

FORM 126. ADR CLAUSE (SUBMISSION OF DISPUTES TO REFEREE)

We agree to waive our right to jury trial and to submit all disputes of fact or of law relating to or arising out of this contact to a trial an Order of Reference pursuant to CCP § 638(a). The parties intend this general reference agreement to be specifically enforceable in accordance with said section.

The parties agree that [name, business address, phone number, state bar number] be appointed pursuant to the provisions of CCP § 640 and CRC 3.901-3.904 [Alternative provision where parties cannot agree: If the parties are unable to agree upon a referee, each party shall submit to the Superior Court in which the action is pending up to three nominees for appointment as referee and the court shall make the appointment from the nominees in accordance with CCP § 640. Likewise, if no nominations are received from any of the parties, the court shall make the appointment pursuant to CCP § 640.]

Consider adding a provision for mediation as follows:

We further agree first to mediate any such dispute.

Consider adding a provision for payment of the referee's fees at the end of the above agreement as follows:

The parties shall pay in advance the estimated reasonable fees and costs of the reference [or mediation], as may be specified in advance by the referee. The parties shall initially share equally, by paying their proportionate amount of the estimated fees and costs of the reference.

Consider adding a provision for attorney fees and costs at the end of the above agreement as follows:

In the event it becomes necessary to file a legal action or proceeding to enforce this agreement, the prevailing party in such action or proceeding shall be entitled to recover all costs and expenses incurred in connection with such action or proceeding, including reasonable attorney fees and court costs.

END OF DOCUMENT

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