user authentication and session encryption.
- The restriction of, and procedures relating to, the transfer and storage of information outside of the logical security perimeter of the Data Processor's network and where appropriate use of encryption technology to protect the personal data.
- The putting into place of appropriate and current antivirus protection measures.