

Option to Arbitrate

(Permits a party to attempt to obtain a default judgment and, if resisted, to thereafter select arbitration; designates ASP and AAA)

Arbitration Option. Each party, at such party's option, shall have the right to require that any claim, controversy, or dispute between the parties, including but not limited to those arising out of or relating to the Agreement, and including those based on or arising from any statute, constitution, regulation, ordinance, rule or any alleged tort, be determined by arbitration in accordance with the then effective arbitration rules of Arbitration Service of Portland, Inc., or the then effective commercial arbitration rules of the American Arbitration Association, whichever organization is selected by the party who first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. If litigation has been commenced in court by either party with respect to a dispute (in hope that a default judgment could be obtained):

a) the party who is the defendant or respondent in such litigation shall be deemed to have waived its option to arbitrate said dispute if such party files a general appearance in the litigation prior to filing a claim in arbitration in the manner specified above, and

b) the plaintiff or petitioner in such litigation will be deemed to have waived its right to arbitrate said dispute if such party fails to file a claim for arbitration in the manner specified above within sixty days after a general appearance in the litigation has been filed by the party who is the defendant or respondent in the litigation.

If either party properly exercises its option to arbitrate, arbitration of such dispute shall be mandatory and any pending litigation shall be stayed.