

## Articles of the Verband Deutscher Versicherungsmakler e.V. - an amalgamation of the BDVM and VMV

### § 1 Name and Registered Office of the Association

The Association's name is

**VERBAND DEUTSCHER VERSICHERUNGSMAKLER E. V.**

and is entered in the Associations Register at the District Court (*Amtsgericht*), Hamburg.

The registered office of the Association is located in Hamburg. The Association maintains a branch office in Hamburg. Further branch offices can be maintained in other locations.

### § 2 Purpose of the Association

The Association represents the professional interests of its members and promotes their business interests.

It secures recognition for the professional standing of the insurance broker and exercises its influence to ensure that its members conduct their affairs accordingly.

It is empowered to proceed against unfair competition in and out of court.

### § 3 Professional Image of the Insurance Broker

1. An insurance broker is an intermediary who negotiates insurance cover independently of the parties to the insurance contract. The insurance broker is pledged to support the rights and duties in compliance with insurance intermediaries legislation (*Versicherungsvermittlerrecht*), particularly the Trade, Commerce and Industry Regulation Act (*Gewerbeordnung*) and the Insurance Intermediaries Ordinance (*Versicherungsvermittlungsverordnung*), and in accordance with the Insurance Contract Law (*Versicherungsvertragsrecht*). The insurance broker is the fiduciary custodian of the interests of the insurance policy holder and thus the latter's consultant, advisor and representative in all relevant risk and insurance matters.

The insurance broker drafts insurance contracts on behalf of the insurance policy holder and in fulfilment of the latter's specific needs, and arranges the conclusion of such contracts on the national market and, where appropriate, international markets. The insurance broker is commissioned with the administration of insurance contracts. This involves in particular representing the policy holder's interests in the event of a claim for damages.

Due to the insurance broker's special responsibilities, an insurance broker is also bound to contribute to the proper functioning of the entire insurance market.

An insurance broker shall act according to the principles of fair competition in fulfilling his/her/its duties.

2. No person who is lacking in the essential independence demanded by the profession shall be deemed to be an insurance broker. This applies in particular if
  - the insurance broker maintains relationships similar to that of an agent vis-à-vis one or more insurers,
  - stocks or shares in the insurance broking firm are owned by or on behalf of companies or persons providing cover or accepting insurance risks,thus constituting commercial dependence.
3. A condition of membership, which also accords with the insurance broker's professional standing, is that the insurance broker shall be so organised in a manner that ensures that he/she/it is fully capable at all times of representing the interests of his/her/its clients in a dutiful manner, even if the, or one, proprietor, managing director or executive board member is unavailable for a limited period.

#### **§ 4 Membership**

1. All insurance brokers may become members of the Association, provided that:
  - (1) they have their registered office in the Federal Republic of Germany, and
  - (2) they are entered as insurance brokers in the Register of Insurance Brokers (*Vermittlerregister*) in compliance with § 11 of the Trade, Commerce and Industry Regulation Act (*GewO*) and the Commercial Register of the District Court (*Amtsgericht*) responsible for their registered office.
2. They must demonstrate and, if so required, prove that they fulfil the conditions listed in § 5.

## § 5 Requirements for Membership

In view of the purposes of the Association, membership of the Association requires fulfilment of the following conditions:

### 1. Objective conditions

#### a) Membership is open solely to those who

- (1) are primarily engaged in the business of insurance brokerage and
- (2) have been operating as insurance brokers for at least three years.

In the case of firms which have not been in existence for three years or have not been operating as insurance brokers for that period, it is sufficient if the proprietor, the majority of personally liable partners, the managing director or an executive board member has held a senior position in an insurance brokerage firm for three years or a responsible position for a period of five years in the underwriting business of an insurance firm.

#### b) The insurance broker must observe the corporate naming and information principles of §§ 4 of the Insurance Supervision Act (*VAG*) and 11 of the Insurance Intermediaries Ordinance (*Versicherungsvermittlungsverordnung*). The insurance broker should use the Association's emblem and the appellation "Insurance Broker".

