



# EMPLOYEE DISPUTE RESOLUTION PROGRAM

Granite Construction Incorporated

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Revised: August 2020

# Background

Granite Construction Incorporated, its subsidiaries, successors, and affiliated companies over which it has operating control (the "Company") cares about its employees. The Company understands, despite best efforts to foster an open, rewarding, and productive work environment, disputes between an employee and the Company may arise.

Employee-Company disputes can be time-consuming and very costly for both employee and Company, particularly when they end up in lawsuits. The Company encourages employees to agree to the Mutual Dispute Resolution Agreement ("MDRA"). The MDRA, located at the end of this document, is incorporated herein by this reference and made a part of the EDRP Handbook. In support of the MDRA, the Company has created this Employee Dispute Resolution Program ("EDRP") Handbook to clarify the process for resolving Employee-Company disputes, which includes mandatory, binding, and final arbitration as the ultimate step.

For those disputes involving "Covered Claims", as defined in the MDRA, that are not resolved "in-house" through either Step One - Open Door Policy, or Step Two – The Conference, either party may seek dispute resolution facilitated or decided by an objective third-party mediator or arbitrator, as provided by the American Arbitration Association (the "AAA"). **Mediation** involves the parties presenting the dispute to a neutral third party who will assist the parties in, hopefully, reaching a mutual resolution; **arbitration** involves presenting your dispute to a neutral third party who will make a final and binding decision, based on the evidence presented by each party.

The AAA is a public service, nonprofit organization that handles approximately 60,000 cases each year and has access to over 50,000 neutral experts who can hear and decide cases. Mediation or arbitration through AAA can:

- Provide quick and fair resolution of your legal dispute;
- Protect your work relationships instead of disrupting them; and
- Reduce the possibility of excessive spending on attorney fees and court costs.

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# STEP ONE – THE OPEN DOOR POLICY

## WHAT IS THE OPEN DOOR POLICY?

The Company's Open Door Policy provides that doors are reasonably open to you to help address and resolve issues and concerns that arise in the workplace. The Open Door Policy includes: (1) talking with management—whether your immediate supervisor or other higher level management; (2) talking with human resources ("HR"); (3) the Employee Compliance Helpline; and (4) under certain circumstances, legal consultation—all without fear of retaliation.

## HOW DO I USE THE OPEN DOOR POLICY?

You are free to raise a good faith concern to any level of management. That's the Company's Open Door tradition. To help make the process work, all supervisors and managers are offered training in managing conflicts. That means no matter which manager you contact, they will understand the Open Door Policy and the importance of communication; that it is part of management's job to help resolve workplace disputes through the Open Door Policy; and that the Company prohibits retaliation when an employee seeks to resolve a workplace dispute in compliance with the EDRP.

### Chain of Command

**Immediate Supervisor:** Whenever possible, you are encouraged to resolve most work-related issues and concerns with your immediate supervisor. Because this person is close to your situation, he or she may already be aware of the issue or be in a position to offer a different perspective or new facts that may be helpful to you. Although we believe it is often best and most expeditious to resolve your dispute at this level, you may seek out another manager and/or take your concern up the Chain of Command as needed.

**Higher Level of Supervision:** Sometimes your supervisor may be involved in the issue or you may be dissatisfied with your immediate supervisor's handling or response. In such an event, you may discuss your concern with other management, including management above your supervisor; however, you are encouraged to follow the specific chain of command within your department, region, or work group.

**Human Resources:** At any time, you may also choose to contact your local HR Manager or the Corporate EEO Officer for advice or assistance. These individuals have many years of experience in helping employees deal with a variety of workplace situations.

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**Ten Reasons to Use the Open Door Policy:**

- (1) Best chance for identifying and implementing real-time solutions in an expeditious manner;
- (2) It allows you to provide feedback to management;
- (3) Your concern, question, or challenge will be timely answered and you will learn about your available options;
- (4) It is convenient;
- (5) It is free;
- (6) It is flexible;
- (7) It offers a variety of contacts: your supervisor, higher level of supervisor, or human resources professional, in confidence;
- (8) Retaliation for good faith use of the Open Door Policy is forbidden;
- (9) It helps you help yourself; and
- (10) The Company is committed to it.

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# STEP TWO – THE CONFERENCE

The Conference is the next step if your concern or dispute is not resolved through the Open Door Policy. The Conference involves discussion of your issue with a member of the HR Department who will assist you in deciding the best process that will lead to timely and fair resolution.

