

**General Terms and
Conditions Reverse Flow
2010-1**

between

BBL Company

and

Shipper

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Article 1 DEFINITIONS

For the purposes of these *Conditions*, except where it expressly provides otherwise, the following expressions shall have the meanings ascribed to them in this Article 1 and shall include the plural as well as the singular:

- 1.1 "*Affiliated Company*" shall mean a company
- (a) of which fifty percent (50%) or more of the outstanding voting stock or rights is directly or indirectly owned by a *Party*, or
 - (b) which directly or indirectly owns fifty percent (50%) or more of the outstanding voting stock or rights of a *Party*, or
 - (c) of which fifty percent (50%) or more of the outstanding voting stock or rights is directly or indirectly owned by one and the same company which also directly or indirectly owns fifty percent (50%) or more of the outstanding voting stock of a *Party*.
- 1.2 "*Agreement*" shall mean the written confirmation as shown in Exhibit D sent by *BBL Company* to *Shipper* after an auction, containing the outcome of that auction, which includes *Transmission Capacity*, *Start Date*, *End Date* and component T1 of the fee to be paid by *Shipper*.
- 1.3 "*Allocation Rules*" shall mean the allocation rules as provided for in Article 6.2 of the *Conditions* and Article 7 of the *Operating Manual Reverse Flow*.
- 1.4 "*Auction Year*" shall mean the 12-Month period which starts at the start date of the *Quarterly* capacity that *BBL Company* offers for sale in the first ever auction of capacity in the *Reverse Flow Direction*, or at the anniversary of this start date.
- 1.5 "*BBL Company*" shall mean the BBL Company V.O.F., registered at the 'Kamer van Koophandel' number 02085020, owning and operating the *BBL-Facilities*.
- 1.6 "*BBL-Facilities*" shall mean the pipelines and other equipment which are used to fulfil *BBL Company's* obligations under the *Agreement*.
- 1.7 "*BBL-Shipper*" shall have the meaning ascribed to it in Article 3.
- 1.8 "*Business Day*" shall mean a day, not being a Saturday, a Sunday or a day on which Dutch banks are closed for business, and refers for communication purposes to the time frame between 8.30 hours *LET* and 17.00 hours *LET*.
- 1.9 "*Capacity Restriction*" shall mean any physical limitation of the available transmission capacity in the *Forward Flow Direction* which is not caused by planned maintenance or the situation that *Entry Gas* does not comply with the quality and/or pressure specifications of the General Terms and Conditions Forward Flow.
- 1.10 "*Competent Authority*" shall mean any local, national or supra-national agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person (whether autonomous or not) of the United Kingdom or the Netherlands (or the governments thereof) or the European Communities which has jurisdiction over either *Party* or the subject matter of the *Agreement*.
- 1.11 "*Conditions*" shall mean this document, including the exhibits thereto and any amendments thereof.
- 1.12 "*Confirmation*"

shall mean the message from *BBL Company* to *Shipper* as described in the *Operating Manual* containing among other things the *Hourly Quantities of Entry Gas Reverse Flow* deemed to be made available by *Shipper* to *BBL Company* at the *Entry Point Reverse Flow* based on *Shipper's (Re)Nomination* and the *Hourly Quantities of Exit Gas Reverse Flow* deemed to be made available by *BBL Company* to *Shipper* at the *Exit Point Reverse Flow* based on *Shipper's (Re)Nomination*.

- 1.13 "Contract Period"
shall mean the period of time commencing at the *Start Date* at 06.00 hours *LET* and expiring at the *End Date* at 06.00 hours *LET*.
- 1.14 "Credit Control Protocol"
shall mean Exhibit B of the *Conditions*.
- 1.15 "End Date"
shall mean the date designated as such in the *Agreement*.
- 1.16 "Entry Gas"
shall mean *Gas* made available or deemed to be made available by another BBL-shipper to *BBL Company* at the *Entry Point* under an agreement with *BBL Company*.
- 1.17 "Entry Gas Reverse Flow"
shall mean *Gas* deemed to be made available by *Shipper* to *BBL Company* at the *Entry Point Reverse Flow* under the *Agreement*.
- 1.18 "Entry Point"
shall mean the point where the flanges of the *BBL-Facilities* are connected to the flanges of *Gas Transport Services'* facilities near Julianadorp and where *Gas* leaves the *GTS* facilities and enters the *BBL-Facilities*.
- 1.19 "Entry Point Reverse Flow"
shall mean the point where the flanges of the *BBL-Facilities* are connected to the flanges of the *National Grid* facilities near Bacton.
- 1.20 "EURIBOR"
shall mean the one-month Euro Interbank Offered Rates as set by the European Central Bank and as published in *Het Financieele Dagblad* on the second *Business Day* of each calendar month and published on Bloomberg (EUR001M <index>).
- 1.21 "Euro (€)"
shall mean the European currency Euro (€).
- 1.22 "Exit Gas"
shall mean *Gas* made available or deemed to be made available by *BBL Company* to another BBL-shipper at the *Exit Point* under an agreement with *BBL Company*.
- 1.23 "Exit Gas Reverse Flow"
shall mean *Gas* deemed to be made available by *BBL Company* to *Shipper* at the *Exit Point Reverse Flow* under the *Agreement*.
- 1.24 "Exit Point"
shall mean the point where the flanges of the *BBL-Facilities* are connected to the flanges of the *National Grid* facilities near Bacton and where *Gas* leaves the *BBL-Facilities* and enters the *National Grid* system.
- 1.25 "Exit Point Reverse Flow"
shall mean the point where the flanges of the *BBL-Facilities* are connected to the flanges of *Gas Transport Services'* facilities near Julianadorp.
- 1.26 "Expert"
means a person appointed as such under, and subject to, Article 18.
- 1.27 "Force Majeure"

shall mean any event or circumstance or combination of events and/or circumstances, which is beyond the control of *Shipper* or beyond the control of *BBL Company*, acting and having acted as a *Reasonable and Prudent* party, including events and/or circumstances affecting the *BBL-Facilities* and/or the use thereof, including without limitation, acts of God and the public enemy, state of war, revolution, the elements, explosions, fire, accidents, breakdowns, breakage or accident to the *BBL-Facilities*, inability to obtain permits necessary to fulfil any material obligation under the *Agreement* or impossibility to obtain materials, supplies or labour (necessary to fulfil any material obligation under the *Agreement*), strikes and any other industrial, civil, or public disturbance, and any law, order, rule, regulation, act, or restraint of any governmental body or authority, civil or military, and which prevents or restricts a *Party* from performing (or procuring the performance of) any obligation under that *Agreement*.

