

SECTION 14

- Negotiation. In the event that any claim, dispute, controversy, difference, disagreement, or grievance (of any and every kind of type) (“Dispute”) arising out of, connected with or relating in any way to this MSA cannot be resolved informally within fifteen (15) days after the Dispute arises, either Party may give written notice to the other Party requesting that a representative of Subcontractor’s senior management and Clear Creek’s senior management meet in an attempt to resolve the Dispute. Each such management representative shall have full authority to resolve the Dispute and shall meet at mutually agreeable time and place within thirty (30) days after receipt by the non-notifying Party of such notice, and thereafter as often as they deem reasonably necessary to exchange relevant information to attempt to resolve the Dispute. In no event shall this Section 14.a. be construed to limit either Party’s right to take any action under this MSA.
- b. Mediation. In the event such senior management representatives are not able to resolve the Dispute within thirty (30) days of receipt of the notice set forth in Section 14.a., then either Party may request a mandatory, non-binding mediation of the Dispute by providing written notice to the other party requesting such mediation, which shall be held in Oklahoma City, Oklahoma, and shall be conducted by a single mediator mutually selected by the Parties. If the Parties are unable to agree upon a mediator within ten (10) days after the date written notice of mediation is received, either Party may petition the Dallas Office of the American Arbitration Association for the appointment of a mediator, and the mediation, including the selection of the mediator, shall occur pursuant to the American Arbitration Association’s Construction Industry Arbitration Rules and Mediation Procedures then in effect. Mediation is an absolute condition precedent to arbitration and/or litigation, except (i) to the extent necessary to avoid statute of limitation issues or (ii) if another Dispute is already subject to arbitration or litigation pursuant to this Section 14.b.
- c. Arbitration. If the Dispute is not resolved by mediation within ninety (90) days after the date written notice of mediation is received (or as such other time as may be agreed in writing by the Parties), then the Parties agree that the Dispute shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgement on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- d. Choice of Law. The rights and obligations related to the Work and/or arising under this MSA shall be governed by and construed in accordance with the laws of the state of Oklahoma, without reference to its conflicts of laws provisions.
- e. Continuation of Work. Notwithstanding any Dispute, it shall be the responsibility of the Subcontractor to continue to perform all of the Work, diligently and in a good and workmanlike manner in conformity with this MSA and/or Purchase Order. In no event shall the occurrence of any Dispute, negotiation, or litigation prevent or affect Clear Creek from exercising its rights under this MSA, at law or in equity, including Clear Creek’s right to terminate this MSA and/or Purchase Order.