## **WHAT IS A CONFERENCE?**

An internal Dispute Resolution Conference ("Conference") can be arranged with an individual or a team of three or four Company peers and/or managers who are not involved in your situation. Any proposed resolution will not be forced on you. If an agreement cannot be reached during the Conference that is satisfactory to you, you may resort to the other dispute resolution methods provided in the EDRP. In situations where federal, state or local laws are at issue, an independent third party may be the best forum to resolve a dispute, such as mediation or final and binding arbitration—see Steps 3 and 4. Or, you may return to Step One - Open Door Policy, as you may decide that the best way to resolve your concern is by going back to the Chain of Command.

## **REQUESTING A CONFERENCE**

In order to schedule a Conference, please contact HR or the Program Administrator. If you wish to contact the Program Administrator — the Corporate EEO Officer, please call (831) 721-1011.

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# STEP THREE – THE MEDIATION

If your dispute is based on a “Covered Claim”, as defined in the MDRA, you may decide that an outside process, such as mediation, is necessary to resolve it. For many people, just presenting their case to someone outside the Company who has no knowledge or involvement in their dispute is all that is needed to break a stalemate and reach a resolution.

## WHAT IS MEDIATION?

Mediation is often the most straightforward and cost-effective method of examining and resolving disputes, and most often is faster than arbitration in resolving disputes. Mediation is a forum in which a neutral third party, called a mediator, helps you and the Company explore a compromised settlement agreement (“Mediation”). Mediation helps primarily by opening up communication and coming up with options for resolution. It is a non-binding process. That means the mediator can make suggestions, but you and the other party are responsible for resolving your dispute and accepting any proposed resolutions of the other party. Mediations will be facilitated by AAA mediators as the neutral party, and certain attorney fees and mediation costs shall be paid by the Company, subject to the MDRA.

In cases involving “Covered Claims,” either party may bypass this step and move directly to arbitration for a final and binding decision.

## REQUESTING MEDIATION

To request Mediation, call or write AAA at (415) 981-3901, 417 Montgomery Street, San Francisco, CA 94104-1113. Once you have made such a request, the Company will participate with you in the Mediation process.

### TYPICAL MEDIATION STEPS:

1. When you or the Company request mediation, AAA will assign a professional mediator who is located close to the Company’s office where you are employed.
2. The meeting date for the mediation is arranged after the mediator is selected.
3. You and a Company representative will meet with the mediator who will guide your discussion and help you work towards a compromised settlement.
4. The mediator normally meets separately with you and separately with the Company representative to try to develop a better understanding of the dispute, and help the parties resolve it.
5. If mediation is not successful, you or the Company may wish to take the dispute to arbitration for a final and binding decision. In accordance with the MDRA, arbitration is the final step available to resolve any employment-related disputes, including “Covered Claims.” Filing a lawsuit in state or federal court is not an option.

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# STEP FOUR – THE ARBITRATION

If the dispute involves a “Covered Claim,” as defined in the MDRA, you or the Company may request arbitration.

## WHAT IS ARBITRATION?

Arbitration is a process in which a dispute is presented to a neutral third party, the arbitrator, for a final and binding decision ("Arbitration"). The arbitrator makes this decision after both sides present their evidence and arguments at the arbitration hearing. While there is no jury, the arbitrator can generally award the same remedies as a court of law.

AAA administers the proceedings, which are held privately. Though arbitration is less formal than a court trial, it is an orderly proceeding which is generally governed by rules of procedure and legal standards of conduct.

## REQUESTING ARBITRATION

To request Arbitration, call or write AAA at (415) 981-3901, 417 Montgomery Street, San Francisco, CA 94104-1113. Once you have made such a request, the Company is legally bound to participate with you in arbitration. With regard to "Covered Claims," final and binding arbitration is available at any time without any requirement to utilize the steps prior to arbitration. In accordance with the MDRA, arbitration is the final step available to resolve any employment-related disputes, including “Covered Claims.” Filing a lawsuit in state or federal court is not an option.

## THE ROLE OF ATTORNEYS IN THE ARBITRATION PROCESS

The Company has access to legal advice through its Legal & Compliance Department and outside attorneys. You may consult with an attorney of your own choosing. Upon approval of the Program Administrator, the Company will pay your legal fees through the Legal Consultation Plan, as described below, up to a maximum of \$2,500 per calendar year.