- 1.28 "*Forward Flow Direction*" shall refer to the flow from the Netherlands to the UK.
- 1.29 "*Gas*" shall mean natural gas (any hydrocarbons or mixture of hydrocarbons and non-combustible gases, consisting primarily of methane, which, when extracted from the subsoil of the earth in its natural state, separately or together with liquid hydrocarbons, is in the gaseous state) to be delivered, transported and made available or deemed to be delivered, transported and made available in accordance with these *Conditions*.
- 1.30 "*Gas Day*" shall mean a period (or a reference to a period) commencing at 06.00 hours *LET* on any calendar day and ending at 06.00 hours *LET* on the following calendar day, and the date of any *Gas Day* shall be the date of its beginning as herein defined.
- 1.31 "*Gas Transport Services*" or "*GTS*" shall mean Gas Transport Services B.V., domiciled in Groningen, the Netherlands.
- 1.32 "*Grid Connection Agreement*" or "*GCA*" shall mean an agreement between *BBL Company* and an *NNO* regarding several aspects of a connection between the *BBL-Facilities* and the neighbouring network concerned, which may include measurement, allocation, operational balancing, conditions to operation, arrangements with regard to installations and/or operational safety.
- 1.33 "*Hour*" or "*Hourly*" shall mean a period of time commencing at a whole hour and expiring at the next whole hour.
- 1.34 "*Interrupted Quantity of Gas*" shall mean the difference between the *Transmission Capacity* and the capacity available to *Shipper* for each *Hour* of the duration of a reduction.
- 1.35 "*Interruptible*" shall mean, if used in expressions referring to capacity, capacity which use can be interrupted by *BBL Company*. If *Shipper's Transmission Capacity* is interrupted, *BBL Company* will issue an *Interruption Notice*.
- 1.36 "*Interruption Notice*" shall mean the notice from *BBL Company* to *Shipper*, informing *Shipper* of the interruption of *Interruptible Transmission Capacity*. An *Interruption Notice* can be incorporated in a *Confirmation*.
- 1.37 "*IRF Auction Procedure*" shall mean Exhibit C of the *Conditions*.
- 1.38 "*kWh*" shall mean three decimal six (3.6) million Joules.
- 1.39 "*Local European Time*" or "*LET*" shall mean Local European Time, including daylight saving, being equal to UTC + 1 outside the daylight saving period and equal to UTC + 2 during the daylight saving period. For the

avoidance of doubt, the daylight saving period starts at UTC 01:00 hours on the last Sunday in March and ends at UTC 01:00 hours on the last Sunday in October, and UTC is Coordinated Universal Time, according to ISO 8601: 1988 (E).

- 1.40 "*m³(n)*" shall mean a volume of *Gas* which under normal conditions (as specified in the definition of *Wobbe-index*) occupies a volume of one (1) m³.
- 1.41 "*Month*" or "*Monthly*" shall mean a period commencing at 06:00 hours *LET* on the first day of a calendar month and ending at 06:00 hours *LET* on the first day of the following calendar month.
- 1.42 "*National Grid*" shall mean National Grid Gas plc, domiciled in Warwick, the United Kingdom or its legal successor.
- 1.43 "*Neighbouring Network Operator*" or "*NNO*" shall mean the operator of the gas transmission pipeline(s) connected to the *BBL-Facilities*, being *Gas Transport Services* in the Netherlands and *National Grid* in the United Kingdom.
- 1.44 "*Nomination*" or "*Renomination*" shall mean a message from *Shipper* to *BBL Company* (specifically *BBL Company's* dispatching centre) stating, among other things, the *Hourly Quantities of Entry Gas Reverse Flow* deemed to be made available by *Shipper* to *BBL Company* at the *Entry Point Reverse Flow* and *Hourly Quantities of Exit Gas Reverse Flow* deemed to be made available by *BBL Company* to *Shipper* at the *Exit Point Reverse Flow*.
- 1.45 "*Operating Manual Reverse Flow*" shall mean Exhibit A of the *Conditions*.
- 1.46 "*Operational Balancing Agreement*" or "*OBA*" shall mean the contractual arrangements between *BBL Company* and an *NNO* relating to the particular *Entry Point* or *Exit Point*, in which they agree that, subject to certain conditions and within certain limits, the quantities properly nominated will be allocated to the respective BBL-shipper and differences between the sum of all confirmations and the measured volumes which are attributable to operational constraints on the network operators, may be allocated to a balancing account of the network operators.
- 1.47 "*Pa*", "*J*", "*K*" and "*m*" shall be the units of pressure (Pascal), energy (Joule), thermodynamic temperature (Kelvin) and length (metre) respectively and shall have the meanings ascribed to them in the publication International Standard ISO 1000-1992-11 00 (E), SI units and recommendations for the use of their multiples and certain other units. The prefix "*G*" shall be equal to one billion (1,000,000,000), "*M*" shall be equal to one million (1,000,000) and the prefix "*k*" shall be equal to one thousand (1,000). A "*bar*" shall be equal to one hundred thousand (100,000) *Pa*. A "*°C*" means degree Celsius, and $x\text{ }^{\circ}\text{C} = x + 273.15\text{ K}$.
- 1.48 "*Party*" shall mean *Shipper* or *BBL Company* individually. "*Parties*" shall mean both *Shipper* and *BBL Company*.
- 1.49 "*Properly Nominated*" shall mean a *Nomination* or *Renomination* by *Shipper* or by a third party on behalf of *Shipper*, for the deemed delivery of a *Quantity of Entry Gas Reverse Flow* or the deemed taking of a *Quantity of Exit Gas Reverse Flow*, which is in accordance with *Shipper's* rights under the *Agreement* and is made in the manner and within the time limits as set out in the *Conditions*.
- 1.50 "*Quantity of Gas*" shall mean a quantity of *Gas*, expressed in *kWh*.
- 1.51 "*Quarter*" or "*Quarterly*"

shall mean a 3-*Month*-period commencing at 06:00 hours *LET* on the first day of January, April, July or October, respectively.

