



**Arbitration Board of the  
German Coffee Association at the  
Hamburg Chamber of Commerce**

Effective as of 01 June 2014

**Article 1**  
**Competence of the Arbitration Board of the Association**

1. The Arbitration Board of the German Coffee Association at the Hamburg Chamber of Commerce (Arbitration Board) is competent without recourse to courts of law for disputes arising from coffee transactions which do not concern the execution of a quality arbitration if
  - a) the contract has been concluded on the basis of the European Contract for Coffee (ECC) of the European Coffee Federation (ECF) and the parties have agreed that the place of arbitration is Hamburg or Hamburg has been designated as such by the Contracts Committee of the ECF, or
  - b) the parties have otherwise agreed upon the competence of the Arbitration Board.
2. The Arbitration Board shall be entitled, at any time, to refuse ruling in a pending dispute without stating reasons and to refer the parties to the due process of law. This resolution is incontestable. It may be adopted prior to the final formation of the Arbitration Board by the office of administration at the Hamburg Chamber of Commerce.
3. If claims arising from several contracts between the same parties are pending which are legally independent from each other pursuant to Article 1 ECC the Arbitration Board may negotiate and decide on those claims in the same proceedings. In this case, the values in dispute are added up to an aggregate value.
4. Unless the parties have agreed otherwise the applicable Arbitration Rules are those in force at the time of filing the statement of claim. If there are differences in interpretation between the English and the German language version of the Arbitration Rules, the German language version is binding.

**Article 2**  
**Seat of the Arbitration Board**

The seat of the Arbitration Board and its office of administration are at the Hamburg Chamber of Commerce (Chamber). The Arbitration Board shall be entitled, with the consent of the Chamber, to sit at any other place.

**Article 3**  
**Composition of the Arbitration Board**

The Arbitration Board shall consist of the umpire and two further arbitrators, unless otherwise agreed to by the parties. As arbitrator, the umpire has the same legal status as the further arbitrators, unless regulated otherwise below. The arbitrators are not agents of the party who appointed them but impartial members of an independent body.

**Article 4**  
**Statement of Claim, Formation of the Arbitration Board**

1. The plaintiff files his statement of claim with the office of administration. The address is:

Schiedsgericht des Deutschen Kaffeeverbandes e. V.  
c/o Handelskammer Hamburg  
Postfach 11 15 47  
D-20414 Hamburg

2. The statement of claim shall state the facts of the case, a precise claim, and proof of the agreement establishing the jurisdiction of the Arbitration Board. The arbitration proceedings shall commence on receipt of the statement of claim properly comprising the before points at the office of administration. The statement of claim shall further include the name and address of the arbitrator appointed by the plaintiff and the declaration of assent of said arbitrator. If no arbitrator has been appointed or the plaintiff waives to appoint one, the appointment will be effected by the Chamber.
3. The office of administration shall submit, upon receipt of the security payment pursuant to Article 14, one copy of the statement of claim to the defendant. If the arbitrator of the plaintiff is appointed by the Chamber, the office of administration will communicate the name and address of the arbitrator as soon as he has been appointed. The office of administration shall request the defendant to comment on the statement of claim within a deadline of a maximum of 21 calendar days fixed by the office of administration and inform the office of the name and address of the arbitrator appointed by the defendant and furnish the declaration of assent of said arbitrator. If no arbitrator is appointed or the defendant waives to appoint one, the appointment will be effected by the Chamber. The deadline granted to the defendant may be extended, if justified, by the office of administration, as a rule up to a maximum of another 21 calendar days, and beyond in exceptional cases.
4. The parties may only appoint as arbitrators such persons who are owners, members of the board of directors, managing directors, personally liable partners, fully authorized signatories or duly authorized employees of firms which are engaged in the coffee trade or in another international commodity trade or commodity brokerage and registered in a Commercial Register or Cooperative Societies Register of the Federal Republic of Germany or vested with a comparable legal status in another state. This provision is not binding for the Chamber.
5. The arbitrators shall agree on an umpire. This umpire need not belong to the category of persons referred to in Para. 4 of this Article. If no agreement is reached regarding the person of the umpire within a period of two weeks, an umpire will be appointed by the Chamber. The office of administration shall determine the beginning of this time period by notifying the arbitrators.