#### c) The insurance broker must prove that he/she/it has concluded a property/pecuniary damage liability insurance (*Vermögensschaden-Haftpflichtversicherung*) assuring cover at double the prescribed statutory level as stipulated in § 9 of the Insurance Intermediaries Ordinance (*Versicherungsvermittlungsverordnung*). The insurance broker is under obligation to maintain this for the duration of membership and implement amendments adopted by the Annual General Meeting (hereinafter AGM).

On applying for membership, the insurance broker must present a clearance certificate from his/her/its proprietor, a personally liable partner, managing director or executive board member and an excerpt from the Central Commercial Register (*Gewerbezentralregister*), unless he/she/it has been licensed as an insurance broker during the last 5 years, is registered as such in the Register of Insurance Brokers (*Vermittlerregister*) in compliance with § 11 of the Trade, Commerce and Industry Regulation Act (*GewO*) and has been assigned his/her/its register number.

- d) On applying for membership, the insurance broker must prove that his/her/its financial circumstances are orderly, usually through the presentation of a bank or business report.
- e) Members are obliged to maintain an internet connection with an e-mail address for communication with the Association.

## 2. Subjective conditions

The member should have adequate knowledge of the economic, underwriting and legal principles of the insurance business and be capable of proving this.

The member should, in particular,

- (1) be capable, on the basis of his/her/its own knowledge and experience, of determining the insurance requirements of the policy holder and developing and explaining a coverage concept,
- (2) possess the expertise necessary for the detailed examination of insurance contracts and the independent drafting of such contracts,
- (3) be capable of realising the technical handling of concluded insurance contracts and administering insurance contracts,
- (4) be capable of competent and expert involvement in dealing with even complicated claims handling.
- (5)

## § 6 Guest Membership

An insurance broker who does not yet meet the requirements stipulated in § 5 Subparagraph 1 No. 1 a) can be admitted as a guest member for the duration of maximum three years. Guest membership is transformed into an application for membership in compliance with § 4 as soon as the applicant can prove compliance with the requirements of the articles. Guest membership ends with the termination of the abovementioned duration in other cases.

## § 7 Acquisition of Membership

- 1. The application for membership shall be submitted to the Association in writing. This application shall contain the names of three references, of whom at least one shall be the proprietor, a personally liable partner, managing director or executive board member of an insurance brokerage firm which is a member of the Association, or managing directors of an insurance company.

2. The Committee and a majority of its member shall decide on the application for membership. It shall examine the application, taking into consideration the interests of the applicant and the purpose of the Association, and produce a written decision within one month after the conclusion of the admission procedure.

Preparation of the decision on admission applications (determining of the facts and realisation of admission interviews) is incumbent on the Admissions Committee. The AGM shall determine the details in this respect.

3. The applicant shall be admitted to the Association if he/she/it can prove to the satisfaction of the Committee that he/she/it is an insurance broker in accordance with § 3 and fulfils the requirements stipulated in §§ 4 and 5.

## **§ 8 Exceptions**

The Committee can, in exceptional cases, approve exceptions to the conditions governing acquisition of membership.

## **§ 9 Procedure on Rejection of an Application**

In the event of the Committee rejecting an application, reasons shall be presented for the decision, accompanied by instructions on the avenues of appeal open to the applicant. The applicant may lodge an appeal against a rejection by means of a letter addressed to the Association or commence proceedings through the competent ordinary courts within four weeks of receipt of the rejection.

Should the applicant lodge an appeal, an Association Arbitration Tribunal shall reach a final decision on said. The application for membership is regarded as withdrawn should arbitration proceedings not commence within four weeks of the appeal being lodged, or should the proceedings before the competent ordinary court be opened during this period.

The arbitration proceedings must comply with the rules of arbitration which, in accordance with § 20, are a component part of these articles.

An application which has been rejected may be re-submitted as soon as the reasons for initial rejection are rectified, but not earlier than one year after rejection of an application.