- 1.52 "*Reasonable and Prudent*" shall mean *Parties* fulfilling their obligations under the *Agreement* with that degree of diligence, skill, prudence and foresight as reasonably and ordinarily exercised by parties engaged in the same line of business under the same or similar circumstances and conditions and in accordance with good practice.
- 1.53 "*Reduced Delivery Day*" shall mean a *Gas Day* during which the capacity available for transmission for *Shipper* is less than the *Transmission Capacity* with a minimum of zero (0).
- 1.54 "*Reverse Flow Direction*" shall refer to flow from the UK to the Netherlands.
- 1.55 "*Shipper*" refers to the party to which services are rendered by *BBL Company* under the *Agreement*.
- 1.56 "*Shipper Code*" shall mean the unique code, assigned to *Shipper* by *BBL Company*, used for the identification of (*Re*)*Nominations* and *Confirmations*.
- 1.57 "*Start Date*" shall mean the date designated as such in the *Agreement*.
- 1.58 "*Subscription Fee*" shall have the meaning ascribed to it in Article 11.
- 1.59 "*Tax*" shall mean all present and future taxes, duties, levies, assessments, charges, fees, deductions and withholdings in all relevant jurisdictions imposed by a *Competent Authority* on the contracted services performed by *BBL Company* under the *Agreement*.
- 1.60 "*Transmission Capacity*" shall mean the maximum possible deemed *Hourly* flow rate of *Gas* under the *Agreement*, expressed in *kWh* per *Hour*.
- 1.61 "*Web Site*" shall mean the official web site of *BBL Company* (www.bblcompany.com).
- 1.62 "*Wobbe-index*" shall mean the superior calorific value divided by the square root of the relative density under normal conditions, in which
- (i) "*superior calorific value*" means the amount of energy, expressed in *kWh*, released by the complete combustion in air of one (1) $m^3(n)$ of *Gas* in such a way that the pressure of 101.325 *kPa* (1.01325 *bar*) at which the reaction takes place remains constant and all the products of combustion are returned to the same temperature of 298.15 *K* as the temperature of the reactants, all of these products being in the gaseous state except for water formed by combustion which is condensed to the liquid state at a temperature of 298.15 *K*, and
 - (ii) "*relative density*" means the density of *Gas* divided by the density of dry air (meaning air composed according to ISO 6976 annex B), and
 - (iii) "*normal conditions*" are the conditions determined by a temperature of 273.15 *K* (0 °C) and an absolute pressure of 101.325 *kPa* (1.01325 *bar*).
- 1.63 "*Year*" shall mean a period (or a reference to a period) commencing at 06:00 hours *LET* on January 1st and ending at 06:00 hours *LET* on the following January 1st.

Article 2 WARRANTIES

- 2.1 *BBL Company warrants to Shipper that it shall use its reasonable endeavours to have in place at the Start Date and to maintain throughout the Contract Period in full force and effect all such agreements, licenses, permissions, consents and authorisations as are necessary so as to enable it to observe and perform its obligations under the Agreement.*
- 2.2 *Shipper warrants to BBL Company that it shall have good and unencumbered title to all Gas which it deems to make available at the Entry Point Reverse Flow, and that it shall not grant third parties any rights, including ownership, nor create any lien, encumbrance or similar right with regard to any Entry Gas Reverse Flow, if such right will or could hamper and/or obstruct the exercise of rights and performance of obligations. In the event of any conflict between the Agreement and the rights of third parties with regard to Shipper's Entry Gas Reverse Flow, BBL Company shall not be liable for any damage and/or claims resulting there from and Shipper shall indemnify and hold BBL Company harmless from any damage and claims in respect thereof.*

Article 3 BBL-SHIPPER

- 3.1 A *BBL-Shipper* is any party that:
- (a) has accepted these *Conditions* in writing, and
 - (b) has received one or more *Shipper Codes* after having passed a communication test as described in the *Operating Manual Reverse Flow*, and
 - (c) shall prove to the satisfaction of *BBL Company* to be sufficiently creditworthy or shall provide satisfying surety, to cover the exposure resulting from the *Agreement* with *BBL Company*, all according to the principles stated in the *Credit Control Protocol*, and
 - (d) will otherwise in every respect perform as a *Reasonable and Prudent BBL-Shipper* with due regard to the integrity of the *BBL-Facilities* and the interests of other *BBL-Shippers*.
- 3.2 *BBL Company* may waive in writing the applicability of one or more of the elements, in part or in whole, of Article 3.1 (a), Article 3.1 (b) and Article 3.1 (c) for a specified period of time. *BBL Company* may accept a third party authorised by *Shipper* that has passed the communication test as described in the *Operating Manual* to perform on behalf of *Shipper* all operational communications.
- 3.3 *BBL Company* is entitled to terminate *Shipper's* status as a *BBL-Shipper* by giving notice of termination by registered letter to *Shipper*, without any liability towards *Shipper*, stating that *Shipper* with effect from any specific *Gas Day*, appointed in said letter, no longer qualifies as a *BBL-Shipper*, if one or more of the following situations occurs:
- (a) *Shipper* is declared bankrupt (Dutch: in staat van faillissement verklaard) or is granted (provisional) suspension of payment (Dutch: surseance van betaling) or is declared in a similar legal status affecting the rights of creditors generally, from the moment foresaid bankruptcy, suspension or similar status is legally effective, or
 - (b) *Shipper* no longer meets one or more of the conditions stated in Article 3.1, or
 - (c) *Shipper* fails to fulfil any other material obligation under these *Conditions*.
- 3.4 *Shipper* is entitled to terminate *Shipper's* status as a *BBL-Shipper* by giving notice of termination six (6) *Months* in advance by registered letter to *BBL Company*. For avoidance of doubt in case the *Agreement* has an *End Date* later than six (6) *Months* from the date of giving said notice, the termination of *Shipper's* status will take effect after that specific *End Date*.
- 3.5 From the moment at which the loss by *Shipper* of the status of *BBL-Shipper* takes effect, *BBL Company* is under no obligation whatsoever to perform any services to *Shipper*. All amounts that would have been payable during the *Contract Period* under the *Agreement* in place at the *Gas Day* as referred to in Article 3.3 will be immediately recoverable from *Shipper* and bear interest as provided for in Article 12.3 from the day immediately following the date of the notice of *BBL Company* by which the *Agreement* with *Shipper* is terminated, until but excluding the actual date of payment.