#### **Article 5**

#### **Exclusion and Rejection of a Member of the Arbitration Board**

1. The umpire or an arbitrator can be excluded or rejected for the reasons stated in the German Rules of Civil Procedure (ZPO) regarding disqualification of a judge from exercising judicial functions by operation of law and also on the grounds of suspected prejudice. Applications for rejection, which must be substantiated, shall be filed with the Chamber. The Chamber will decide after hearing the parties. Following the decision of the Chamber the parties may resort to the process of law provided for by the ZPO.
2. If a member of the Arbitration Board leaves for the reasons stated in Para. 1 of this Article or for any other reason, a substitute shall be appointed. The procedure follows the procedure of initial appointment. The office of administration may set a deadline for the parties and arbitrators who have the appointment rights of up to 14 calendar days for making a declaration.
3. If a member of the Arbitration Board has to leave for the reasons stated in Para. 1 of this Article or for any other reason, the other members of the Arbitration Board remain in office.

## **Article 6 Joinder of Third Parties**

1. A party who believes, in case of defeat, to be in a position to put forward a claim against a third party or who fears a claim from a third party may issue a request of joinder up to the end of the last hearing.
2. The third party is entitled to issue a request of joinder to further parties.
3. The third party is entitled but not obliged to join the dispute. If it does so this act of joining has by way of agreement between the joining party and the initiator of the joinder the effect of Para. 74 Subpara. 3 ZPO in conjunction with Para 68 ZPO. The office of administration shall in this case deliver to the joining party one copy of all documents exchanged between the parties up to the date of the joinder and of all remaining papers making up the records. If the joinder causes the Arbitration Board to incur additional effort, the Arbitration Board may raise the fee pursuant to Article 13 Para. 3.
4. Additional claims may be put forward within the context of the joinder, upon which the Arbitration Board may decide to rule, either in the same proceedings or separately, at its discretion. This shall also apply even if the arbitration agreement does not originally cover such claims. The value in dispute of such claims will be added to the initial value in dispute.

## **Article 7 Counterclaims and Set-Offs**

1. Counterclaims shall be treated like claims. The Arbitration Board decides on the admissibility of the counterclaim. The value in dispute of the counterclaim shall be added to the value in dispute of the original claim.
2. Set-offs are admissible unless a prohibition of set-off exists. This shall also apply even if the arbitration agreement does not originally cover the set-off claims. If the set-off causes the Arbitration Board to incur additional effort, then the Arbitration Board may raise the value in dispute by a reasonable amount, the maximum being the value of the set-off.
3. The Arbitration Board may refuse to decide on a counterclaim or set-off if this is likely to cause a delay in the proceedings.

## **Article 8 Proceedings of the Arbitration Board**

1. The Arbitration Board shall conduct the proceedings in accordance with these Arbitration Rules and, unless said rules provide for otherwise, according to the rules of Book 10 ZPO, apart from that, at its own discretion and at reasonable speed. The Arbitration Board may within the scope of exercising its own discretion resort to the provisions of the remaining books of the ZPO. The parties may make further agreements if legally admissible. If such agreements are made after the proceedings have commenced the Arbitration Board may, in justified cases, within 14 calendar days of having knowledge of such agreements, claim additional security payments and raise the fee in accordance with Article 13 Para. 3 or refer the parties to the due process of law pursuant to Article 1 Para. 2 upon settlement of the prorated costs incurred up to that point in time.