You are not required, however, to hire an attorney to participate in arbitration. If you choose not to bring an attorney to arbitration, the Company will also participate without an attorney.

### TYPICAL ARBITRATION STEPS:

1. A party involved in a legal dispute files a demand for arbitration with a AAA office.
2. Any other parties involved are notified.
3. AAA offers a list of qualified arbitrators.
4. Each party numbers the list of arbitrators in order of preference.
5. Typically, an arbitrator is selected based on the parties’ preferences.
6. AAA arranges a hearing date at a convenient location.
7. At the hearing, testimony is given and documents exchanged.
8. Witnesses are questioned and cross-examined.
9. The arbitrator issues a final and binding decision.
10. Copies of the decision or award are sent to both parties.

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### **ARBITRATION MAKES SENSE**

- Quick Resolution — You can generally expect a quick resolution of the dispute. Arbitration usually takes only weeks or months, instead of litigation, which may take much longer.
- Keep Your Recovery — You can obtain legal advice under the Legal Consultation Plan, saving you legal fees. The Company pays certain arbitration fees and costs. If you operate within the terms of the EDRP and the Legal Consultation Plan, you may not have to share an arbitrator's award with an attorney.
- Get Back What May Be Owed — Arbitration can restore to you what you may be owed and what you could obtain in court.

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# COMPLIANCE HELPLINE, EMPLOYEE ASSISTANCE PROGRAM & ADMINISTRATION

## **CALLING THE EMPLOYEE COMPLIANCE HELPLINE**

You may call the Employee Compliance Helpline at (800) 211-GCCO (4226) and report your concerns either anonymously or by disclosing your identity. You will speak with an operator, who is not employed by the Company. The operator will note, but not audio record, your concerns and provide the details of your issue to the Company, including your desire to remain anonymous, if you so choose. The Company will investigate all reported incidents thoroughly and promptly. The Company will be sensitive to all persons involved in the incident and keep any complaints and the terms of your resolution confidential to the fullest extent reasonably practicable.

## **EMPLOYEE ASSISTANCE PROGRAM (EAP)**

AnthemEAP, our EAP provider, can provide valuable assistance in getting through difficult times. While using resources provided by AnthemEAP is not a substitute for settling work-related concerns or disputes, it can provide a positive support system while you are attempting to navigate such concerns or disputes.

Seeking assistance is voluntary and is not a condition of employment. Seeking assistance does not void any pending disciplinary action nor does it alter the at-will status of employment. Successful completion of any assistance program does not alter the at-will status of employment.

There is no cost to you or your family for an initial consultation and your call is confidential. Most importantly, AnthemEAP has resources and personnel who are trained to give you objective, private, non-legal feedback regarding your situation.

AnthemEAP may be reached at 1-855-873-4932.

## **THE PROGRAM ADMINISTRATION**

The Program Administrator is also available to help you. The Program Administrator will handle most of the details involved in administering the EDRP, including:

- Arranging Conferences (see Step Two) and other internal dispute resolution processes;
- Managing the legal reimbursement program; and
- Answering employee questions.

If you wish to contact the Program Administrator — the Corporate EEO Officer, please call (831) 724-1011.

The intent of the EDRP is to fully comply with applicable law. In the event any provision of this EDRP violates, in whole or in part, any applicable law, then such provision shall remain in effect only if or to the extent permitted by law and the remaining provisions shall remain in full force and effect.

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# LEGAL CONSULTATION PLAN

## REQUESTING A LEGAL CONSULTATION

An important feature of the EDRP is a legal consultation with the attorney of your choice. You may apply for this legal consultation if your dispute involves a "Covered Claim." Such consultation may provide you with valuable information about your legal rights and obligations.

The Program Administrator must approve all payments from the Plan. If you would like this consultation, contact the Program Administrator directly. Of course, if you choose to hire and pay for your own attorney, you are free to do so at any time.

