

SMA Salvage Arbitration Rules - Codename: SMASALV

Supplement to the Arbitration Clause

"Any dispute arising out of this Agreement shall be referred to arbitration in New York City under the then current Salvage Arbitration Rules of the Society of Maritime Arbitrators, Inc. (SMA). The arbitrator(s) shall be appointed by the parties as provided for by these rules. The arbitrator(s) decision shall be final, and for the purpose of enforcement may be entered for judgment in any Court of competent jurisdiction."

I. Appointment of Arbitrator(s)

When making a demand for arbitration, the claimant shall give the other party written notice of its nomination of an arbitrator pursuant to Section I of these rules. If the parties are unable to agree upon a sole arbitrator within 15 days following the demand for arbitration, each party is then to submit the names of three SMA members to the President of the SMA, who shall promptly select by random process one of the six names so submitted.

Notwithstanding the foregoing, the parties may agree upon a tripartite panel of arbitrators. In such case each shall appoint an arbitrator, and the two so chosen shall agree upon a third arbitrator who shall also chair the panel for administrative and procedural purposes. In the event they cannot agree on a third arbitrator within 15 days, the two party-appointed arbitrators shall request the President of the SMA to appoint the third arbitrator from the SMA roster. Salvage Arbitration Rules

II. Failure to Respond

Should the Respondent fail to respond within 15 days from receipt of the demand for arbitration, the arbitrator named by the claimant shall serve as the sole arbitrator, with the same force and authority as if agreed between the parties.

III. Submission of Evidence

- a. Within 15 days from the date of appointment, or completion of the panel, the arbitrator(s) shall establish a schedule for the submission of documentary evidence. The submissions should include documentary evidence to support their positions (such as but not limited to salvage reports, valuations, insurance certificates, photographs, survey reports, repair estimates and receipts, etc.), and such sworn testimony by affidavit as is relevant to the issues.
- b. At the sole discretion of the arbitrator(s), each side may be permitted one postponement, the duration of which shall be determined by the arbitrator(s).
- c. Within 15 days after completion of submission of documents/evidence by all parties, the parties may submit a short written summary of their respective positions, following which the proceedings shall be closed.
- d. The arbitrator(s) shall at all times have the sole discretion to modify the procedures set forth in this section. If the nature of the dispute warrants a hearing, or multiple submissions beyond those set forth in III a) and c) above, the arbitrator(s) shall permit same, but in such case the limitation on arbitrators' fees set forth at Section V shall not apply.

IV. Award

- a. The arbitrator(s) shall issue a written award within 30 days following the date of closing of the proceedings. The award shall set forth the arbitrator(s)' findings of fact and decisions clearly and concisely.
- b. In a tripartite proceeding, the decision of any two arbitrators shall be final. In such case, the award will include the dissenting arbitrator's opinion.
- c. The arbitrator(s) shall have the discretion to assess costs, including attorneys' fees and the fees and expenses of the arbitrator(s), in whole or in part against either party.
- d. Once the arbitrator(s) has reached a decision and an award is issued, it is final. The arbitrator(s) may by their own authority, however, correct apparent clerical or arithmetical errors.

V. Arbitrator(s) Fee(s) and Expenses

A sole arbitrator's fee shall not exceed \$2,000. In a tripartite proceeding, the fee of each arbitrator shall not exceed \$1500, except that the chairman shall be entitled to an additional compensation of \$500. These fees are based upon submissions made pursuant to Section III a) and c) and no hearings. In addition, the arbitrator(s) shall be entitled to reimbursement for the expenses of the arbitration, including telephone and facsimile charges, photocopying, postage, etc. at cost. Alternatively, the arbitrator(s) may charge \$100 in lieu of an accounting of such expenses.

VI. Security for Arbitrator(s) Fee(s) and Expenses

At any time prior to issuance of the award the arbitrator(s) may require each party to post security for 100% of the estimated arbitrator(s) fee(s) and expenses. Upon such demand, each party shall promptly post the required amount in the Escrow Account of the SMA, or in any other manner acceptable to the arbitrator(s). It is understood and agreed that the amounts requested for security are not to be considered as reflective of the ultimate fees and expenses of the arbitrator(s) or the allocation of the fees.

VII. Application of Rules

Except as provided above, the Maritime Arbitration Rules of the SMA, in effect at the time the salvage agreement was executed, shall apply to any proceeding conducted under these Rules. The above Salvage Arbitration Rules are effective as of January 1, 2010.

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