

## **12. ARBITRATION**

### **Scope**

- 12.1 Any Dispute shall be referred to and finally resolved by arbitration under the LCIA Rules, which LCIA Rules are deemed to be incorporated into this article 12. In the event of a conflict between any provision of the LCIA Rules and this article 12, this article 12 will prevail. Any provision of the LCIA Rules relating to the nationality of an arbitrator shall to that extent not apply.
- 12.2 The seat of arbitration will be London and the language of the arbitration proceedings shall be English.
- 12.3 The Tribunal will be comprised of three arbitrators appointed by the LCIA. The LCIA shall appoint one of the arbitrators to act as the chairman of the Tribunal. The Tribunal members will be persons considered by the LCIA in its discretion to have experience with respect to the subject matter of the Dispute. Tribunal members shall not be current or former employees or directors of the Member, current or former employees or directors of any other Member that is party to the arbitration, current or former employees of ICE Endex or Intercontinental Exchange, or any person or persons with a material interest or conflict of interest in the outcome of the Dispute.
- 12.4 The Tribunal shall have the power on the application of any party to an existing arbitration, to require one or more Members to be joined to an existing arbitration. Each Member agrees that it may be joined as an additional party to an arbitration involving ICE Endex and another Member.
- 12.5 If more than one arbitration is begun under these Gas Market Rules and ICE Endex or a Member that is a party to an arbitration so concerned serves notice upon the Tribunals concerned that it believes two or more arbitrations are substantially related and that the issues should be heard in one set of proceedings, the Tribunal appointed in the first-filed of such proceedings shall have the power to determine whether, in the interests of justice and efficiency, the proceedings should be consolidated and heard together before that Tribunal.
- 12.6 In the case of such joinder or consolidation, the Tribunal shall make a single, final award determining all Disputes between the relevant parties in those proceedings. Each Member and ICE Endex irrevocably waives any right to challenge any award or order of any Tribunal by reason of the fact that it arises from a joined or consolidated arbitration. Each Member and ICE Endex hereby irrevocably waives any right to challenge any award or order of any tribunal appointed under the Application Form by reason of the fact that it arises from a consolidated arbitration.
- 12.7 The award of the Tribunal will be final and binding on ICE Endex and the Member from the day it is made. Judgment upon the award may be entered or the award enforced through any other procedure in any court of competent jurisdiction.
- 12.8 The provisions of this article 12 may not be varied by a Member save where each Member that is party to the Dispute or arbitration proceedings and ICE Endex agree in express written terms.

- 12.9 The commencement of any arbitral proceedings shall be without prejudice to and shall not limit in any way the right of ICE Endex to instigate any procedure under articles 9, 10 or 11 of these Gas Market Rules, including without limitation in relation to any Event of Default, any investigation, disciplinary proceedings or the imposition of a sanction.
- 12.10 Each Member that now or hereafter has a right to claim sovereign immunity from suit or sovereign immunity from enforcement for itself or any of its assets shall be deemed to have waived any such immunity to the fullest extent permitted by any Applicable Law. Such waiver shall apply in respect of any immunity from:
- (a) any proceedings commenced pursuant to this article 12;
  - (b) any judicial, administrative or other proceedings to aid an arbitration commenced pursuant to this article 12; and
  - (c) any effort to confirm, enforce or execute any decision, settlement, award, judgment, service of process, execution order or attachment (including pre-judgment attachment) that results from any judicial or administrative proceedings commenced pursuant to this article 12.
- 12.11 The rights and obligations of the Member under these Gas Market Rules are of a commercial and not a governmental nature.
- 12.12 No Member shall raise or in any way whatsoever assert a defense of sovereign immunity in relation to any claim or enforcement proceedings arising from a Dispute under these Gas Market Rules.
- 12.13 The fact of a Member being suspended or expelled shall not affect the rights of any person to arbitration under this article 12, however the procedure before the Tribunal shall not stay the suspension, in accordance with article 10.5 above.