## LEGAL CONSULTATION PLAN

1. Purpose: The purpose of this Legal Consultation Plan (the "Plan") is to provide certain specific legal services for non-union employees of the Company who have a dispute with the Company or with another employee of the Company **and** the dispute involves a "Covered Claim."
2. Definitions: Where the following words and phrases appear, they shall have the respective meanings set forth below, unless their context clearly indicates otherwise.
  - a. Attorney: Any person who is licensed to practice law and to render any legal services subject to reimbursement or payment under this Plan.
  - b. Company: Granite Construction Incorporated, its subsidiaries, successors, and affiliated companies over which it has operating control.
  - c. Covered Claim: Any controversy, dispute, or claim that could otherwise be raised in court, as more fully described in the MDRA.
  - d. Decision: Resolution determination made regarding a Covered Claim by arbitration or any other method selected by the parties under the EDRP, which may include an Award, as that term is defined by AAA.
  - e. Dispute: A Covered Claim to which the EDRP applies between persons bound by the EDRP.
  - f. EDRP: The Employee Dispute Resolution Program, as amended from time to time.
  - g. Effective Date: August 1, 2020.
  - h. Employee: Any non-union employee or former employee of the Company.
  - i. MDRA: Mutual Dispute Resolution Agreement, which is incorporated herein by this reference and made a part of the EDRP.
  - j. Program Administrator: The Corporate EEO Officer.

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### 3. Benefits:

The funds used pursuant to this EDRP and the Plan shall provide benefits with respect to services rendered by an attorney representing one or more eligible participants in connection with a Dispute. The services must be provided by an attorney or by a person who works under the direct supervision of an attorney such as an associate attorney, paralegal, law clerk, or investigator. The services rendered must have a direct connection to the resolution of a Dispute by the means provided in the EDRP. The Attorney and the Employee must have agreed to such representation in a written document satisfactory to the Program Administrator.

**Benefits Provided:** The Plan hereunder is available to Employees and benefits may be provided as detailed below for the provision of legal assistance to the Employee by an Attorney:

- a. Initial consultation regarding the Employee's Dispute;
- b. Negotiation or representation of the Employee during any proceeding before a mediator or arbitrator, including any necessary discovery and preparation for the proceeding.

**Benefits Not Provided:** No benefits are payable for services rendered after Decision by a mediator or arbitrator.

**Limitations on Benefits:** No benefits will be paid in excess of \$2,500 with respect to the representation of any one Employee per calendar year. This amount shall include applicable federal, state and local payroll taxes for which the Employee and the Company are responsible.

**Qualification for Benefits:** Participants may apply to the Program Administrator for benefits from the Plan under any procedures established by the Program Administrator and the EDRP, as long as the Dispute involves a "Covered Claim." Unless such procedures provide otherwise, application may be made either before or after the Employee has consulted with an attorney. The Company, through the Program Administrator, may approve payment of a reasonable fee if in its sole and absolute discretion the Employee has or may have a Dispute that requires legal assistance. In making this determination, the Program Administrator may consider the cost and value of the services rendered, or to be rendered, and any budgetary constraints applicable to the Plan.

**Prohibition of Duplicate Payments:** No benefit shall be paid hereunder to the extent that attorneys' fees and other related costs have been awarded by an arbitrator or a court for performance of the same legal services. If any costs paid by the Company are later awarded by an arbitrator, the Employee will be required to reimburse the Company.

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# QUESTIONS & ANSWERS

## **1. What's the difference between the Employee Assistance Plan (EAP) and the Open Door Program?**

Although they are both assistance programs, they deal with different issues. The EAP offers short-term counseling for such things as family and marital conflicts, problems related to stress and anxiety, and those involving substance abuse. These problems can affect employees both at work and at home. The EAP program is voluntary and is not a condition of employment. The Open Door Policy offers you help in resolving conflicts or disputes at work, specifically with your supervisors, managers, and/or coworkers. The Open Door Policy is one of the four available steps in the Employee Dispute Resolution Program (EDRP), which includes final and binding arbitration.

## **2. What do I do if the supervisor I approach ignores the Open Door Policy?**

If the person you approach under the Open Door Policy is unresponsive, proceed immediately to another level of supervision in the Chain of Command. You may contact your local HR Manager at any time. You may also call the Employee Compliance Helpline at (800) 211-GCCO (4226) to report your concern.

## **3. What happens if my supervisor starts to make things difficult for me after I complain?**

The Company encourages you to take full advantage of its programs and policies. The Company prohibits retaliation against you for using the EDRP in good faith. If you feel that a supervisor is retaliating against you for using any or all of the steps in the EDRP, you should immediately talk to an HR Manager, take it to a higher level in the Chain of Command, or call the Employee Compliance Helpline at (800) 211-GCCO (4226) to report your concern.