2. In general, there shall not be more than two exchanges of pleadings.
3. If a party fails to respond within a set deadline, it is assumed that said party no longer intends to make written statements pertinent to the case.
4. Orders, directions governing the proceedings, summons and other notifications of the Arbitration Board or the umpire are issued and delivered by the office of administration.
5. Before the Arbitration Board gives its ruling, there will be an oral hearing. The parties may mutually agree to waive this hearing and move for a decision based on the available records. The hearing is not public and will be conducted by the umpire. Subject to the agreement of the parties, the Arbitration Board may allow legal trainees, persons commissioned by the office of administration and persons who are qualified for appointment as arbitrators pursuant to Article 4 Para. 4 to attend hearings and deliberations as guest listeners. The parties shall be summoned for the hearing. They shall be granted sufficient right to be heard. The Arbitration Board may require the parties to submit written declarations. It may require that evidence be furnished at its discretion. The Arbitration Board may hear evidence of witnesses or experts, appearing voluntarily before the Arbitration Board, or it may have them examined by an assigned member of the Arbitration Board.
6. If the Arbitration Board takes evidence after the completion of the hearing, the parties shall be given an opportunity to give a written comment on the findings within a reasonable period of time. A new hearing shall be fixed if a party applies for this.
7. The Arbitration Board will rule as to whether a hearing or swearing in of witnesses or experts shall be carried out by courts of law. The Arbitration Board may require a party to file the applications necessary for this purpose with the competent court of law in accordance with the ZPO.
8. At the discretion of the umpire, minutes of the course of the hearing and especially of the statements of witnesses and experts shall be taken for the records. The parties shall receive a copy and be given an opportunity to comment on the records within 14 calendar days after receipt of the copy. The Arbitration Board shall take the comments on file and consider them in its ruling at its discretion.
9. If a party does not appear at the hearing despite having been summoned, the Arbitration Board will use the available records and, where applicable, the pleadings of the party which has appeared, as basis for its ruling. If the party that has appeared presents new facts which are of significance to the ruling of the Arbitration Board, then the party that has not appeared must be given an opportunity to comment on such facts within a reasonable period of time.
10. The language in which proceedings with and before the Arbitration Board are to be conducted is determined by the Arbitration Board at its discretion. The Arbitration Board may order or admit the use of a foreign language even for single actions of the proceedings, particularly for the hearing of a witness not commanding the German language, and also for the written statement of claim, for other written declarations and for the presentation of any documents written in a foreign language. Costs arising from calling-in a translator may be charged to the party for whose benefit they are incurred. If the parties mutually agree that the German or English language be used in the proceedings until the arbitral award, the Arbitration Board is bound by this agreement. The arbitral award shall be rendered in the German language. Upon request, each party may receive at their own cost a translation into the English language authorized by the Arbitration Board. The German language version is binding.

11. The arbitrators, the parties involved and the persons of the Chamber involved with arbitration proceedings shall undertake to maintain confidentiality to any other parties at every stage of the proceedings, in particular with respect to the parties involved, witnesses, experts or other items of evidence. Persons called in by the parties involved in the arbitration proceedings shall be obligated to maintain confidentiality.

### **Article 9 Communication**

1. The statement of claim, the statement of defence and all contingent pleadings of the parties consisting of more than four pages including supporting documents shall be submitted in writing and in five copies to the office of administration which will ensure their forwarding to the opposite party and the Arbitration Board without delay or without delay upon reception of the security payment. To keep a deadline or to speed up communication the parties may transmit documents in advance as regulated in Para. 2 provided that the written documents are filed subsequently without delay. The office of administration may forward incoming documents in any format electronically or via telefax as long as proof of delivery is ensured. In this case, the written documents will be subsequently sent solely for the purpose of completing the records of the parties and the Arbitration Board.
2. All communication by the Arbitration Board, the office of administration, and the Chamber may be effected in writing or by any other means which is suitable for the permanent reproduction of graphic characters while identifying the person making the declaration. The transmission may be effected by electronic means.
3. If the whereabouts of a party or of a person entitled to receive a communication is unknown, communications shall be regarded as having been received on that day on which they could have been received at the last known address following due transmission by registered mail with receipt of delivery or by courier service or by another means of transmission insofar as this ensures proof of delivery.

### **Article 10 Legal Adviser and Office of Administration**

The Arbitration Board shall call in a legal adviser from the Chamber to act as consultant in all discussions, meetings and deliberations. This shall apply also if members of the Arbitration Board have legal knowledge. The legal adviser of the Chamber shall direct the proceedings pursuant to the instructions of the Arbitration Board and function as head of the office of administration of the Arbitration Board established at the Chamber.

