

**Provisions**  
for the  
**„Hamburg Private Arbitration**  
**in the Coffee Import Trade“**

(arbitration as to quality) decided at the Extraordinary Meeting of the Association of Hamburg Import Agents and Brokers (registered association) on January 25<sup>th</sup>, 1960 and amended at the Annual General Meeting on 27<sup>th</sup> May 2013

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§ 1

**Competence of the Hamburg Private Arbitration**

- 1) The Hamburg private arbitration applies, under exclusion of the course of law, to all disputes arising from coffee transactions, insofar as they relate to the quality of the merchandise, if same has been agreed in the contract.
- 2) In cases where the Hamburg private arbitration is not mentioned in the contract it may only take place with the consent of the managing board that has the right to decline its consent without stating the reasons.

§ 2

**The Arbitration Committee**

- 1) The arbitration committee consists of two arbitrators and one umpire, possibly also of two umpires or three umpires.
- 2) Each party will appoint one arbitrator. Both arbitrators agree on one umpire or, as the case may be, on two or three umpires. Should the arbitrators have agreed on only one umpire, his decision alone will be binding. The umpire may call in a second umpire and the latter a third one, in which case the right of decision will always pass to the last umpire called in. If two umpires are appointed at the beginning, they should endeavour to arrive at an agreement. Should an award fail to materialise, they will appoint a third umpire who has to decide finally and definitely. If three umpires are appointed at the beginning, they will deliver the decision following the principle of majority. All umpires ought to enjoy the arbitrators' confidence.

- 3) If, after having proposed twice a nomination, the two arbitrators fail to agree on an umpire or if the two umpires fail to agree on the person of a third one, this umpire will be appointed by the President of the Association of Hamburg Coffee Import Agents and Brokers or by his deputy.
- 4) On application, the President of the Association of Hamburg Coffee Import Agents and Brokers or his deputy will always have to appoint the umpire or the umpires at such a time when and insofar as, in accordance with par. 2 sect. 2, an umpire has not or no longer enjoys the confidence of the two arbitrators.
- 5) On application, the President of the association of Hamburg Coffee Import Agents and Brokers or his deputy may appoint or supplement an arbitration committee.
- 6) On application, the managing board may admit exceptions. It may delegate this right to the President or to his deputy.
- 7) Only persons who by virtue of their experience and professional knowledge seem to be particularly suited with regard to the dispute shall be appointed as arbitrators or umpires.

### § 3

#### **Procedure of the Private Arbitration**

- 1) The basis of the hearing is the original contract or the note of purchase on which the transaction is based, to be provided by the applicant of the arbitration. With a view to ensuring an as wide as possible neutrality on the part of the umpire, everything enabling him to conclude to buyer's and seller's name is to be withheld from him till the decision.
- 2) Samples should be drawn and sealed jointly by those in charge of both parties. The drawing and sealing of the samples may as well be effected only by an independent and qualified body appointed by one of the two parties, if the other party has failed to give its consent.
- 3) Arbitration samples are to be drawn from 10% of the number of bags or its equivalent in the case of bulk shipment scheduled for arbitration. Provided both arbitrators and/or the parties agree, this percentage may be raised or lowered at their option. This applies as well to the size of the single arbitration sample.

- 4) Should the premises, stated under section 1, fail to prevail, the umpire will be bound to decline the further execution of the arbitration. In such a case no new umpire should be called in, rather should the arbitration proceedings be started anew after the relevant conditions have been met.
- 5) The certificate of the Association of Hamburg Coffee Import Agents and Brokers must be used for issuing the arbitration award. The certificate will be completed by the umpire. All umpires and arbitrators who have taken part in the accomplishment of the arbitration award have to sign the arbitration certificate.
- 6) a. The question of “unsound and/or radical difference in quality” with regard to paragraph 7 section d) of the E.C.C. is only to be investigated, if the buyer makes such an application, the application must be presented in writing  
b. If such an application is made, three umpires have to participate in the arbitration. The arbitrators have to agree on three umpires right from the beginning. If they cannot agree, the procedure will follow §2 section 3 of the conditions of the Hamburg Private Arbitration in the Coffee Import Trade.  
c. In case of a suspicion of unsoundness laboratory examination has to follow. Costs have to be advanced by the applicant.  
d. Should the arbitration committee come to the conclusion that there is an unsound delivery or a radical difference in quality, the umpires have to elaborate the arguments in writing.  
e. The fees will be double. If the committee of expert negates the question of “unsound and/or radical difference” in quality, the applicant shall assume half of these fees, irrespective of the validity of § 5 section 4 and 5 of the general conditions.
- 7) The arbitration will be executed in Hamburg.

#### § 4

#### **Legal Validity and Delivery of the Decision**

The arbitration award is final. It will be delivered to the parties by that umpire who has made the decision or by that umpire on whom the other umpires have agreed in this respect.

§ 5

**Arbitration Fees**

- 1) The following fees will be charged (as of 1st of July 2012)  
from 1 up to 1000 bags per arbitrator/umpire €250,-  
for each further lot of 1000 bags or fractions thereof additional €100,- per  
arbitrator/umpire.
- 2) Travel expenses for arbitrators/umpires and all other costs which occurred with  
regard to the arbitration will be charged separately, also if the arbitration has  
been withdrawn. Cost of arbitration sampling are for account of the applicant.
- 3) The committee of experts may require the applicant to deposit an advance on  
costs prior to the opening of the course of the proceedings.
- 4) In principle the losing party has to pay all fees and costs, except those for  
arbitration sampling. However, the experts are authorized to divide up the fees  
and cost between the parties, without stating the reasons for doing so. This  
seems particularly appropriate if the appointment of additional umpires is  
mainly due to the fact that the margin between the offer by the arbitrator  
appointed by the seller and the demand by the arbitrator appointed by the buyer  
is so considerable that one umpire cannot be expected to deliver the judgement  
alone.
- 5) If an amicable negotiation has preceded the arbitration, the arbitration fees are  
for buyer's account if the allowance awarded is not higher than an offer made  
by the seller or his delegate during the amicable negotiation.

§ 6

The present provisions will come into force with effect from 1<sup>st</sup> July, 2013