



Translation of the

GMAA-Arbitration Rules

valid as from 1 January 2020

(In case of doubt, the German version prevails.)

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GMAA-Arbitration Rules
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§ 1 Scope of Application

1. Where the parties to a contract have agreed that disputes between them shall be resolved in accordance with the rules of the German Maritime Arbitration Association (GMAA), these rules shall apply in the version in force at the time arbitration proceedings are commenced.
2. The parties may amend or supplement these rules for the purpose of an individual dispute. In the event, however, that arbitrators have already been appointed such amendments or supplements shall be allowed only with the consent of the arbitrators.

§ 2 Choice of Arbitrators

1. The parties are free in their choice of arbitrators, unless they have agreed in the arbitration agreement upon the person or particular qualifications of the arbitrator to be appointed.
2. A person who has acted as conciliator, mediator or in a similar function in the same matter shall not be appointed as arbitrator.
3. At the request of a party the Chairman of the Board of the GMAA shall propose arbitrators for appointment.

§ 3 Number of Arbitrators

The arbitral tribunal shall consist of two arbitrators unless the parties have agreed that it shall consist of three arbitrators or a single arbitrator.

§ 4 Appointment of Arbitrators

1. If the arbitral tribunal is to consist of two arbitrators, each party shall appoint one arbitrator. If the two arbitrators cannot agree on a decision in the proceedings they shall forthwith appoint a third arbitrator as chairman.
2. If the arbitral tribunal is to consist of three arbitrators, each party shall appoint one arbitrator. The two arbitrators shall forthwith appoint the third arbitrator as chairman.
3. If a party fails to appoint an arbitrator within two weeks after being requested to do so by letter, fax message or e-mail by the other party, the Chairman of the Board of the GMAA or his substitute shall appoint the arbitrator at the request of the other party.
4. Where sub-par. 1, sentence 2 or sub-par. 2, sentence 2, above applies, if the two arbitrators cannot agree forthwith on the appointment of a chairman, the Chairman of the Board of the GMAA or his substitute shall appoint the chairman at the request of either party. The same shall apply if the parties, having agreed on a single arbitrator, cannot agree on the appointment of such arbitrator.
5. The appointment of an arbitrator or chairman becomes valid upon his agreement and the notification of such appointment to the parties.

§ 4a Multi-Party Disputes

1. Unless the parties have agreed otherwise, two or more claimants are jointly to appoint one arbitrator when commencing arbitration proceedings.

2. If the arbitration proceedings were instituted against two or more respondents then, unless otherwise agreed between the parties, the respondents are to jointly appoint one arbitrator within a time limit of four weeks counting from service on the respondents of the request by letter, fax message or e-mail. If the request to appoint has been served on the respondents at different times, the time limit starts to run from the latest service. The time limit can be extended by the Chairman of the Board of the GMAA or his substitute. Upon hearing the parties, and unless the parties jointly appoint an arbitrator within the time limit, the Chairman of the Board of the GMAA or his substitute upon request by one party appoint two arbitrators, unless the parties decide otherwise. Such appointment shall replace an appointment by the claimants. This shall not affect the commencement of the arbitration proceedings.
3. The arbitral tribunal decides upon the admissibility of multi-party proceedings.

§ 4b Company Disputes

1. In the event of a dispute between a company and its shareholders, its organs and/or members of such organs as well as in the event of disputes amongst shareholders, organs and members of such organs the arbitral tribunal is constituted by the Chairman of the Board of the GMAA or his substitute appointing two arbitrators upon the claimant's application.
2. The arbitral tribunal instructs the company to notify those shareholders and organs of the company not yet party to the proceedings about the commencement and progress of the arbitration.
3. The company, its shareholders, its organs and/or members of such organs are entitled to join the arbitration proceedings as intervenor by declaration to the arbitral tribunal by letter, fax message or e-mail provided they have a legitimate interest in the outcome of the proceedings.
4. The same arbitral tribunal is competent in respect of further disputes regarding the same subject matter or resolution in dispute. In company disputes pending before a state court the company, its shareholders and the company organs are under an obligation to object to the jurisdiction of the court on the basis that an arbitration agreement exists.
5. § 4a sub-par. 3 applies accordingly.