## **4. Can I use the Company EDRP to solve any conflict that happens at work?**

Yes, in fact, the MDRA provides that parties *must* utilize the EDRP to resolve any and all Employee-Company conflicts that happen at work. You may use Step One – Open Door Policy to address any concerns or questions you may have with your supervisor or co-workers. You may also request a Conference, Step Two, with someone from the EDRP and a Company representative for any workplace dispute if the Open Door Policy proves unsuccessful.

Further, if your issue involves a "Covered Claim," as defined by the Mutual Dispute Resolution Agreement (MDRA), you must utilize the EDRP to resolve your claim. For "Covered Claims," you may use any of the steps in the EDRP prior to final and binding arbitration, or you may proceed to final and binding arbitration directly.

No matter your concern, unless otherwise prohibited by applicable law, you must utilize the EDRP to resolve it — i.e., at no time may you bring a lawsuit in state or federal court.

## **5. How does arbitration differ from a court trial?**

With arbitration, the decision is final; except under rare circumstances, it may not be reversed by subsequent proceedings. With a court trial decision, an appeal may be filed. Also, an arbitration proceeding is usually less informal than a case in court. The arbitrator is usually an attorney or a person

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with an Employee Relations background, who serves as a trier of fact on a part-time basis. The proceeding is held in a private conference room instead of in a public courthouse. The biggest difference, however, lies in the cost of arbitration. Because arbitration is typically faster and less formal, it ends up costing less to prepare and hear the case. Additionally, an arbitration is private.

**6. What's the difference between mediation and arbitration?**

Mediation is a process in which those involved in a dispute try to resolve it with the aid of a neutral third party, the mediator. In this process, the mediator helps to open up lines of communication but does not hand down a final decision. The mediator may offer recommendations, which may lead to a mutually agreed upon resolution. With arbitration, a dispute is submitted to an outside, trier of fact for a binding and final decision, which cannot be overturned by the courts, except in rare circumstances.

**7. Does the EDRP require me to go through each step completely before going through the next one?**

No. The steps are arranged in the most logical pattern applicable to most disputes. However, a number of factors can affect the order of the steps you wish to take, including whether it involves a "Covered Claim," your own preference, the facts at issue, or the Company's preference.

**8. What happens if I file a lawsuit against the Company for a workplace dispute?**

If you file a lawsuit, the Company will likely ask the court to stay and/or dismiss the case, enforce the agreement to arbitrate contained in the MDRA, and compel arbitration.

**9. Is there any limit on the amount of award I can win through arbitration?**

No. The arbitrator has the same authority as a judge or jury in making awards to Employees. That means in arbitration it is possible for you to seek and recover anything you might otherwise obtain in the court system.

**10. What can I do to seek relief if I believe my legally protected rights have been violated?**

If you believe your legally protected rights have been violated, you may request a legal consultation through the Program Administrator. If you cannot resolve your dispute within the Company, you may request an outside process through AAA, such as mediation or arbitration. The arbitrator will determine if a legally protected right has been violated, and, if so, the amount you may recover.

**11. What happens if I am terminated or laid off from the Company? Does the EDRP still apply to me?**

Yes, if you are terminated or laid off from the Company, you must still resolve all legal claims against the Company through the EDRP instead of through the court system. All four steps of the program would be available; however, which steps are appropriate depends on whether it involves a "Covered Claim," your own preference, and the Company's preference.

**12. What if the cause of my dispute is an on-the-job injury?**

The MDRA does not impact your right to file a claim for workers' compensation or unemployment benefits. If you need help with a claim for workers' compensation or unemployment insurance benefits, you should contact the Insurance Department at the Company. However, if you believe you have been

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fired, laid off, or unjustly treated because you filed a claim for an on-the-job injury, you must resolve your dispute through the EDRP.

**13. How can I be sure of confidentiality if I call the Employee Compliance Helpline?**

The Employee Compliance Helpline, (800) 211-GCCO (4226), is designed to provide you with an independent and confidential source of assistance. The Helpline Representatives are trained to make every effort to honor your requests for confidentiality. It will always be your decision whether or not you disclose your identity when you talk to the Helpline Representative. Please note, however, that in certain rare instances, such as if criminal activity is suspected or reported, the Helpline Representative may be required to disclose those details to the Company.