Article 4 SERVICES**4.1 Interruptible Transmission Capacity**

4.1.1 With respect to *Transmission Capacity* the following will apply. During each *Hour* BBL Company shall (i) be deemed to take *Quantities of Entry Gas Reverse Flow* provided that they are *Properly Nominated* and deemed to be made available by *Shipper* at the *Entry Point Reverse Flow* and (ii) deem to make available to *Shipper* at the *Exit Point Reverse Flow* the same *Quantities of Exit Gas Reverse Flow* provided that they are *Properly Nominated* and deemed to be taken by *Shipper* at the *Exit Point Reverse Flow* to the extent the *Transmission Capacity* will not be interrupted according to an *Interruption Notice*. *Shipper* is responsible for taking the *Exit Gas Reverse Flow* at the *Exit Point Reverse Flow*.

4.1.2 Capacity in the *Reverse Flow Direction* will be interrupted if the level of nominations in the *Forward Flow Direction* is not high enough to accommodate all nominations in the *Reverse Flow Direction*.

Capacity in the *Reverse Flow Direction* can furthermore be interrupted in cases of a physical limitation of capacity in the *Forward Flow Direction* caused other than by reason of insufficient nominations in the *Forward Flow Direction*. These cases may arise:

- (i) if BBL Company rejects *Entry Gas* which does not comply with the quality and/or pressure specifications and the forward flow is interrupted
- (ii) during the time of planned maintenance of the *BBL-Facilities* (Article 8.2 of the *Conditions*),
- (iii) in case of a *Capacity Restriction* (Article 8.3 of the *Conditions*).

When determining which *BBL Shippers'* capacities in the *Reverse Flow Direction* shall be interrupted, *BBL Company* shall apply the priority principles as described in Article 3 of the *Operating Manual Reverse Flow*. In case of an interruption of *Shipper's Transmission Capacity*, *Shipper* will be notified by means of an *Interruption Notice*. *BBL Company* shall send the *Interruption Notice* to *Shipper* as soon as reasonably possible. The *Interruption Notice* shall contain the amount of the capacity reduction, the expected duration and the reasons for such reduction.

4.2 *Shipper* shall not be entitled to any reduction in the fixed capacity fee (component T1) and the *Subscription Fee*, nor shall *Shipper* have any other entitlement(s) against *BBL Company*, in respect of any reduction in *Transmission Capacity* related to this Article 4.

Article 5 QUALITY AND PRESSURE

5.1 Entry Point Reverse Flow

The *Entry Gas Reverse Flow* shall comply with the quality and pressure specifications as provided for in the *Operating Manual Reverse Flow*.

5.2 Exit Point Reverse Flow

The *Exit Gas Reverse Flow* shall comply with the quality and pressure specifications as provided for in the *Operating Manual Reverse Flow*.

Article 6 MEASUREMENT AND ALLOCATION6.1 Measuring station and measurement manual

- 6.1.1 *BBL Company* shall take accurate measurements of *Entry Gas* and *Exit Gas* respectively consistent with industry standards and in accordance with the relevant regulations and as provided for in the *Operating Manual* and taking into account that the total uncertainty of the amount of energy on an *Hourly* basis shall not exceed zero decimal seven five (0.75) percent.
- 6.1.2 In the event that incorrect operation of the measuring equipment is ascertained, the procedure as described in Article 5.2 of the *Operating Manual Reverse Flow* shall be applicable.
- 6.1.3 Any disputes regarding measurement will be settled by an *Expert* as provided for in Article 18.

6.2 Allocation

- 6.2.1 The allocation process is described in Article 7 of the *Operating Manual Reverse Flow*.

The allocation may, with the consent of *BBL Company* and with observance of the *Allocation Rules* set out in this Article 6.2, be performed by a *NNO* or other third party.

- 6.2.2 *BBL Company* will provide or cause to be provided to *Shipper* by electronic transmission all allocation data, relevant to *Shipper*, used for invoicing.

BBL Company shall with regard to allocations keep auditable record of all underlying data on an *Hourly* basis per meter run which are used for the determination of the invoices and allocations for the period legally required. *Parties* acknowledge the confidential nature of the underlying data in a situation of commingled stream and the restrictions this imposes on *Shipper's* access to such underlying data.

- 6.2.3 Any dispute regarding allocations shall be resolved by an *Expert* as provided for in Article 18.

Article 7 MATCHING

7.1 Principles of *Hourly* balancing and matching.

7.1.1 *Shipper* shall nominate for any *Hour* equal *Quantities of Gas* as *Entry Gas Reverse Flow* and *Exit Gas Reverse Flow*.

BBL Company shall apply a matching procedure to ensure that the *Properly Nominated Quantity of Entry Gas Reverse Flow* and the *Properly Nominated Quantity of Exit Gas Reverse Flow* are the same.

7.1.2 *Nominations* at the *Entry Point Reverse Flow* and the *Exit Point Reverse Flow* will be checked by *BBL Company* against the contracted *Transmission Capacity*.

7.1.3 If possible after consultation with *Shipper*, *BBL Company* has the right to deem to make available the *Hourly Quantities of Entry Gas Reverse Flow* in such a way that the sum of the *Hourly Confirmations* during the relevant *Gas Day* is met, provided the *NNO* concerned agrees and *Shipper* meets its volume entry requirements with the *NNO* concerned.

Article 8 OPERATION**8.1 Operating Manual Reverse Flow**

Parties shall apply the Operating Manual Reverse Flow. BBL Company has the right to reject a Nomination or a Renomination if this (Re)Nomination is not given according to the Operating Manual Reverse Flow.

8.2 Planned maintenance

For the purpose of maintenance of, or any other activities affecting the *BBL-Facilities*, *BBL Company* shall have the right to have up to fifteen (15) *Reduced Delivery Days* in each *Year*. All such *Reduced Delivery Days* shall be between April 1 and October 1 in any *Year* and shall be determined by *BBL Company* as follows:

- (1) During the month of September prior to the commencement of a *Year BBL Company* shall, besides announcement on its *Web Site*, notify *Shipper* of a period of thirty (30) consecutive *Gas Days* during the period between April 1, 06.00 Hours *LET* and October 1, 06.00 Hours *LET* in the following *Year* within which period *BBL Company* will nominate the fifteen (15) *Reduced Delivery Days* it is entitled to take in that *Year* in accordance with this Article 8.2, and
- (2) during the month of November prior to the *Year* it concerns *BBL Company* shall, besides announcement on its *Web Site*, notify *Shipper* of a single period of up to fifteen (15) consecutive *Gas Days* falling within the period nominated by *BBL Company* under Article 8.2 (1) during which *BBL Company* will carry out the proposed planned maintenance.