§ 4c Further Independent Appointments of Arbitrators

The Chairman of the Board of the GMAA or his substitute may appoint two arbitrators in respect of other disputes upon application of the claimant, if so agreed by the parties.

§ 4d Appointment of Substitute Arbitrators

1. If the mandate of an arbitrator ends prematurely, a substitute arbitrator shall be appointed in accordance with sub-par. 2.
2. If the retiring arbitrator was appointed by a party, § 4 sub-par. 3 shall apply *mutatis mutandis*. If the retiring arbitrator was appointed as chairman by the other two arbitrators jointly, § 4 sub-par. 4 sentence 1 shall apply *mutatis mutandis*. If the retiring arbitrator was appointed as sole arbitrator by the claimant and the respondent jointly, § 4 sub-par. 4 sentence 2 shall apply *mutatis mutandis*. If the retiring arbitrator was appointed jointly by several respondents, § 4a sub-par. 2 shall apply *mutatis mutandis*. If the retiring arbitrator was appointed jointly by several claimants, § 4a sub-par. 2 shall also apply *mutatis mutandis* with a corresponding exchange of the party

designations. If the retiring arbitrator was appointed by the Chairman of the Board of the GMAA or his representative, the substitute arbitrator must be appointed by the Chairman of the Board of the GMAA or his representative at the request of a party.

§ 5 Duties of the Arbitrators and the Members of the Board of the GMAA

1. Every arbitrator and every member of the Board of the GMAA performing a task under these Rules has a duty of impartiality and confidentiality.
2. The arbitrators shall conduct the proceedings – within the limits of the applications of the parties – expeditiously and bring them to an end within a reasonable period of time.
3. The arbitrators shall preserve the files of the arbitral tribunal for five years after termination of the proceeding pursuant to § 11 sub-par. 8.
4. An arbitrator shall not be liable with respect to his decisions, except that he may be liable for the consequences of his deliberate breach of duty in such respect.
5. With respect to any other act or omission in connection with an arbitration, an arbitrator shall only be liable for the consequences of his gross negligence or his deliberate breach of duty.
6. If the Chairman of the Board of the GMAA or his representative accepts a request for the appointment of an arbitrator pursuant to § 4 sub-par. 3 and 4, § 4a sub-par. 2 and 3, § 4b sub-par. 1 or § 4c or the request for the appointment of a substitute arbitrator pursuant to § 4d, sub-par. 5 applies *mutatis mutandis*.

§ 6 Challenging an Arbitrator

1. Any arbitrator may be challenged by a party in the event that
 - a. a state judge is precluded by law from the performance of his judicial office, or
 - b. if circumstances exist which raise justified doubts as to his impartiality or independence, or
 - c. if he does not fulfil the criteria agreed between the parties, or
 - d. if he improperly delays the performance of his arbitral duties.
2. Each arbitrator shall disclose to the parties all circumstances that might justify his challenge at any stage of the proceedings.
3. A party may only challenge the arbitrator appointed by him for reasons of which he became aware after his appointment. A party who intends to challenge an arbitrator must expose the reasons for his challenge in writing within two weeks after becoming aware of them. A party shall lose his right to challenge an arbitrator once he has taken part in a hearing or made applications without challenging the arbitrator for reasons already known to him.
4. Unless within one week after receipt of the request for challenge by the other party and the arbitral tribunal, the other party does not approve the challenge or the challenged arbitrator resigns from his mandate as arbitrator, the issue shall be decided by the court of appeal (*Oberlandesgericht*) which has jurisdiction over the place of arbitration. The matter shall be referred to the said court of appeal within two weeks after receipt, by the other party and the arbitral tribunal, of the challenge.