**14. Am I still able to go to the Equal Employment Opportunity Commission (EEOC) with this program in place?**

Yes. You are still free to consult with the appropriate state Human Rights Commission, EEOC, or any other government regulatory body regarding your workplace concern. It is possible that the Agency will direct your claim back to the Company's EDRP. The EDRP applies to monetary and other relief you might seek through the Courts for a workplace dispute.

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# CONCLUSION

Our Employee Dispute Resolution Program works for you and the Company in several ways:

- It strengthens the Company's traditional Open Door Policy by formalizing a plan to keep lines of communication open.
- It promotes fair treatment of all employees by serving notice to supervisors that their decisions may be reviewed by higher management.
- It saves the expense and time of a long court battle.
- It encourages teamwork by providing a system for working out employee-employer disputes within the Company. Working together as a team is the key to remaining a successful force in the industry.

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# Mutual Dispute Resolution Agreement

## I. Introduction and Mutual Agreement to Arbitrate

Granite Construction Incorporated, its subsidiaries, successors, and affiliated companies over which it has operating control (the "**Company**") believes that most work-related concerns can be addressed with the employee's supervisor or Human Resources. Where resolution cannot be achieved through the Company's in-house resources, the undersigned employee, his/her heirs, executors, administrators, successors, and assigns ("**Employee**") and the Company agree to use the final and binding arbitration procedures in this Agreement for any **Covered Claims** (defined herein under Section III) that arise or have arisen between Employee and the Company instead of a trial in court before a judge or jury in federal or state court. This Mutual Dispute Resolution Agreement ("**Agreement**") requires the use of binding arbitration as a final resolution to any workplace concerns. By executing this Agreement, Employee acknowledges and agrees to have accepted the terms of this Agreement and both Employee and the Company will be bound by its terms. This Agreement survives termination of the employment relationship and shall remain binding on the Company and Employee.

Employee understands and agrees that arbitration is the only forum for resolving Covered Claims, and that both the Company and Employee are waiving the right to a trial before a judge or jury in federal or state court in favor of arbitration.

## II. Employee Dispute Resolution Program ("**EDRP**") Handbook

This Agreement is part (Step 4) of the Company's overall dispute resolution process, as set forth in the Employee Dispute Resolution Procedure Handbook (the "**Handbook**"). Employee need not engage in Steps 1, 2, or 3, as provided in the Handbook, before engaging in mandatory, binding, and final arbitration (Step 4) when the Employee's claim involves a Covered Claim. To be clear, Steps 1, 2, and 3 of the Handbook are available prior to resorting to arbitration, but are not conditions to filing a demand for arbitration. Arbitration is the final and binding forum for resolving Covered Claims. There is no option to bring any dispute or Covered Claim in state or federal court.

## III. Covered Claims

Other than as provided in this Agreement, Employee and the Company agree that any controversy, dispute, or claim that could otherwise be raised in court ("**Covered Claim**") that the Company has against Employee or the Employee has against the Company, its current or former officers, directors, members, employees, vendors, clients, customers, agents, parents, subsidiaries, affiliated companies, successors, or assigns, must be settled exclusively by final and binding arbitration and not in court. It is the Parties' intent that all claims between them covered by this Agreement are to be resolved through binding arbitration to the fullest extent permitted by federal and state law. However, if an arbitration award would be rendered ineffectual without preliminary, provisional injunctive relief (including, but not limited to, preliminary injunctions or temporary restraining orders), either Party may request such relief from a court of competent jurisdiction to preserve the status quo pending arbitration.

Covered Claims include, but are not limited to, claims for wages and other compensation, breach of contract, misappropriation of trade secrets or unfair competition, violation of public policy, wrongful

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termination; tort claims; claims for unlawful retaliation, discrimination and/or harassment; and claims for violation of any federal, state, or other government law, statute, regulation, or ordinance, such as, for example, claims under the Age Discrimination in Employment Act; the Americans with Disabilities Act; Title VII of the Civil Rights Act of 1964; the Equal Pay Act; the Fair Credit Reporting Act; the Fair Labor Standards Act; the Family and Medical Leave Act; the Pregnancy Discrimination Act; the Rehabilitation Act; Section 1981 through 1988 of Title 42 of the United States Code; the Worker Adjustment and Retraining Notification Act.