BBL Company shall use reasonable endeavours to minimise the disruption caused to *Shipper* as a result of maintenance and use reasonable endeavours to coordinate maintenance with the *NNO's*.

BBL Company shall give an indication to *BBL-Shippers* of the available *Transmission Capacity* on a *Reduced Delivery Day* as soon as reasonable possible.

8.3 Capacity Restrictions

Notwithstanding the provisions of Article 8.2, if it is necessary to reduce part or all of the services because of a *Capacity Restriction*, *BBL Company* shall be authorised to reduce for operational purposes the relevant transmission capacity, following the priority principles as described in Article 3 of the *Operating Manual Reverse Flow*.

8.4 *Shipper* shall not be entitled to any reduction in the fixed capacity fee (component T1) and the *Subscription Fee*, nor shall *Shipper* have any other entitlement(s) against *BBL Company*, in respect of any reduction in *Transmission Capacity* related to this Article 8.

Article 9 LIABILITY

- 9.1 A *Party* shall not be liable under any circumstances for any damage incurred by the other *Party*, subject only to the exceptions in this Article 9.
- 9.2 A *Party* shall only be liable towards the other *Party* for any direct loss or damage resulting from a breach by that *Party* of the *Agreement*, which breach can be attributed to such *Party*.
- 9.3 Limitation of liability
In the event a *Party* is liable under the *Agreement*, all liability to the other *Party* for loss or damage will per event be limited to the fee for the *Transmission Capacity*, except in the event of Wilful misconduct or gross negligence (as defined in Article 9.4), in which case no limitation of liability shall apply.
- 9.4 Wilful misconduct or gross negligence
Wilful misconduct or gross negligence means an intentional and conscious (in the case of wilful misconduct) or reckless (in the case of gross negligence) disregard by a *Party* or any of its *Affiliated Companies* (acting for and on behalf of a *Party*) and/or its (or such *Affiliated Company's*) officers, directors or employees of managerial or supervisory status of any provisions of the *Agreement* or, generally, of the obligations of a *Reasonable and Prudent* party.

Article 10 FORCE MAJEURE

- 10.1 If a *Party* is unable, wholly or in part, to fulfil any obligation under the *Agreement* due to *Force Majeure*, such *Party* will, by giving written notice and reasonably full particulars to the other *Party* promptly after the occurrence of such *Force Majeure*, be relieved of its obligations under the *Agreement* to the extent that the fulfilment of these obligations is rendered impossible by such *Force Majeure*.
The *Party* claiming *Force Majeure* shall, when giving the particulars of such *Force Majeure*, also notify the other *Party* if possible of the period of time which said *Party* estimates it will require to remedy the *Force Majeure* situation and shall keep the other *Party* regularly informed as to the progress of such remedy. However, there shall be no obligation of the *Party* claiming *Force Majeure* (i) to settle any labour dispute, except in such a manner as it shall deem fit in its own judgement, and (ii) to negotiate, arrange or agree alternative transportation for *Gas*.
- The *Party* claiming *Force Majeure* shall use reasonable endeavours to mitigate the effects of such *Force Majeure* and to rectify the circumstances causing the failure.
- 10.2 Any failure to timely pay amounts which are owed under the *Agreement* shall not be excused by *Force Majeure*, unless the payment procedure itself is affected by *Force Majeure*, the payment concerned is obstructed by law or is forbidden by any governmental authority.
- 10.3 If any *Party* claims *Force Majeure*, no *Party* shall be entitled to terminate the *Agreement* or to terminate the obligation to perform services under the *Agreement* on the grounds of such *Force Majeure* provided however, that if,
- (a) in case of a *Contract Period* of three hundred and sixty five (365) *Days* or less, a *Force Majeure* situation lasts for a period of more than twenty five (25) percent of the *Contract period*, the *Party* who did not claim *Force Majeure* shall be entitled to terminate the *Agreement*, provided that the *Force Majeure* situation still exists at the time of the termination; and
 - (b) in case of a *Contract Period* of more than three hundred and sixty five (365) *Days*, a *Force Majeure* situation (i) lasts for a period of more than three hundred and sixty five (365) *Days*, or (ii) *Force Majeure* has occurred on three hundred and sixty five (365) *Days* in a period of one thousand four hundred and sixty (1460) consecutive *Days*, the *Party* who did not claim *Force Majeure* shall be entitled to terminate this *Agreement*, provided that in the event of (i) the *Force Majeure* situation still exists at the time of the termination.
- Such a termination shall be made by registered letter.
- 10.4 Amounts that are due and payable by *Shipper* can not be withheld on the grounds of *Force Majeure* affecting *BBL Company* to the extent those amounts are chargeable for services that were performed by *BBL Company* prior to the occurrence of the event qualifying as *Force Majeure* or for services that are unaffected by such *Force Majeure* event.

Article 11 FEES AND TAXES

- 11.1 The consideration for the services to be paid by *Shipper* to *BBL Company* shall exist of two components, the component T1 and the *Subscription Fee*.

The component T1 is the fixed capacity fee as mentioned in the *Agreement*. This fee will be determined in the auction process of capacity in the *Reverse Flow Direction*.

The *Subscription Fee* is an annual fee that entitles *BBL-Shippers* to take part in the capacity auctions of an *Auction Year*. Further details on the *Subscription Fee* are described in the *IRF Auction Procedure*.

- 11.2 All amounts due by *Shipper* under the *Agreement* are exclusive of any *Tax*. *BBL Company* is entitled to add to such amounts due by *Shipper* all *Tax* lawfully imposed on *BBL Company* by any *Competent Authority* with respect to the services performed by *BBL Company* under the *Agreement* to the extent that *BBL Company* is actually economically affected by such *Tax* and subject to *Shipper's* right to verify, at its expense, by means of a certified auditor's statement that such *Tax* has been duly paid or will have to be paid. For the avoidance of doubt, the *Tax* referred to in this Article 11.2 does not include *BBL Company* corporate income tax and the like.
- 11.3 *Shipper* will be responsible for making such declarations as are required by the Dutch and/or the United Kingdom authorities in respect of Intrastat declarations or customs declarations covering the *Gas* entering the Netherlands as goods acquired or imported by *Shipper* and leaving the United Kingdom as goods disposed of or exported by *Shipper*.

