



ConsensusDOCS Guidebook

September 2011 Edition



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by

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Introduction to the ConsensusDOCS Guidebook

ConsensusDOCS is the product of leading construction associations, dedicated to identifying and utilizing best practices in the construction industry for standard construction contracts. The 35 participating associations represent Design Professionals, Owners, Constructors, Subcontractors, and Sureties that literally spell the DOCS in ConsensusDOCS. ConsensusDOCS contracts and forms attempt to fairly and appropriately allocate risks to the Party in the position to manage and control the risk. The practices articulated in the documents are forward-thinking, and may not always represent the status quo, but rather a better path forward to achieve project results. The goal of the multi-disciplined drafters was to create documents that best place the Parties to a construction contract in a position to complete a project on time and on budget with the highest possibility of avoiding claims.

By starting with better standard documents that possess buy-in from all stakeholders in the design and construction industry, you reduce your transaction time and costs in reaching a final Agreement. By using fairer contracts helps eliminate unnecessary risk contingencies and thereby better pricing. In addition, “fill-in-the-blanks” are intended to lead to productive discussions about how particular risks should be allocated on specific projects before a contract is finalized. Also, the ConsensusDOCS catalog includes complete “families” of documents for each project delivery method that provide a coordinated set of Agreements and complimentary administrative forms. There also are short form agreements that address the Owner-Constructor (205), the Owner-Design Professional (245), and the Constructor-Subcontractor contractual relationships in a more abbreviated manner than do the standard Agreements (ConsensusDOCS 200, 240, and 750 respectively).

In this Guidebook you will find comments by individual associations regarding particular contract documents. These comments are organized by numeric sequence of the ConsensusDOCS contract documents. The overview sections highlight issues and innovative features of the documents generally. Association comments are expressions by an association to its association membership. These comments highlight provisions or alert their membership to consider possible project-specific modifications to a consensus standard Agreement or form. ConsensusDOCS contracts covered in this release of this Guidebook include the 200; 200.1; 200.2; 205; 220; 221; 235; 240; 260,261,262,263,300; 301; 310;410; 415; 470;471;472;473; 500; 510; 706,70,; 750; 752; and 803.

Users of the original 2007 edition of ConsensusDOCS agreements are encouraged to download a free redline-strikeout version comparing the 2011 to the 2007 edition. However, please note that there has been a significant number of editing changes and section renumbering that give the appearance that more substantive changes were made in the 2011 update than is actually the case. Consequently, a highlight sheet of changes was created to better pinpoint substantive



changes. The 2011 update highlights sheet can be found here for free on the internet <http://consensusdocs.org/wp-content/uploads/2011/01/Highlights-7.0.pdf>

In addition to this Guidebook, the notes section embedded into the ConsensusDOCS software system provides instructions to users that often alert users to section renumbering changes.

Lastly, the ConsensusDOCS coalition organizations and ConsensusDOCS staff are deeply indebted to the hard work of the many the seasoned professionals who contributed countless hours in the creation of the ConsensusDOCS contracts as well as this Guidebook. Their collective experience represents hundreds of years of practical experience in the construction field. Contributor names can be found at the conclusion of this Guidebook.



Comments and Recommendations regarding ConsensusDOCS 750*

Standard Form of Agreement Between Contractor and Subcontractor

Extent of Agreement (section 2.5): The “Extent of the Agreement” section from what was section 2.5 has been moved to section 12.1 and added to all ConsensusDOCS agreements, including short forms.

Section 2.5.1.1 Exhibit E: This exhibit should state specific responsibilities of the Subcontractor, and Constructor.

Emergencies (section 3.17): Formerly section 7.8.

Assignment of Subcontract Work (formerly section 3.17) was moved to the Misc. section in 12.2

Layout Responsibilities and Levels (section 3.21): Warranties was moved to section 3.13.

Claims Relating to the Constructor (section 5.3.4): This clarifying sentence was in the original 450 subcontract and was added to appear in the 750.

Subcontract Amount, (c) (Article 6): If appropriate, the following incentives clause is suggested.

To extent awarded in the prime agreement and Constructor has received such payment from the Owner, Subcontractor shall receive an incentive award based upon early completion; provide Subcontractor adequate notice prior to Substantial Completion.

Time of Payment (section 8.2.5): “What constitutes reasonable is a controversial subject that varies from state to state based upon state statutes and case law.”

Section 8.2.7.2: Insurance coverage implies that there is a positive indication that there is an acceptance of liability for the loss.