Claims not covered by this Agreement are: claims for workers' compensation or unemployment benefits; petitions or charges that could be brought before the National Labor Relations Board or claims under a collective bargaining agreement; charges filed with the Equal Employment Opportunity Commission or a similar government agency; claims under employee pension, welfare benefit or stock option plans if those plans provide a dispute resolution procedure; claims which are not subject to arbitration or pre-dispute arbitration agreements pursuant to federal law; and claims which are precluded from arbitration pursuant to state law, to the extent such state laws are not preempted by the Federal Arbitration Act.

To the extent applicable law prohibits enforcement of the representative action waiver (discussed in Section IV below) with respect to representative claims under California's Private Attorneys General Act of 2004, California Labor Code §§ 2698, et seq. and representative claims for public injunctive relief under California Business and Professions Code § 17203, such claims also are not covered by this Agreement.

This Agreement is not to be construed to require the arbitration of any claims against a contractor that may not be the subject of a mandatory arbitration agreement as provided by section 8116 of the Department of Defense Appropriations Act of 2010 (Pub. Law 111-118, Division A), section 8102 of the Department of Defense Appropriations Act of 2011 (Pub. Law 112-10, Division A), section 8101 of the Department of Defense Appropriations Act of 2012 (Pub. Law 112-74, Division A) and their implementing regulations, or any successor Department of Defense appropriations act addressing the arbitrability of claims.

#### **IV. Waiver of Multi-Plaintiff, Class, Collective and Representative Actions ("Waiver")**

Employee agrees that Covered Claims must be brought on an individual basis only, and arbitration on an individual basis is the exclusive remedy. No party may bring a claim on behalf of other individuals, and no arbitrator has authority to consolidate claims or proceed with arbitration on multi-plaintiff, class, collective, or representative basis. Should such a claim be initiated in the arbitral forum, the arbitrator shall summarily reject it as beyond the scope of this Agreement. To the maximum extent allowed by law, Employee and the Company waive the right to participate in or receive money or any other relief from any class, collective or representative proceeding.

Any disputes concerning the applicability or validity of this Waiver in this Section IV shall be decided by a court of competent jurisdiction, not by the arbitrator. In the event a court determines that this Waiver is unenforceable, this Waiver shall not apply to that claim, and that claim brought on a class, collective, or representative action basis must be filed in a court of competent jurisdiction, and such court shall be the exclusive forum for such claims.

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## **V. Authority to Determine Arbitrability**

Except as provided in Section III, the arbitrator shall have the exclusive authority to resolve any dispute relating to the arbitrability of any individual claim or the enforceability or formation of this Agreement (including any alleged defenses to contract enforcement such as, for example, waiver of right to compel arbitration). Enforcement of this Agreement may not be precluded or delayed on the grounds that (1) a party to this Agreement also is a party to a pending court action or special proceeding with a third party arising out of the same transaction or series of related transactions, or (2) a Party to this Agreement asserts arbitrable and non-arbitrable claims.

## **VI. Mutual Modification to Statute of Limitations**

For California Employees, the demand for arbitration must be in writing and made within the time period required under the applicable statute of limitations.

For all non-California Employees, unless otherwise prohibited by state law, the demand for arbitration must be in writing and made within one (1) year of the occurrence of the event giving rise to the dispute. To the maximum extent allowed by law, failure to initiate arbitration within the applicable one-year period shall constitute a waiver of any and all such civil claims, and any and all such civil claims shall be forever barred.

## **VII. Procedures**

To initiate arbitration, the Employee must deliver the written demand to the Company at 585 Beach Street, Watsonville, CA 95076, Attn: Corporate EEO Officer. For the Company to initiate arbitration, it must deliver the written demand for arbitration to the Employee at the last known address recorded in the Employee's personnel records. The Party initiating arbitration also must, within the time period required under the applicable statute of limitations, submit the written demand to the arbitration service that will administer the claim (as explained below). These procedures must be followed at all times to initiate arbitration, whether or not a court has entered an order compelling arbitration. The Company shall pay all arbitration fees and costs that would not be incurred in a court proceeding.