Article 12 INVOICING AND PAYMENT

- 12.1 Within ten (10) *Business Days* after the first day of a calendar month *BBL Company* shall submit to *Shipper* a fixed invoice. This fixed invoice shall show, if and in so far as applicable,
- the amounts chargeable in accordance with component T1 for said *Month* for *Transmission Capacity* contracted before the start of such calendar month, and
 - the amounts chargeable in accordance with component T1 for the previous *Month* for *Transmission Capacity* contracted after the start of such calendar month.
- 12.2 The *Subscription Fee* to be paid by *BBL-Shipper* shall be invoiced once per *Auction Year* as soon as reasonably practicable after the status of *BBL-Shipper* has been granted. If applicable, *BBL Company* will after the *Auction Year* send a correction invoice to all *BBL-Shippers* in order to reimburse any over recovery of the *Subscription Fee* related to this *Auction Year*. No interest will be paid on the reimbursement amount.
- 12.3 An invoice shall be paid by the debtor in such a manner that the creditor will have the money at its free disposal at an account specified by the creditor within fourteen (14) days of the invoice date.
- If all or any part of an invoice is not paid by the due date, interest shall be payable at a rate that shall be the arithmetic mean of *EURIBOR* for the calendar months to which the calculation of interest relates plus four percent (4%) per annum and rounded to two (2) decimal places.
- 12.4 Notwithstanding the credit control provisions in the *Credit Control Protocol*, if during the term of the *Agreement* there is, in the reasonable opinion of *BBL Company*, a material deterioration in the financial resources, creditworthiness or a material adverse change in the financial standing of *Shipper*, its guarantor and/or an *Affiliated Company* of *Shipper*, including but not limited to a downgrading of the public credit rating by Moody's and/or Standard & Poor's, when compared to its financial standing as at the date of the *Agreement*, which change in *BBL Company's* reasonable opinion may adversely affect *Shipper's* ability to perform its financial obligations under the *Agreement*, *BBL Company* may request *Shipper* in a duly motivated written notice to provide to *BBL Company* reasonable security for the performance of its financial obligations under the *Agreement* within five (5) *Business Days* of the request therefore. For this purpose *BBL Company* may inter alia require advance payment or the deposition of a security or the provision of a parent company guarantee, a bank guarantee or a Letter of Credit in a form reasonably acceptable by *BBL Company*.
If *Shipper* has provided security and it is later established between *Parties* that *BBL Company* had no reasonable grounds for requesting such security, *BBL Company* shall reimburse *Shipper* the reasonable costs of providing the security, provided that prior to providing the security, *Shipper* has given *BBL Company* duly substantiated written notice stating that the reasonable grounds were lacking.
- 12.5 The invoices referred to in Article 12.1 and 12.2 may be rendered during the normal office hours of *BBL Company* by any secure (electronic) data communication system agreed between *Parties*, in which event the receipt by *Shipper* of such invoice or statement shall be confirmed by *Shipper* as soon as possible by letter or by fax.
Each such statement shall be accompanied by such documents as may be reasonably necessary for verifying the same. Said documents shall be deemed to be part of such statement.

Article 13 TERM, SUSPENSION AND TERMINATION OF THE AGREEMENT

- 13.1 The obligations of the *Parties* under the *Agreement* shall enter into force and become effective as soon as *BBL Company* has sent per email to *Shipper* the *Agreement* as an outcome of the auction process and shall remain in force up to the *End Date*. Financial obligations which have not been settled at the *End Date* shall remain in force after the *End Date*.
- 13.2 Without prejudice to Article 3 and 10.3 of these *Conditions* and the right to claim damages each *Party* shall be entitled without judicial intervention to terminate the *Agreement* and/or to suspend fulfilling any obligations under the *Agreement* if the other *Party*
- (a) is declared bankrupt (Dutch: 'in staat van faillissement verklaard') or is granted a (provisional) suspension of payment (Dutch: 'surséance van betaling') or is declared in a similar legal status affecting the rights of creditors generally, or
 - (b) fails to fulfil its payment obligations, or
 - (c) fails to fulfil any other material obligation under the *Agreement*, or
 - (d) claims *Force Majeure*, or
- with regard to *Shipper*,
- (e) *Shipper* no longer meets one or more of the criteria stated in Article 3.1,
- all without prejudice to that other *Party's* obligation to pay judicial and extra judicial costs as prescribed by law, damages within the framework of Article 9, and interest. With regard to Article 13.2 (b), (c), and (e) a termination of the *Agreement* can only take place after the expiry of fifteen (15) days after sending the notice of termination.
- For the avoidance of doubt, Article 13.2 (b) does not apply in case the payment obligation concerned is the subject of a bona fide dispute between the *Parties*.
- 13.3 In the case referred to under Article 13.2 (a) a *Party* shall be entitled to immediately suspend the performance of services under the *Agreement* or to terminate the *Agreement*. In the cases mentioned in Article 13.2 (b), Article 13.2 (c) a *Party* shall only exercise these rights after it has summoned the other *Party* in writing to remedy its default within a reasonable period and that other *Party* has not so remedied its default, unless it is apparent that such summons will be of no avail. Where payment obligations are concerned the defaulting *Party* will have a period of ten (10) *Business Days* to remedy the default.
- 13.4 A *Party* shall notify the other *Party* by registered letter if that *Party* exercises its right to terminate the *Agreement*. All amounts which may be owed by a *Party* to the other *Party* shall be immediately due and payable from the day of receipt of the notification. For the avoidance of doubt, Article 14 will remain in full force after termination of the *Agreement*.

Article 14 CONFIDENTIALITY

14.1 *Parties* agree that the content of the *Agreement*, credit control related documents and all information obtained under these *Conditions* by a *Party* from the other, including all engineering and operational data, shall be held strictly confidential by the receiving *Party* during the term of the *Agreement* and for a period of three (3) years from the *End Date* or the date of early termination. *Parties* declare that neither they nor their legal successors shall make or have made public any information with regard to the contents of the aforementioned documents under these *Conditions* without prior written consent of the other *Party*.