## **§ 10 Membership Fee**

1. Members and guest members are obliged to pay an annual membership fee which is due at the beginning of the year. The amount of each membership fee is determined by the AGM.
2. Admission of new members shall be made conditional on payment of an admission fee. The amount is determined by the Committee.
3. Where subscriptions and admission fees have failed to cover the expenses of the Association in the previous fiscal year, a supplementary levy to the required amount shall be passed by the AGM. This additional levy may not exceed the amount of an annual subscription.
4. Members and guest members must agree to the direct debit procedure.

## **§ 11 Rights and Obligations of Members**

1. Members have both passive and active voting rights and are bound by the provisions of the articles and the decisions of the AGM.
2. Every member shall be entitled to avail of the Association's advice and assistance in professional matters or to seek its services as an intermediary in disputes with other members. Applications to the Committee shall be addressed by the Committee at its next meeting, with the member being informed of the results of its consultations.
3. Members and guest members have fundamentally the same rights and obligations. However, guest members do not have active and passive voting rights and voting powers. They are also not entitled to use the Association's emblem.
4. To the extent that it shall not prejudice the commercial activities of the member concerned, members shall undertake to provide the Association Committee and/or management within a reasonable time period with all such information which serve the purposes of the Association or address complaints received from other members or third parties.
5. Every member shall be obliged to notify the Association forthwith of any changes in his/her/its legal status which would be of significance under the terms of §§ 3, 4 and 5. Every member shall divulge all such information as may be deemed by the Committee as essential for the examination of the continuance of requirements necessary for membership, or for deciding complaints received from other members or third parties.

6. Members shall, if possible, decide all disputes, including of a proprietary nature, which arise among them through an arbitration tribunal to be formed ad hoc by them. They should, in this respect, comply with the rules of arbitration which, in accordance with § 20, are an integral component of these articles.

## § 12 Association bodies

The association encompasses the following bodies:

1. the Annual General Meeting
2. the Committee
3. the Council

## § 13 Annual General Meeting

1. The Annual General Meeting (AGM) is the highest body in the Association.
2. The ordinary AGM meets once annually. It is primarily charged with:
  - (1) the election, discharge and dismissal of Committee members,
  - (2) the election of auditors,
  - (3) determining membership and admission fees,
  - (4) fixing the minimum extent of coverage and minimum level of liability of the property/pecuniary damage liability insurance (*Vermögensschaden-Haftpflichtversicherung*),
  - (5) approval and adoption of the annual financial statement,
  - (6) reaching decisions on mergers with other federations and associations,
  - (7) deciding on amendments to articles,
  - (8) deciding on the relocation of the registered office and/or branch offices in towns or cities other than those mentioned in § 1 and the appendix to the articles (§ 14 a) and
  - (9) deciding on the dissolution of the Association.

The AGM also reaches decisions on other questions which transcend management of the Association.

3. The Board is, with an absolute majority of its members, empowered to summon an extraordinary general meeting if, in its opinion, this promotes the interests of the Association. It is also obliged to summon a meeting in this respect if 1/5 of the members of the Association demand such in writing, giving the purpose and reasons.
4. The summons period for an AGM is four weeks. The Board can shorten the summons period by two weeks in urgent cases for an extraordinary general meeting. The intended agenda shall be included with the summons. This can be realised by electronic post.
5. The AGM constitutes a quorum if a minimum of 1/4 of members are present or represented. A member can authorise another member by name and in writing to exercising his/her/its voting right. However, a member may only represent one other member. The AGM passes a resolution with a simple majority of votes of the members present and represented. A 3/4 majority of the members present and represented is required in the cases stipulated in Subparagraph 2 Clause (6) to (9) and § 14 Subparagraph 7.

The ballot is, in principal, secret. It can also be taken with a show of hands if no objection is raised to this. Block votes can be accepted in each case on the office holders (Subparagraph 2 Clause 1 – 2) if no more than the expected number of candidates contest in these groups and no objection is raised to this method of voting.