Notification of Cancellation Insurance (ACORD Form Change)

ConsensusDOCS recommends, as of September 2011, the following revision regarding notification of insurance cancellation:

* This publication is designed to provide information in regard to the subject matter covered. It is published with the understanding that the publisher, endorsers of ConsensusDOCS and contributors to this Guidebook are not engaged in rendering legal, accounting, or other professional services. If legal advice or other professional advice is required, the services of a competent professional person should be sought.



Section 10.2.1 In the 6th line, after the “and broad from property damage.” insert, “The Constructor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer.”

10.2.4 Delete section 10.2.4 in its entirety which currently reads, “The policies of insurance required under subsection 10.2.1 shall contain a provision that the coverage afforded under the policies shall not be cancelled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Constructor. The Constructor shall maintain completed operations liability insurance for one year after acceptance of the Work, Substantial Completion of the Project, or to the time required by the Contract Documents, whichever is longer. Before commencing the Work, the Constructor shall furnish the Constructor with certificates evidencing the required coverage.”

And Substitute the Following:

“10.2.4 To the extent commercially available to the Subcontractor from its current insurance company, insurance policies required under subsection 10.2.1 shall contain a provision that the insurance company or its designee must give the Constructor written notice transmitted in paper or electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Prior to commencing the Work and upon renewal or replacement of the insurance policies, the Subcontractor shall furnish the Constructor with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under subsection 10.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, the Subcontractor shall give Constructor prompt written notice upon actual or constructive knowledge of such condition.”

ConsensusDOCS Guidebook Explanation of Notice of Cancelation Language

Generally, construction contracts require that insurance policies include at least 30 days advanced written notice to the owner (or an upstream contractual party) if an insurance policy is canceled or allowed to expire. This has generally been satisfied through certificates of insurance as evidence of compliance. The Association of Cooperative Operations Research and Development (ACORD), the licensing company for insurance forms, has amended their certificate requirements (e.g. ACORD 25). Consequently, contractors and subcontractors may no longer be able to received certificates of insurance language that proclaims that the insurance company or insurance broker, should any policies be canceled before the expiration date thereof, “endeavor to mail 30 days written notice to the certificate holder.” Therefore, contractual requirements that 30 days advanced notice be included in insurance policies may not be commercially available and altering ACORD forms to purport to do so may run afoul of state law. Consequently, current contract language addressing notice of cancelation for insurance policies no longer reflect the reality in today’s construction marketplace.



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Consequently, a working group of experts drafted language which reflects reality, while giving the Owner sufficient notice. The language provides an owner timely third-party notification of cancellation by the insurance company as well as creates an obligation on a party to give notice of cancellation to the owner or other upstream party. Lastly, the drafted solution looks to limit costs as well time efficiency issues by allowing for electronic notification by the insurance company or the insurance broker as a designee depending who is in the best position to have such information and can give appropriate notice. In addition, reference to prompt notice is expected to be soon as practical, but in no case longer than 5 days from first learning of cancellation or nonrenewal of an insurance policy without replacement.

The ConsensusDOCS proposed contractual solution differentiates between nonrenewal, cancellation, and other changes like lapses in coverage. In the case of active nonrenewal by the insurance company, the company or designee is in the position to provide advanced notice. In the case of cancellation, it is not possible for the insurance company to provide advanced notice so notice would be provided very shortly after cancellation occurs. The most common example is late payment of premium. In this case, the company may cancel if payment is not received, however, if payment is received cancellation would be rescinded and any advanced notices would also have to be rescinded causing unwarranted confusion and inefficiencies. In other cases such as a lapse in coverage, only the design builder may be aware of the lapse and therefore only the design builders could provide that notice.

The ACORD form change impacts all standard contract documents, including the ConsensusDOCS 200 and the AIA A201®, and most manuscripted construction contracts that contractually require insurance policies provide a 30-day advanced notice of cancellation. The ConsensusDOCS notice of cancellation solution references where such language should be inserted into ConsensusDOCS contracts (ConsensusDOCS 200, section 10.2.4). However, the ConsensusDOCS proposed solution is equally applicable to other contracts that are now out-of-date due to the ACORD change. The ConsensusDOCS Guidebook is being updated to respond to today's changing construction marketplace in a timely fashion and was deemed too pressing to wait until the next revision cycle.



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Comments from AGC for ConsensusDOCS 750:

(Additional comments on this document can be found on AGC's website at www.agc.org/contracts)

The Consensus Document 750, Standard Form of Agreement Between Contractor and Subcontractor, introduces several changes from the previous and now defunct AGC 650. Those changes are outlined below:

Avoidance of Conflicts: A new Section 2.2.1 is added discussing the avoidance of conflicts of interest between Contractor and Subcontractor and adds a warranty that neither Party has paid or received any contingent fees or gratuities to or from the other Party, which flows down to their agents, officers and employees.