5. While the request for challenge is pending, the arbitral tribunal, including the challenged arbitrator, shall be entitled to proceed with a hearing or the arbitral proceedings and render its award.
6. Should the other party approve the challenge or should the arbitrator terminate his mandate after having been challenged or such challenge be allowed by a final state court ruling, the arbitrator shall be excluded from his mandate. The party who appointed him or could have done so shall appoint another arbitrator, or the two arbitrators shall appoint another chairman. § 4 sub-par. 3 and 4 shall apply *mutatis mutandis*.
7. An arbitrator who has been successfully challenged loses his right to remuneration and shall reimburse without delay any payments already received in accordance with § 7 sub-par. 2, except if he had no influence over the reason for the successful challenge.

§ 7 Costs of the Arbitration Proceedings

1. The arbitral tribunal is entitled to payment of its fees and reimbursement of its expenses (plus value added tax, if applicable) for which the parties are jointly and severally liable.
2. In respect of such payments and reimbursements, the GMAA-Rules on the Remuneration of the Arbitral Tribunal in the version in force at the commencement of the proceedings and forming part of these Arbitration Rules shall apply. Upon submission of the arbitration claim the arbitral tribunal asks the parties for a payment in advance towards their anticipated fees and expenses. Alternatively and subject to the consent of all arbitrators, the arbitral tribunal may demand security for costs in lieu of payment in advance. The arbitral tribunal shall ask the claimants and respondents respectively for payment of one half of the security or the advance payment. The arbitral tribunal may make the continuation of the proceedings conditional upon providing the security or effecting the advance payment.
3. The rule in sub.-para. 2 above applies *mutatis mutandis* to costs incurred at a later stage. If these costs are incurred in connection with the taking of evidence the arbitral tribunal shall ask the party bearing the burden of proof for these costs as an advance payment or demand security; pro rata, if appropriate. As long as such advance payment or security is not effected the taking of evidence shall not take place. The proceedings shall, nevertheless, be continued expeditiously. § 10 sub.-para. 4 lit. q applies correspondingly.
4. It shall lie within the arbitral tribunal's reasonable discretion if and to what extent the claimant or counterclaimant shall be ordered to provide security for costs upon application by the other party if otherwise there is a risk that the reimbursement of the costs of the proceedings of a successful claim is not enforceable. If the respective party fails to demonstrate to the arbitral tribunal within a time limit to be determined and which may be extended, that security is provided, then, upon application of the other party the claim or counterclaim is deemed to have been discontinued if evidence of security has not been provided by the time then arbitral tribunal rules on the discontinuance.
5. Each party shall, to the extent they are unsuccessful, bear the arbitrator's fees and expenses as well as their own costs and expenses and shall reimburse the other party in respect of its costs and expenses, provided that such costs and expenses were necessary to appropriately pursue or defend the claim. The fees of a representative appearing on behalf of a party in the proceedings shall only be recoverable up to the amount fixed in the German Lawyers' Remuneration Act (*Rechtsanwaltsvergütungsgesetz – RVG*) in respect of appellate proceedings. The same applies if the arbitration claim or counterclaim has been or is deemed to have been discontinued.

§ 8 Place of Arbitration, Registration of the Proceedings

1. Unless the parties have agreed upon the place of arbitration, the arbitral tribunal shall fix either Hamburg or Bremen as place of arbitration.
2. The arbitral tribunal shall inform the Secretary of the GMAA of all arbitration proceedings commenced before them and of their termination. The arbitral tribunal shall provide the Secretary with a copy in anonymous form of each award or order by which the proceedings are terminated in accordance with § 11 sub-para. 4.

§ 9 Institution of Proceedings

1. The arbitral proceedings are commenced when the respondent receives from the claimant by letter, fax message or e-mail notice of the appointment of the arbitrator. This appointment shall include the name of the parties, if possible addresses, and the description of the subject-matter of the dispute.
2. In disputes pursuant to § 4b or § 4c, the arbitration proceedings shall commence upon receipt of the request to the Chairman of the Board of the GMAA to appoint two arbitrators by letter, fax message or e-mail, unless otherwise provided for in the arbitration clause. Sub.-para. 1 sentence 2 shall apply to the request *mutatis mutandis*.