6. Minutes shall be recorded of all AGM's and signed by the President or his/her deputy. The minutes shall be forwarded to the members. This can be realised by electronic post.

The contents of the minutes are regarded as approved by the members if no objection is received by the Committee of the Association within four weeks of forwarding to the members.

## **§ 14 Committee**

1. The Committee shall be composed of a combination of members acting in an honorary capacity and the General Manager as an executive Committee member. The Committee manages the business of the Association.
2. A General Manager shall be nominated by the Committee to manage business and elected as an executive Committee member by the AGM. The Committee is empowered to appoint further managers and both full-time and part-time personnel to manage business.
3. In addition to the executive Committee member, the Committee shall consist of seven or nine other members. Committee members shall be elected for a period of four years. Re-election is permitted, but uninterrupted tenure of office in the case of members acting in an honorary capacity should not exceed twelve years.



4. The Committee can establish working groups or appoint representatives of members as special officials to fulfil its incumbent obligations for certain tasks and duties.
5. The Committee elects the following officials from among its members:
  - (1) The Chairperson as President,
  - (2) The Deputy Chairperson as Vice-President,
  - (3) The Treasurer.

The aforementioned and the executive Committee member form the Committee in accordance with § 26 Subparagraph 2 of the Civil Code (*BGB*). They represent the Association both in and out of court. Each of them has independent powers of representation.

6. Resolutions of the Committee are adopted by a simple majority vote, unless otherwise stipulated in these articles. The vote of the chairperson of the meeting is decisive in the event of a tied vote. The Committee constitutes a quorum if at least five of its members participate in the adoption of a resolution.
7. The Committee, or one or more members of the Committee, can only be removed on important grounds during their period of office.
8. In divergence from Subparagraph 7, the appointment of the executive Committee member is also terminated in the case of revocation or another cessation of his/her appointment to the position of General Manager.
9. In the event of a member of the Committee resigning during the period of office, the remaining Committee members are empowered to elect a replacement member for the remaining period of office.
10. The Committee can pass its own agenda.

#### **§ 14 a Special Regulations emanating from Association**

The merger of the BDVM and VMV requires transitional and special regulations to promote integration and settlement of structural questions regulated in an appendix to the articles. The appendix is an integral component of these articles.

## § 15 Council

1. The Council consists of the regional chapter spokespersons and is an honorary body.
2. The Council advises the Committee in all important Association matters. It is particularly charged with addressing the regional and professional concerns and needs of members during Committee work. The Committee is therefore summoned once a year to a joint meeting with the Council.
3. The Council passes an agenda in agreement with the Committee. It should meet twice a year if possible. Individual Committee members can be invited to these meetings.

## § 16 Regional Chapters

1. Association members shall form regional chapters. Their composition and modus operandi are determined in agreement with the Committee.
2. The duty of the regional chapters is,
  - a) to promote the exchange of ideas between members and contribute to opinion formation within the Association,
  - b) to cultivate links within the Association at regional, and particularly local, level and promote the institutions and personalities of commercial, particularly insurance-related, life,
  - c) to acquire further members for the Association and collaboration and cooperation in the Association.
3. A regional chapter meeting is called once a year. It elects the regional chapter spokesperson and his/her deputy for a duration of two years. Re-election is permitted. § 13 Subparagraph 2 Clause 1 applies analogously. Management of the regional chapter consists of three to five persons (i.e. the spokesperson and two or four deputies).
4. The regional chapter spokesperson is a member of the Council and Admissions Committee. He/She shall be represented by his/her deputy if he/she is impeded from participating in meetings.

## § 17 Auditors

The ordinary AGM elects two auditors each year. Their duty is to examine the annual financial statement and figures of the Association business report and determine whether the books are kept correctly and correspond to the annual financial statement.

The auditors shall report to the AGM on the results of the examination.

