

Option to Arbitrate

(Permits a party to attempt to obtain a default judgment and, if resisted, to thereafter select arbitration. Designed for financial institutions and lenders.)

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, or to the existence, scope, or validity of this agreement or the arbitration 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 (and by filing a claim with) Arbitration Service of Portland, Inc., 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.

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