However, a *Party* may make available said contents or information without such prior written consent to

- (a) its employees or employees of *Affiliated Companies* or shareholders or members of corporate bodies of an *Affiliated Company* to the extent reasonably necessary for the approval and performance of the *Agreement*, provided that such employees, shareholders and members shall be bound to preserve the secrecy of such information, or
- (b) any governmental authority or recognised security exchange, where such disclosure is required by law, order or regulation; in such case the disclosing *Party* shall inform the other *Party* in advance of such disclosure and of its extent, or
- (c) banking and financial institutions and their consultants, where such disclosure is necessary in connection with financing arrangements, provided that such *Party* shall first obtain a written undertaking of confidentiality from such banking and financial institutions and their consultants, that is similar to the undertaking of confidentiality that is set forth in this Article 14, or
- (d) independent consultants or contractors nominated by a *Party* for the purpose or in connection with the *Agreement*, provided that such *Party* shall first obtain a written undertaking of confidentiality from each consultant or contractor, that is similar to the undertaking of confidentiality that is set forth in this Article 14, or
- (e) any legal successor of a *Party*, provided that the *Party* to be legally succeeded shall first obtain a written undertaking of confidentiality from such legal successor, that is similar to the undertaking of confidentiality that is set forth in this Article 14, or
- (f) the *NNO*, where the disclosure of *Nominations*, *Confirmations*, metering data and/or allocations, on a confidential basis, is necessary in connection with gas flow procedures at the *Entry Point Reverse Flow* respectively the *Exit Point Reverse Flow*.

14.2 Notwithstanding the provisions of Article 14.1, the *Party* receiving information may disclose such information without the other *Party's* prior written consent if and to the extent that such information

- (a) is already lawfully known to the *Party* receiving the information, or
- (b) is already in or enters the public domain other than through the act or omission of the *Party* receiving the information, or
- (c) is acquired independently from a third party that is entitled to disseminate such information at the time it is acquired by the *Party* receiving the information.

14.3 *BBL Company* is entitled to publish on its *Web Site* data to provide third parties insight in the quantity of transmission capacity available for booking and in aggregate form the level of the past usage of *Transmission Capacity* insofar this aggregate information can be published without jeopardising confidentiality, and does not harm the commercial position of *Shipper*.

Article 15 INTERPRETATION, MODIFICATION AND SUPPLEMENTS, SUNDRIES

- 15.1 The failure at any time of either *Party* to require performance by the other *Party* of any provision under the *Agreement*, shall in no way affect the right of a *Party* to require any performance which may be due thereafter pursuant to such provision, nor shall the waiver by either *Party* of any breach of any provision under the *Agreement* be held to be a waiver of any subsequent breach of such provision.
- 15.2 Any and all modifications and supplements to these *Conditions* shall not be valid unless drawn up in writing, labelled as subsequent amendment and signed by *Parties* or their assigns or successors. In case of any conflict between the provisions of a *Grid Connection Agreement* and/or an *Operational Balancing Agreement* and these *Conditions*, these *Conditions* will prevail unless explicitly agreed otherwise. Also in case of any conflict between the provisions of Exhibit A and/or Exhibit B of these *Conditions* and the main text of these *Conditions*, the main text of these *Conditions* will prevail unless explicitly agreed otherwise.
- 15.3 If one or more of the provisions of these *Conditions* should be totally or partially void or ineffective, this shall not affect the legal status of the other provisions. *Parties* undertake to cooperate in agreeing as soon as possible on an effective new provision, which approaches the economic purpose and any other effect of the ineffective or void provision as closely as possible. Until such new provision has been agreed upon, in case legal proceedings are pending in which the ineffective provision(s) are of any significance, each *Party* may request the Court for the application of article 3:42 of the Dutch Civil code, if such application is legally possible.
- 15.4 *Parties* will at all times give to each other all such information as each may have available and as may be necessary or useful to enable *Parties* to carry out their obligations under the *Agreement* (to the extent that each *Party* is entitled to disclose such information to the other). Either *Party* shall have the right, at its own cost and by notice to the other *Party*, to nominate independent public accountants, who may be assisted by a technical specialist, that are acceptable to the other *Party*, such acceptance not to be unreasonably withheld or delayed, which accountants shall have the right at reasonable hours to examine the books, records and charts of the other *Party* only to the extent necessary to verify the accuracy of any statement, charge or computation made pursuant to any of the provisions under the *Agreement* and to the extent that the auditing *Party* cannot verify such accuracy through the prudent exercise of its own internal controls. Such books, records and charts shall be preserved for a period of at least two (2) years from the *End Date* or the date of early termination of the *Agreement*, provided that if such books, records or charts are related to any facts which are disputed between *Parties* within the aforementioned period, then such books, records or charts shall be preserved until such dispute is settled.
- In case the public accountant discovers errors or mistakes in the books, records, statements charges or computations of the other *Party* made pursuant to any of the provisions under the *Agreement* the other *Party* shall bear the relevant costs of the public accountant.
- 15.5 *BBL Company* is entitled to amend the content of these *Conditions* including its Exhibits if and when in the reasonable opinion of *BBL Company* such amendment is necessary due to changes in applicable law or, due to changes in the operational scope or, to improve the operation of the *BBL-Facilities*, to improve the operation of the *Agreement* or to ensure the compatibility of the *Agreement* with the conditions of the *NNO's* for transmission of *Gas* and related services.
- 15.6 *BBL Company* will inform *Shipper* expeditiously of any material change pursuant to Article 15.5.
- 15.7 It is acknowledged by *Parties* that changes to the terms and conditions for transport of gas in the networks of the *NNO's* may necessarily require consequential amendments to be made to these *Conditions* (in particular, but without limitation, those changes relating to the making of and the timing of *Nominations* and changes to balancing periods) and in these circumstances either *Party* may give notice to the other whereupon the *Parties* shall negotiate, in good faith, and seek to agree such consequential amendments in such a

manner and on such basis as will restore the purpose and intended effect of these *Conditions* as at the date of the *Agreement*.

- 15.8 All written or oral understandings between *Parties* prior of the date of the *Agreement* concerning the matters treated therein are superseded by the contents of the *Agreement*.