### **Article 11 Rulings and Settlements**

1. The Arbitration Board shall be entitled to decide on its own jurisdiction.
2. When the Arbitration Board deems the facts of the case to be sufficiently clarified, it shall rule without delay within the scope of the filed applications. The Arbitration Board gives its ruling subject to a simple majority. An application against an arbitral award to be disaffirmed may be made only for the reasons stated in the ZPO.

3. The Arbitration Board shall strive during all stages of the proceedings to achieve a consensual settlement of the dispute or individual points thereof. In the event of a settlement being reached, the Arbitration Board shall end the proceedings by way of an order or, at the request of the parties, shall issue an arbitral award on agreed terms, insofar as the content does not contravene public order. An arbitral award on agreed terms need not contain reasons for the decision.
4. Arbitral awards will be given in writing and shall be signed by all members of the Arbitration Board in the number of copies required. The signatures of two members of the Arbitration Board are sufficient if the reason why the third member did not sign is given. The arbitral award shall contain reasons for the decision.
5. The Arbitration Board records will be kept in the office of administration or the archives of the Chamber for two years as of the date of the arbitral award or after proceedings have been concluded otherwise. One copy of the arbitral award will be passed to the office of the German Coffee Association for strictly confidential information. The German Coffee Association and the Chamber may publish arbitral awards or other rulings that conclude proceedings in full or in extracts omitting the names of the parties and may subject such rulings to statistical analysis.

#### **Article 12 Repeal of an Arbitral Award**

1. If an arbitral award is disaffirmed or if an application for declaration of enforceability of an arbitral award is refused by a court of law, the Arbitration Board of the German Coffee Association at the Hamburg Chamber of Commerce shall retain institutional jurisdiction. This shall not apply if the arbitral award has been disaffirmed on account of a legally void arbitration agreement or otherwise lack of jurisdiction of the Arbitration Board.
2. The arbitrators and the umpire have to be newly appointed according to the rules of initial appointment. An arbitrator or umpire who has taken part in the disaffirmed arbitral award may also be appointed provided the disaffirmation did not take place on account of a reason lying in the person of this arbitrator or umpire.
3. If, after disaffirmation of an arbitral award, the Arbitration Board is newly appealed to this is to be considered as an independent arbitration procedure also as far as the costs are concerned.

#### **Article 13 Costs of the Proceedings**

1. The costs of the proceedings comprise the fee and the lump sum according to Paras. 2 to 7 of this Article and the other costs. Such other costs include the necessary expenditure of the members of the Arbitration Board and the legal adviser of the Chamber, delivery costs, and the costs incurred by hearing witnesses and experts, obtaining expert opinions and information, and by translations, photocopying, etc. The Arbitration Board rules on the amount of the costs of the proceedings and which party has to bear such costs and whether and in what proportion such costs are to be divided between the parties.

2. The fee depends on the value in dispute which will be fixed by the Arbitration Board. It will be levied by the Chamber. Such fee amounts to

up to and including € 10,000:	€ 1,000.
For disputed sums over	
€ 10,000 up to and including 15,000 €:	€ 1,000 plus 10% of the amount exceeding € 10,000.
€ 15,000 up to and including € 25,000:	€ 1,500 plus 9% of the amount exceeding € 15,000.
€ 25,000 up to and including € 40,000:	€ 2,400 plus 8% of the amount exceeding € 25,000.
€ 40,000 up to and including € 65,000:	€ 3,600 plus 7% of the amount exceeding € 40,000.
€ 65,000 up to and including € 100,000:	€ 5,350 plus 6% of the amount exceeding € 65,000.
€ 100,000 up to and including € 300,000:	€ 7,450 plus 5% of the amount exceeding € 100,000.
€ 300,000 up to and including € 1,000,000:	€ 17,450 plus 4% of the amount exceeding € 300,000.
€ 1,000,000 up to and including € 2,000,000:	€ 45,450 plus 2% of the amount exceeding € 1,000,000.
€ 2,000,000:	€ 65,450 plus 0.5% of the amount exceeding € 2,000,000.