§ 10 Procedural Principles

1. The arbitral tribunal shall have the power to decide whether the arbitration agreement is valid, whether the arbitral tribunal is properly constituted and whether it has jurisdiction with respect to the dispute. If a party challenges the jurisdiction of the arbitral tribunal, the arbitral tribunal may decide by interim award whether it has jurisdiction; an appeal to the state court against such interim award shall not suspend the arbitral proceedings.
2. The arbitration proceedings are conducted in the German or English language. Failing an agreement between the parties the arbitral tribunal shall decide. Other languages may only be used in the proceedings upon the consent of the parties and the arbitral tribunal.
3. All parties to the proceedings support to their best endeavour the purpose of GMAA arbitration proceedings to achieve a competent and expeditious dispute resolution. At any stage of the proceedings the arbitral tribunal grants the parties sufficient opportunity to be heard.
4. The arbitral tribunal shall ensure this in particular with the following measures:
 - a. Immediately upon receipt of the claim and further submissions the arbitral tribunal shall peruse their contents to decide on reasonable measures to promote the proceedings. In particular, it will promote appropriate applications and expeditious and appropriate submissions by the parties through directions and/or conditions.
 - b. The arbitral tribunal investigates the facts submitted by the parties inasmuch as it considers it necessary. To this end it may, in particular, order the parties to observe requirements, summon and hear witnesses, appoint experts and demand the presentation of documents and other items of evidential value. The arbitral tribunal is not bound by the parties' application for evidence.
 - c. Already after receipt of the defence the arbitral tribunal considers if a short term oral hearing is appropriate for the settlement of the dispute or the discussion of the matters in dispute

and the further management of the proceedings and will, if appropriate, summon the parties to attend such oral hearing. It may also discuss the further management of the proceedings in a telephone conference.

- d. The arbitral tribunal sets reasonable time limits for the parties to make their submissions. To determine the time limits it takes into consideration the complexity of the matter taking into account the right of hearing of the respective parties and their respective interests and their duty to support the proceedings to their best endeavours.
 - e. Extensions of time are granted by the arbitral tribunal only with the consent of the other party or if significant reasons are submitted to the arbitral tribunal in support of an extension of time and are verified to the arbitral tribunal upon its request.
 - f. The arbitral tribunal is entitled ensure that the parties' submissions are structured and may impose certain requirements in respect of their submissions, in particular determine the outline and sequence of their submissions in respect of individual issues and demand that submissions are made, for example, in the form of electronically useable PDF-files and Excel-spreadsheets.
 - g. The arbitral tribunal shall dismiss delayed submissions if its acceptance would delay the conclusion of the proceedings unless the party in default credibly shows the reasons causing the delay and that it was not responsible for failing to comply with the time limit.
 - h. If a party does not comply with the requirements of the arbitral tribunal it is in the discretion of the arbitral tribunal to dismiss submissions which are in breach of such requirements.
5. The parties shall make comprehensive submissions including offerings of evidence. They shall reply substantiated to submissions from the opposing party relevant to the dispute inasmuch as this is possible taking into account reasonable attempts at clarification. A denial made without observing the aforesaid shall be irrelevant.
 6. The parties provide each other with all submissions including the claim and counter-claim and any further statements and enclosures and each arbitrator is provided with a further copy. This may be accomplished electronically.
 7. Each party may be represented by a legal representative.
 8. The arbitral tribunal is entitled to order measures for the securing of evidence; it is not empowered to order other preliminary or securing measures in respect of the matter in dispute.

