

## **Construction Contract: Arbitration Clause**

**Arbitration Required/Mediation First Option.** Any dispute or claim that arises out of or which relates to this agreement, or to the interpretation or breach thereof, or to the existence, scope, or validity of this agreement or the arbitration agreement, shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The owner, the contractor, and all subcontractors, sub-subcontractors, material suppliers, engineers, architects, designers, construction lenders, bonding companies, and all other parties concerned with and involved in the performance of the contract are bound, each to the other, by this arbitration clause, provided such party has signed this contract, or signs a contract that incorporates this contract by reference, or signs any other agreement to be bound by this arbitration clause. This arbitration clause shall not preclude any party from filing a statutory construction lien or from commencing suit to foreclose such lien, but the foreclosure suit shall be stayed until the rendering of the arbitration award, which award shall be binding in such foreclosure suit as to all matters determined in arbitration, and the lien may then be foreclosed to the extent permitted by law. The parties acknowledge that mediation usually helps parties to settle their dispute. Therefore, any party may propose mediation whenever appropriate by any mediation process or mediator as the parties may agree upon.

(Note on arbitration's interface with mediation: When customary settlement discussions falter, mediation is always the first alternative to consider. But, mediation inherently is a voluntary and cooperative settlement process and, unlike arbitration, it cannot proceed without the presence of the other party. A dispute resolution clause should not require mediation as a legal condition precedent to arbitration or litigation (because it allows a defendant in bad faith to use the mediation process as a delay tactic).)

(Note: Any existing attorney fees clause in the contract should be modified to include an arbitration proceeding. [Click to Attorney Fees Provision.](#))