## **§ 18 Exclusion and Resignation**

1. Membership in the Association expires
  - (1) through deletion of a member firm from the commercial register,
  - (2) through the opening of insolvency proceedings,
  - (3) through resignation,
  - (4) through legal exclusion (§19).
2. The resignation and the circumstances mentioned in (1) and (2) shall be imparted to the Committee in writing. Resignation can be declared with immediate effect or at a later date. Contributions and levies already resolved for the current fiscal year at the time of a declaration of resignation are forfeited.

## **§ 19 Exclusion Procedure**

1. The exclusion of a member is decided by a Committee resolution. A 2/3 majority is required for this purpose.
2. Exclusion is only permissible if
  - (1) a member has not paid the membership contribution laid down within 14 days after a second payment request. The second payment should be forwarded by registered letter with an indication of the legal consequences,
  - (2) the proprietor, a personally liable partner, managing director or executive board member of the member has been legally convicted of an offence which, in terms of its nature and severity, contravenes the interests of the Association in a gross manner, and the member has not taken steps within four weeks of the conviction obtaining legal force to distance himself/itself from those affected,
  - (3) a member fails to handle funds to which insurers or clients are entitled in a manner conforming to the contract and law,
  - (4) a member no longer fulfils the requirements of §§ 3, 4 and/or 5 and fails to redress this within three months – or 14 days in the case of § 5 Subparagraph 1 c) – after a request from the Committee,

- (5) a member fails to provide information in accordance with § 11 Sub-paragraph 4 on facts which are important for the examination of the conditions of §§ 3, 4 and/or 5 within 14 days after being twice requested by the Committee in writing to do so. The second request should be forwarded by registered letter with an indication of the legal consequences,
  - (6) a member has, with the knowledge of his/her/its proprietor, a personally liable partner, managing director or executive board member, committed an act or omitted to act in a manner which represents a severe contravention of the interests of the Association or the entirety of its members,
  - (7) another important reason exists that makes a continuation of the membership of the member appear inappropriate.
3. The Committee is entitled to involve the Admissions Committee as an investigative committee to determine the facts of the case.
4. Prior to the Committee resolving to exclude a member, it must inform the member of the reason for the intended exclusion and give him/her/it an opportunity to reply.
5. The resolution must be drafted in writing with justification given and signed by the Chairperson or Deputy Chairperson and another member of the Committee. It must include instructions on the avenues of appeal open to the member. The drafted resolution should be forwarded to the member by registered letter with return receipt.
6. The member can appeal against the resolution of the Committee within four weeks of receipt of notification in a written communication for the attention of the Committee or file a suit in an ordinary court. In the event of the member appealing, an Association Arbitration Tribunal shall reach a decision as the final court of appeal.

The appeal is regarded as withdrawn should the Arbitration Tribunal proceedings not commence within four weeks of the appeal being lodged. The Arbitration Tribunal proceedings must comply with the rules of arbitration which, in accordance with § 20, are an integral component of these articles.
7. The members of the Association must be informed if the exclusion comes into force. The Committee can, with an absolute majority of its members, resolve that the Chamber of Commerce and other professional representative bodies within the insurance community responsible for the member be also informed of the exclusion which has come into force.

## **§ 20 Rules of Arbitration**

1. The rules of arbitration of the Association referred to in §§ 9, 11 and 19 are an integral component of these articles.
2. The Arbitration Tribunal referred to in the rules of arbitration has jurisdiction
  - (1) as a court of appeal against decisions through which the Committee has rejected applications for membership (§ 9 Subparagraph 1),
  - (2) as a court of appeal against decisions through which the Committee has excluded a member from the Association (§ 19),
  - (3) on the grounds of a members' agreement governing the resolving of disputes among the members themselves (§ 11 Subparagraph 6).

## **§ 21 Liquidation**

In the case of the liquidation of the Association, any Association assets still remaining shall be entrusted to a non-profit institution to be determined by the AGM decreeing the liquidation.

## **§ 22 Fiscal Year**

The Association fiscal year is the calendar year.

## **§ 23 Place of Jurisdiction**

Place of performance and place of jurisdiction is Hamburg.