§ 11 Arbitral Proceedings

1. The arbitral tribunal conducts the hearing with the parties orally unless this is waived jointly by the parties.
2. One arbitrator shall record each hearing and forward the minutes to the parties. The record of the hearing of evidence shall be dictated in the presence of the parties.
3. Summonses shall be served on the parties by means which enable evidence of receipt to be proven, unless the parties have agreed on a different manner of service.
4. The arbitral proceedings are terminated by an award or by an order of the arbitral tribunal. The arbitral tribunal may terminate the arbitral proceedings by order if

- a. the claimant fails to submit the reasons for its claim within the time limit agreed or ordered by the arbitral tribunal upon application of the respondent, or
 - b. the claim is discontinued or has been declared to be discontinued unless the respondent objects and the arbitral tribunal acknowledges the respondent's justified interests in a final conclusion of the dispute, or
 - c. the parties have agreed the termination of the proceedings, or
 - d. the parties fail to pursue the arbitral proceedings despite having been requested to do so by the arbitral tribunal, or
 - e. the continuation of the proceedings has become impossible for another reason.
5. Unless the parties have expressly agreed on different rules of procedure the 10th Book of the German Civil Procedural Code (*Zivilprozessordnung – ZPO*) shall apply.

§ 12 Applicable Law

1. Unless the parties have expressly agreed on the application of a specific law, German law shall be deemed to have been chosen to apply, including to the arbitration agreement.
2. The arbitral tribunal shall take into account the accepted customs of the trade.
3. The arbitral tribunal may only decide a dispute *ex aequo et bono* ("according to the right and good") if expressly so authorized by the parties.

§ 13 Amicable Settlement

1. At every stage of the proceedings, the arbitral tribunal shall consider the possibility of an amicable settlement of the dispute or of particular issues in dispute and – if it considers it expedient to do so – shall suggest such settlement to the parties.
2. If, during the arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings by an order pursuant to § 11 sub-par. 4 lit. c. If requested by the parties, the arbitral tribunal shall record the settlement in the form of an arbitral award on agreed terms.

§ 14 Award

1. The arbitral tribunal decides by majority of votes.
2. The arbitral tribunal is not entitled to consult advisers.
3. When rendering its award, the arbitral tribunal only considers remedies claimed by the parties.
4. The arbitral award shall be rendered in writing and state the reasons upon which it is based. The following shall be included in the award:
 - a. the names of the parties to the arbitral proceedings, including their addresses as well as, if applicable, names and addresses of their legal representatives
 - b. the names of the arbitrators who render the award;

- c. the place of arbitration;
- d. the date of the written award;
- e. the ruling;
- f. the facts of the dispute;
- g. the reasons on which the ruling is based;
- h. the decision on which party shall bear the costs of the arbitral proceedings in accordance with § 7 sub-par. 5;
- i. the signature of the arbitrators. Where the arbitral tribunal consists of more than two arbitrators and the signature of one arbitrator who voted on the award cannot be procured, the signature of the others shall be sufficient. The arbitrators who sign shall make a note under the award stating that the signature of that one arbitrator could not be procured.

One original of the award shall be served on each party.

- 5. Upon the application of a party, the arbitral tribunal shall decide in an additional award, which may be issued without a hearing, on the amount of costs to be borne by the parties and the reimbursement of same. Sub-par. 1 to 5 above shall apply *mutatis mutandis*.
- 6. Unless one of the parties objects within a period of one month after receipt of the award, the arbitral tribunal shall be entitled to publish the award including the name of the vessel, but without stating other identifying details, in particular the names of the parties or any witnesses and experts.

§ 15 Services and Competent State Court

- 1. Service pursuant to the terms of these Arbitration Rules shall be effected by the delivery with appropriate proof of receipt (for example, by courier). If a document to be served is received by other means, it shall be deemed validly served at the moment when it was actually received.
- 2. If a party has appointed a representative in the proceedings, service shall be effected on that representative.
- 3. Each arbitrator is authorized by the other arbitrators and empowered by the parties to effect service of documents including the award.
- 4. The competent state court (§ 1062 ZPO) is the court of appeal (*Oberlandesgericht*) which has jurisdiction over the place of arbitration. For assistance in the taking of evidence and other judicial measures for which the arbitral tribunal lacks jurisdiction (§ 1050 ZPO) the competent state court is the local court (*Amtsgericht*), that has jurisdiction at the place of arbitration.

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