Article 16 COMMUNICATION, ADMINISTRATION AND COOPERATION

- 16.1 For the communication of data SI-units shall be used whenever possible. All notices shall be given in the English language.
- 16.2 Unless otherwise stipulated in these *Conditions* any notice to be given herein shall be in writing and shall be deemed given and effective
- (a) upon receipt by the *Party* addressed, or
 - (b) if posted in the Netherlands, postage prepaid, to an address in the Netherlands on the next *Business Day* subsequent to posting, or
 - (c) if posted outside the Netherlands or to an address outside the Netherlands, via airmail and postage prepaid, on the fifth (5th) *Business Day* subsequent to posting, or
 - (d) if given by telex, telefax or (encrypted) electronic mail on the next *Business Day* after the dispatch thereof, with charges prepaid, unless in the case of telex the time of receipt is acknowledged on the telex, in which case the telex shall be deemed given and effective at that time and unless in case of a telefax in which case the telefax shall be deemed to have been received upon confirmation of receipt by the recipient and unless in case of (encrypted) electronic mail in which case the notice shall be deemed to have been received upon confirmation of receipt by the recipient.
- 16.3 *Parties* undertake to co-operate in good faith with any third parties, in so far as involvement of those parties is directly or indirectly necessary for the fulfilment by *BBL Company* or *Shipper* of any obligation under the *Agreement*.

Article 17 APPLICABLE LAW AND DISPUTE RESOLUTION

- 17.1 The *Agreement* shall be governed by and interpreted and applied in accordance with the laws of the Netherlands. The application of the Convention on the International Purchase of Goods and the Conclusion of International Purchase Contracts is explicitly excluded.
- 17.2 Any disputes arising out of or in connection with the *Agreement*, which is not to be referred to an *Expert* pursuant to these *Conditions* or a subsequent agreement between *Parties* resulting thereof, shall be finally settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute ("Nederlands Arbitrage Instituut").

The arbitral tribunal shall be composed of three arbitrators. Unless otherwise agreed each *Party* shall appoint one (1) arbitrator and the third arbitrator will be selected by the first two arbitrators within thirty (30) days after the appointment of the second arbitrator. Article 14 ("List Procedure") of the Rules of the Netherlands Arbitration Institute shall only apply for the appointment of the second arbitrator, if not in time nominated by the *Party*, or the appointment of the third arbitrator, if not selected by the first two arbitrators within thirty (30) days. The third arbitrator shall act as chairman of the board of arbitration and shall be fully educated and trained as a lawyer.

The place of arbitration shall be Amsterdam. The arbitral procedure shall be conducted in the English language. The arbitral tribunal shall decide in accordance with the rules of law ("regelen des rechts").

Article 18 EXPERT PROCEDURE

18.1 Whenever, in these *Conditions*, any person is to be appointed as an *Expert* or any matter is to be referred to an *Expert* or whenever, during the term of the *Agreement*, the *Parties* agree that a dispute between them shall be resolved by an *Expert*, the provisions of Article 18 shall apply.

18.2 Expert

The language of the Expert procedure shall be English. Any matter to be referred to an *Expert* shall be resolved by applying the following procedure.

18.3 Appointment

The *Party* wishing the appointment to be made, shall give notice in writing to that effect to the other *Party* and with such notice shall give details of the matter which is proposed to be resolved by the *Expert*.

Parties shall meet in an endeavour to agree upon a single *Expert* to whom the matter in dispute shall be referred for determination.

If within twenty-one (21) days from the service of the said notice *Parties* have either failed to meet or failed to agree upon an *Expert*, then the matter may forthwith be referred by the *Party* wishing the appointment to be made to the President of the 'International Chamber of Commerce' in Paris which shall be requested to make the appointment of the said *Expert* within thirty (30) days and in so doing may take such independent advice as it thinks fit.

Upon an *Expert* being agreed or selected under the foregoing provisions of this Article 18 *Parties* shall forthwith notify such *Expert* of his selection and shall request him within fourteen (14) days to intimate whether or not he is willing and able to accept the appointment.

If such *Expert* shall be either unwilling or unable to accept such appointment or shall not have intimated his willingness and ability to accept such appointment within the said period of fourteen (14) days, then (unless *Parties* are able to agree upon the appointment of another *Expert*) the matter shall again be referred (by either *Party*) in the aforesaid manner to the President of the 'International Chamber of Commerce' in Paris which shall be requested to make a further appointment and the process shall be repeated until an *Expert* is found who accepts appointment.

18.4 Qualification

No person shall be appointed to act as the *Expert* under this Article 18 unless he shall be qualified by education, experience and training to determine the matter in dispute.

Any person appointed as the *Expert* shall be entitled to act as such *Expert*, provided he shall before accepting such appointment fully disclose to *Parties* any interest or duty and any conflict of interest or potential conflict of interest, including all particulars thereof. If such disclosure has been made, any *Party* may require within five (5) *Business Days* from such disclosure removal of the *Expert*, stating the reasons for such removal and such *Expert* shall be replaced in accordance with this Article 18.

If at any time prior to the *Expert* rendering a decision on any matter, a conflict or potential conflict of interest arises, then the *Expert* will fully disclose the particulars of such fact to *Parties*. In that event any *Party* may within five (5) *Business Days* from such disclosure require the removal of the *Expert* and a new *Expert* shall be appointed in accordance with the terms of this Article 18. No person shall be appointed as an *Expert* who at the time of appointment is an employee of either *Party* or of any *Affiliated Company*.

18.5 Decision

The *Expert* appointed shall make his decision based on data, information and submissions supplied and made to him by *Parties* not later than thirty (30) days after his acceptance of appointment and he shall ignore data, information and submissions supplied and made after such thirty (30) days unless the same are furnished in response to a specific request from him.

If within a reasonable period (which shall not exceed ninety (90) days after the acceptance by the *Expert* of his appointment) such *Expert* shall not have rendered a decision then (at the request of either *Party*) a new *Expert* shall be appointed under the provisions of this Article 18 and upon the acceptance by such new *Expert* of his appointment the appointment of the previous *Expert* shall cease.

However, if the previous *Expert* shall have rendered a decision prior to the date upon which the new *Expert* accepts his appointment, such decision shall be binding upon *Parties* and the instructions to the new *Expert* shall be withdrawn.

The *Expert* shall be deemed not to be an arbitrator, but shall render his decision as an *Expert* and the law or legislation relating to arbitrations shall not apply to such *Expert* or his determinations or the procedure by which he reaches his determination.

The determination of the *Expert* shall be final and binding upon *Parties*, save in the event of fraud, manifest material error or failure by the *Expert* to disclose any relevant interest or duty in accordance with Article 18.4 under 'Qualification'.

Each *Party* shall bear the cost and expenses of all counsel, witnesses and employees retained by it in connection with the *Expert* procedure, but the cost and expenses of the *Expert* shall be apportioned equally between *BBL Company* and *Shipper*.