In accordance with § 20 of the articles of the VDVM  
Appendix to and integral component of these articles

## **Rules of Arbitration**

**for the**

**VERBAND DEUTSCHER VERSICHERUNGSMAKLER E. V.**

### **§ 1 Jurisdiction of the Arbitration Tribunal**

The Arbitration Tribunal referred to in the following rules of arbitration has jurisdiction

- (1) as an internal Association court of appeal against decisions through which the Committee has rejected applications for membership (§ 9),
- (2) as an internal Association court of appeal against decisions through which the Committee has excluded a member from the Association (§ 19),
- (3) on the grounds of a members' agreement governing the resolving of disputes among the members themselves (§11 Subparagraph 6).

### **§ 2 Seat of the Arbitration Tribunal**

The seat of the Arbitration Tribunal established in the context of these rules of arbitration and responsible for disputes referred to in greater detail in § 1 is Hamburg.

### **§ 3 Composition of the Arbitration Tribunal**

The Arbitration Tribunal consists of two arbitrators appointed by the parties and a chairperson to be elected by the parties.

The two arbitrators must be active or former proprietors, personally liable partners, managing directors or executive board members of members of the ASSOCIATION DEUTSCHER VERSICHERUNGSMAKLER E. V. or active or former directors of a German insurance or reinsurance company. The chairperson must be qualified to exercise the office of judge.

#### § 4 Appointment as Arbitrator

1. The petitioner shall inform the respondent of his/her/its nominated arbitrator by registered letter and request the respondent to nominate on his/her/its part an arbitrator within two weeks of the receipt of the letter and publicise this arbitrator through registered letter.

Should the respondent fail to honour this request within the deadline, the Presidents (Praeses) of the Hamburg Chamber of Commerce should nominate the second arbitrators on behalf of the petitioner.

2. Both arbitrators elect a chairperson through mutual declaration of intent.

Where both arbitrators fail to agree on a candidate to serve as chairperson within two weeks after receipt by the petitioner of the respondent's letter detailing appointment, the chairperson shall, at the request of the petitioner, be appointed by the President of the Regional Court (*Landgericht*) of the registered offices of the VERBAND DEUTSCHER VERSICHERUNGSMAKLER E. V. from the chairpersons of the chambers for commercial matters of this court.

#### § 5 Applied Procedure

1. The arbitration procedure shall be conducted in accordance with these rules of arbitration and the regulations of §§ 1025 et seq. of the Code of Civil Procedure (*ZPO*).
2. The Arbitration Tribunal shall, in substantive terms, take the usages and characteristics of the insurance brokerage industry into consideration.

#### § 6 Representation of the Parties

In cases pursuant to § 1 Subparagraph 1, the petitioner should, so as to best protect his/her/its interests through a procedure which correctly takes said into consideration, be represented by an attorney at law admitted to the bar in a Regional Court (*Landgericht*) of the Federal Republic of Germany.

#### § 7 Costs of the Proceedings

1. The Arbitration Tribunal shall also rule on the costs of the procedure analogous to the regulations of §§ 92 et seq. of the Code of Civil Procedure (*ZPO*).
2. Each of the arbitrators and the chairperson shall receive the fees and expenses that an attorney at law would receive under the Federal Attorneys' Fee Regulations (*Bundesrechtsanwaltsgebührenordnung*) for a lawsuit in the Higher Regional Court (*Oberlandesgericht*) of the second instance.

The Arbitration Tribunal can demand an appropriate advance payment of costs and make the initiation of proceedings dependent on its payment.

## **§ 8 Outcome of the Arbitration Award**

The arbitration award has, proportional to the parties, the effect of a legally-binding judgement.

Where an arbitration award is repealed by the responsible ordinary court for a reason other than the inadmissibility (estoppel) of the arbitration proceedings, or the ordinary court refuses issuance of the enforcement clause, each party is entitled to relaunch arbitration proceedings. The parties may then appoint new arbitrators.

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