Electronic Communications: Section 2.3.1 sets out a written protocol for the exchange, storage and retrieval of electronic documents (which can be used in conjunction with new Consensus Document 200.2, the Electronic Communications Addendum.) The Contractor will want to craft a protocol with the Owner tailored to anticipated Project communications and then make sure Subcontractors follow the same protocol during performance of the Project. In the event that litigation results and e-discovery becomes an issue, preservation of electronic information by all Parties consistent with their agreed-upon protocol can help limit the Contractor's liability.

Standard of Care (Section 3.2): This section lowers the standard of care for the Subcontractor in performing its responsibilities under the Agreement from "best skill and judgment" to "diligent efforts." This can be modified if a higher standard is established in the Agreement between Owner and General Contractor.

Correction of Defects (Section 3.15): This section adds language that now explicitly sets forth a remedy for the Contractor, but it first requires 48 hour notice during which the Subcontractor has the opportunity to cure defects or deficiencies in the Subcontractor's Work that damages the Contractor's Work or Owner's property.

Owner Furnished Information (Section 4.4): This section now provides that, to the extent the Owner provides a warranty regarding Owner-furnished information, the Subcontractor may prosecute a claim in Contractor's name for the use and benefit of Subcontractor regarding breach of that warranty. The Subcontractor may ask to see information identified in the Agreement between Owner and Contractor that is included within the information the Owner warrants.

Time and Cost Adjustments (Section 5.2): This section now explicitly allows for an increase in the Subcontract Time and Subcontract Cost if Contractor's schedule changes impact the Subcontractor's schedule and costs. The Contractor will want to make sure to include a "no damage for delay" provision instead of this section in instances where the Agreement Between



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Owner and Contractor does not allow the Contractor to recover additional costs as a result of delay.

Liquidated Damages (Section 5.5): This section adds a new provision regarding delay liquidated damages and provides an explicit flow-down provision related to a mutual waiver of consequential damages in the Agreement between Owner and Contractor. Note that any damages for which the Contractor is liable under that Agreement are not consequential damages for the purposes of the waiver of consequential damages in the Subcontract Agreement.

Pay-When-Paid (Section 8.2.5): This section contains a contingent payment provision to the Subcontractor such that payment is due from the Contractor to the Subcontractor within 7 days of Owner's payment to Contractor. This is generally referred to as a "Pay-When-Paid" provision, and mirrors the common law of most states in that it provides for payment to the Subcontractor within a reasonable time if, through no fault of the Subcontractor, the Owner fails to timely pay the Contractor. If this section is modified to be a "Pay-If-Paid" provision, enforceability varies by state. Further guidance is available on the AGC website if there is an interest in modifying the provision to be a "Pay-If-Paid" contract provision.

Payment Application Notification (Section 8.2.7): This section now provides for a 7-day period for Contractor to provide written notice to Subcontractor of any disapproval or nullification of all or part of Subcontractor's payment application. This provision did not previously appear in AGC subcontracts.

Indemnification (Section 9.1): This section has new language providing Subcontractor indemnification to Contractor, Architect/Engineer and Owner for all claims for bodily injury and property damage, other than to the work itself, which mirrors standard commercial general liability insurance coverage language. This section also allows for the Subcontractor to be reimbursed for the percentage of liability in the claim attributable to the negligent acts or omissions of the Owner, Contractor and Architect/Engineer. Such reimbursement was not previously included in the previous and defunct AGC 650 or 655 Subcontracts. The Contractor will want to carefully review insurance obligations in the Agreement Between Owner and Contractor to make sure any special obligations imposed on the Contractor are similarly imposed on the Subcontractor so there is no gap in insurance coverage for these types of losses.

Additional Insured: Several new sections (9.2.11-9.2.11.1) provide "check the box" options creating the Subcontractor's duty to provide additional liability coverage, the listing of the Contractor as an additional insured on Subcontractor's CGL policy (which was not addressed at all in the AGC 650) and whether the Subcontractor has a duty to provide Owners' and Contractors' Protective Liability Insurance ("OCP") (Subparagraph 11.5.2.2): If OCP coverage is selected, a Contractor may desire additional insured protection for completed operations in addition to OCP coverage. This can be accomplished by striking "operations" in this section and then checking both boxes. Note: any additional cost incurred by the Subcontractor for purchasing



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such coverage shall be paid by the Contract, which should be reimbursable by the Owner if a consistent option is chosen in the ConsensusDOCS 200 Owner-Contract Agreement.