3. If dealing with the dispute involves an expenditure of time and work exceeding the normal amount, the Arbitration Board may increase the fee by up to 100% subject to statement of reasons.
4. If a consensual settlement is arrived at in which the Arbitration Board becomes active or if the claim is withdrawn after the hearing, there shall be no reduction of the fee. If the proceedings are concluded in another manner by consensual settlement, acceptance or withdrawal of the claim, the fee may be reduced by up to half of the amount otherwise levied. If the Arbitration Board has not yet been formed, the Chamber shall decide as to whether and to what amount costs have been incurred.
5. The umpire shall receive 30% of the fee, and each of the further arbitrators 20%, plus the statutory VAT accruing for this amount. The remainder of the fee shall fall to the Chamber. Payment of such fee shares shall be made on completion of the proceedings.
6. The Arbitration Board may award to an umpire or to an arbitrator who has left during the course of the proceedings a remuneration corresponding to his activity up to such departure in addition to the costs and, if necessary, it may decide what party has to pay such remuneration or in what proportion the payment of such remuneration is to be divided between the parties.
7. In addition to the fee, the Chamber shall charge a lump sum of 15% of such fee to cover the administration of the proceedings, this sum not to exceed € 20,000. A raise or reduction of the fee shall have a proportional effect on the lump sum.
8. The costs shall become due when fixed by the Arbitration Board. The arbitrators and the Chamber are individually and independently from each other entitled to demand payment. The parties are each liable as joint and several debtor. The office of administration shall coordinate the invoicing of the arbitrators and the Chamber to the parties.
9. Statutory VAT shall be levied additionally.
10. Each party shall bear its eventual lawyer's fees and out-of-court costs.
11. The Plenary Assembly of the Chamber shall have the right to change the cost provisions at any time. Pending disputes shall not be affected by a change of the cost provisions.



## **Article 14 Security Payment**

1. On submission of the statement of claim, the plaintiff must make a security payment to the Chamber amounting to the anticipated costs of the proceedings. The amount of this payment shall be assessed by the office of administration. If no value in dispute has been specified in the statement of claim it may be provisionally fixed by the office of administration. The calculation of the security payment is based on a proportion of other costs in the aggregate costs in the amount of 5% of the total of fee and lump sum unless the amount of other costs is foreseeably higher.
2. The office of administration shall send the plaintiff an invoice for the security payment and set a date for payment insofar as payment has not already been made. If payment is not received within the deadline, which may be extended by an appropriate period, the proceedings shall be terminated without jeopardising the plaintiff's right to re-submit his statement of claim.
3. The security payment shall not bear interest.
4. If a counterclaim is submitted, the submitting party has to make a security payment pursuant to Para. 1 to 3 of this Article.
5. If the value in dispute is raised or other costs are incurred or can be anticipated in the course of the proceedings the Arbitration Board may make continuation dependent on the payment of appropriate additional security payments.
6. The office of administration shall be entitled to effect all payments required for the proceedings from the security payment. As soon as the office of administration has been provided with all required receipts and all payments to be effected out of the security payment are processed, the Chamber shall, at the instance of the office of administration, reimburse the party who made the security payment for the remaining amount within one month. The office of administration shall compile a usage list including all receipts. Objections against the use of the security payment and the usage list as well as claims for restitution may only be asserted by the party who made the security payment within two months upon receipt of the remaining amount and delivery of the complete usage list. Objections against the statements of fees and expenses of the arbitrators referred to in the usage list and claims of restitution against the arbitrators may only be asserted directly against the latter and within the aforementioned limitation period of two months.

## **Article 15 Forfeiture of the Right to raise an Objection, Exclusion of Liability, List of Defaulting Firms**

1. If any provision of these regulations or any additionally agreed requirement of the arbitration proceedings is not met, no party which does not immediately object to this deficiency may raise an objection at a later date. This shall not apply if the party is unaware of the deficiency.
2. Liability of an arbitrator for his decision-making activity shall be excluded unless he wilfully and knowingly acts in breach of his duty. Liability shall be excluded for any other action or omission in connection with arbitration proceedings on the part of the arbitrators, the Chamber, its organs and its employees insofar as they are not wilfully and knowingly or by gross negligence in breach of their duty.

3. Article 24 d ECC is applicable. Competent to make an entry in the “List of Defaulting Firms“ are the German Coffee Association and/or the European Coffee Federation.