

## Announcement 9<sup>th</sup> Jan 2013

### SCMA BIMCO Arbitration Clause (2013) and Rule Amendments

Following BIMCO's announcement that Singapore will be included in its standard Dispute Resolution Clause (the "BIMCO Clause") as a new arbitration seat in all new and revised BIMCO contracts, SCMA is pleased to announce the following:

1. **SCMA BIMCO Arbitration Clause**

This is now available through our Model Clauses page at our website (<http://www.scma.org.sg/modelclauses.html>). The title of the clause is: **SCMA BIMCO Arbitration Clause (2013)**

2. **Rule Amendments**

The following amendments will take effect from 9<sup>th</sup> Jan 2013 0001 hrs Singapore time.

#### **AAA**

The title of the Rules **SCMA Rules 2<sup>nd</sup> Edition (2009)** will be replaced with **SCMA Rules 2<sup>nd</sup> Edition (2009) – As amended Jan 2013**.

#### **BBB**

Rule 6 has been amended to harmonize it with users of **SCMA BIMCO Arbitration Clause (2013) / "BIMCO Clause" (Singapore section only)**.

The entire Rule 6 as amended is now as follows:

6. **Appointment of Tribunal**

- 6.1 The parties may notwithstanding any of the provisions in this Rule 6 agree the number of arbitrators and the procedure for the appointment of the arbitrators and any such agreement shall prevail over the provisions in Rule 6. Three (3) arbitrators shall be appointed unless the parties have agreed otherwise.
- 6.2 If a sole arbitrator is to be appointed, and parties are unable to agree on the appointment within fourteen (14) days from the date of service of the Notice of Arbitration, the Chairman shall appoint the sole arbitrator upon the application of any of the parties. The Chairman is not bound to appoint any of the nominees of the parties.
- 6.3 If 3 arbitrators are to be appointed, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator.
- 6.4 Where a party fails to appoint the arbitrator within fourteen (14) days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the appointment of the third arbitrator within fourteen (14) days of their appointment, the appointment shall be made, upon the request of a party, by the Chairman.

- 6.5 The Tribunal shall within 7 days of its appointment, inform the Secretariat of the appointment along with a brief nature of the dispute, without disclosing the parties' names.
- 6.6 The constitution of the Tribunal shall not be impeded by: (a) any dispute with respect to the sufficiency of the Notice of Arbitration or the Response which shall be finally resolved by the Tribunal; or (b) failure by the Respondent to communicate a Response to the Notice of Arbitration. In either circumstance, the Tribunal shall proceed as it considers appropriate.

End Rule 6

**Commentary:**

The amended parts of Rule 6 are:

Rule 6.1

Rule 6.2

Rule 6.4

For easy reference, all the amendments are highlighted in blue

- 6.1 The parties may **notwithstanding any of the provisions in this Rule 6** agree the number of arbitrators and the procedure for the appointment of the arbitrators **and any such agreement shall prevail over the provisions in Rule 6**. **Three (3)** arbitrators shall be appointed unless the parties have agreed otherwise.
- 6.2 If a sole arbitrator is to be appointed, and parties are unable to agree on the appointment within **30 fourteen (14)** days from the date of service of the Notice of Arbitration, the Chairman shall appoint the sole arbitrator upon the application of any of the parties. The Chairman is not bound to appoint any of the **names nominated by nominees of** the parties.
- 6.4 Where a party fails to appoint the arbitrator within **30 fourteen (14)** days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the appointment of the third arbitrator within **30 fourteen (14)** days of their appointment, the appointment shall be made, upon the request of a party, by the Chairman.



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The amended version of the Rules is now available and may be downloaded from our website at:

<http://www.scma.org.sg/rules.html>

Thank you for your support of SCMA leading to this present development which is an important watershed for SCMA. If you have any enquiries or need any clarifications regarding this announcement, kindly direct them to me and I shall be most happy to attend to them.

Thank you.

Lee Wai Pong

Executive Director

End announcement