The arbitration shall be before a single neutral arbitrator. The American Arbitration Association ("AAA") shall administer the arbitration and the hearing shall take place in the county in which the dispute arose. The Employment Arbitration Rules and Mediation Procedures ("AAA rules") shall govern the arbitration proceedings, but to the extent the rules conflict with this Agreement, the provisions of this Agreement shall govern. Employee may obtain a copy of the AAA rules before signing this Agreement at [www.adr.org](http://www.adr.org), by contacting the AAA directly (toll-free 800-778-7879), or by contacting the Company's Human Resources Department. Each Party shall have the right to conduct discovery adequate to fully and fairly present the claims and defenses consistent with the streamlined nature of arbitration. Each Party shall have the right to seek summary judgment during the arbitration proceedings in accordance with Rule 56 of the Federal Rules of Civil Procedure.

The arbitrator shall apply the substantive law relating to all claims and defenses to be arbitrated the same as if the matter had been heard in court, including the award of any remedy or relief on an individual basis and any award of costs and attorneys' fees to the prevailing party. Otherwise, the Parties shall each bear their own costs and attorneys' fees, except as approved by the Program Administrator as part of the Legal

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Consultation Plan set forth the EDRP. The arbitrator's award shall be in writing, with factual findings, reasons given, and evidence cited to support the award. The Company and the Employee agree that any arbitration award shall have no preclusive effect as to issues or claims in any other dispute or arbitration proceeding and that arbitrators are barred from giving prior arbitration awards precedential effect. Any authorized decision or award of the arbitrator shall be final and binding on the Parties. Any court of competent jurisdiction may enter judgment upon the award, either by (i) confirming the award or (ii) vacating, modifying, or correcting the award on any ground permitted by applicable law.

#### **VIII. At-Will Employment**

Nothing in this Agreement changes or in any manner modifies the Employee's at-will employment relationship with the Company. Nothing in this Agreement constitutes, or is intended to constitute, an express or implied contract of employment for any defined period of time.

#### **IX. Governing Law, Consideration, Severability, Final Agreement**

The Federal Arbitration Act (9 U.S.C. Sections 1, et seq.) (the "FAA") shall govern this Agreement. State arbitration statutes or state statutes regarding the arbitrability of state-law claims shall apply only to the extent they are not preempted by the FAA.

The Company and the Employee agree that the mutual promises to arbitrate Covered Claims, as well as the Company's agreement to pay all fees and costs unique to arbitration, serve as adequate consideration.

If any part of this Agreement is held to be invalid, void, or unenforceable, it shall be interpreted in a manner or modified to make it enforceable. If that is not possible, it shall be severed and the remaining provisions of this Agreement shall remain in full force and effect.

This Agreement sets forth the final agreement between the Company and the Employee and supersedes all prior negotiations, representations or agreements, whether written or oral, pertaining to arbitration of claims covered by the Agreement. By issuance of this Agreement, the Company agrees to be bound without signing it.

#### **X. Jury Waiver Clause**

IN THE EVENT THIS AGREEMENT IS DEEMED UNENFORCEABLE IN WHOLE, OR IN PART, AND A COURT OF COMPETENT JURISDICTION REQUIRES THAT ANY COVERED CLAIM PROCEED IN STATE OR FEDERAL COURT, THE EMPLOYEE AND COMPANY WAIVE THEIR RIGHT TO A TRIAL BY JURY. BY SIGNING BELOW, THE EMPLOYEE AND THE COMPANY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY COVERED CLAIM. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER, (II) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (IV) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS INCLUDING THIS JURY WAIVER CLAUSE.

THIS CONTRACT IS A BINDING ARBITRATION AGREEMENT WHICH MAY BE ENFORCED BY THE PARTIES.

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BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE RECEIVED AND READ OR HAVE HAD THE OPPORTUNITY TO READ THIS AGREEMENT AND I AGREE TO ITS TERMS. I UNDERSTAND THAT THIS AGREEMENT REQUIRES THAT DISPUTES THAT INVOLVE THE MATTERS SUBJECT TO THE AGREEMENT BE SUBMITTED TO ARBITRATION PURSUANT TO THE AGREEMENT RATHER THAN TO A JUDGE AND/OR JURY IN COURT. BY SIGNING BELOW, I EXPRESSLY WAIVE ANY RIGHT I MAY HAVE TO BRING A COVERED CLAIM IN COURT BEFORE A JUDGE AND/OR JURY IN FAVOR OF ARBITRATION. FURTHER, I ACKNOWLEDGE I RECEIVED AND READ THE EDRP, WHICH WAS MADE AVAILABLE TO ME EITHER IN HARD COPY OR ON THE COMPANY'S INTRANET ("GRANITE INSIDERS").

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