Time and Price Adjustments (Section 10.3): This section now explicitly provides for Subcontractor to receive an adjustment to its Time and Price via Change Order to the extent the Agreement Between Owner and Contractor permits the Contractor to receive such adjustments. Thus, the Subcontractor may seek to review the Owner-Contractor Agreement when negotiating the Subcontract to confirm when cost and schedule adjustments are permitted. The ConsensusDOCS provision is consistent with ConsensusDOCS 200.

Contractor Termination (Section 10.4): In this section, the Subcontractor also receives some new protection in the case of the Contractor being terminated by Owner for cause, through no fault of the Subcontractor. Previously, the AGC 650 applied to any Owner termination regardless of whether it was for cause or convenience. Now, the Subcontractor is entitled to recover from the Contractor reasonable costs arising from the termination of the Subcontract, including overhead and profit on Work not performed. The new ConsensusDOCS provision is consistent with ConsensusDOCS 200.

Dispute Resolution (Section 11.5): The Dispute Resolution provisions in Section 11.5 have undergone several modifications, most notably now explicitly imposing a duty of direct discussions and good faith negotiations on the Parties regarding a dispute. In the event that good faith discussions do not resolve the conflict, then mediation and “binding dispute resolution” follow. Again, a fill-in-the-box option is provided, allowing for either arbitration or litigation. Notably, Section 11.6 has now been modified to place the responsibility for binding dispute resolution on the non-prevailing Party, but attorneys’ fees are no longer explicitly called out as a recovery costs. Parties in states where common law imposes a duty to explicitly list the recovery of attorneys’ fees in a contract should be on guard when negotiating this section and should modify it accordingly to provide for the recovery of attorneys’ fees, if desired.



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Comments from ASA for ConsensusDOCS 750:

(Additional comments on ConsensusDOCS can be found on ASA's website at www.asa.org.)

Scope of Work (Article 2): The scope of work should be limited to all work actually indicated in the plans and specifications which was the subject of the Subcontractor's bid.

Subcontractor's Responsibilities (Article 3): Any "flow-down" terms, i.e., terms which impose obligations on a Subcontractor by reference to the contractual obligations of the Contractor to the Owner, should also "flow-up," so that the Subcontractor also has rights against the Contractor by reference to the rights that the Contractor has against the Owner. The Subcontractor should also be entitled to copies of any documents incorporated by reference before signing the Agreement.

A Subcontractor may be required to conduct a site visit, make observations, and report discovered discrepancies, but should not have an affirmative duty to discover problems in the site conditions or design that a person in the Subcontractor's trade would not ascertain by a reasonable, visual inspection. Subcontractors should be entitled to rely on the accuracy and completeness of the plans and specifications, and on the accuracy of reports of conditions furnished by the Contractor.

Where termination is not due to the Subcontractor's default, then the Subcontractor should be entitled to its contract damages, i.e., profit and overhead on uncompleted work, plus all expenses related to termination (such as termination of subcontracts and attorneys fees), plus payment for work completed and expenses for labor and materials to the date of termination.

A Subcontractor's warranty should provide that work is free of defects and performed in workmanlike manner, but should exclude defects inherent in the design or specified materials, ordinary wear and tear, improper maintenance, abuse, modifications, and implied warranties. A Subcontractor's warranty should have a time limit which should run from either substantial completion or issuance of a certificate of occupancy to the Owner, whichever is earlier. A Subcontractor's warranty should reserve the right of the Subcontractor to notice and an opportunity to cure any claimed breach of the warranty, by providing for waiver of any warranty claims where the Subcontractor is not provided an opportunity to cure.

Subcontractors should not ordinarily accept responsibility for design. When design services are requested, the delegation should be specific and should include all design and performance criteria. Subcontractors should be responsible for promptly reporting defects they actually discover, but cannot be responsible for other design defects that it is claimed they "should have" recognized, or for design requirements that violate code standards.

A Subcontractor should be afforded a reasonable time for performance, and should be entitled to equitable adjustments for schedule changes, acceleration and delays. A Subcontractor cannot be responsible for schedule changes it has not reviewed and agreed to in writing.



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Any closeout procedures and documents should be specified in the contract documents.

A Subcontractor should not be responsible for safety barriers unless specifically agreed. OSHA penalties are partly based on past violations and are intended as punishment and should not be shifted to other Parties to a construction subcontract.

Hold-harmless terms should be limited to bodily injury and property damage (other than the work itself). Such terms should also be limited to provide indemnity only to the extent of the Subcontractor's negligence, and should provide for payment of attorney's fees rather than including a duty to "defend." Ideally, hold harmless terms flow in both directions and provide mutual obligations to indemnify the other Party to the subcontract against the consequences of the indemnitor's own negligence.

Expenses claimed as backcharges should not be incurred before notice, and reasonable opportunity to cure, are provided to a Subcontractor. Backcharges should be billed within a reasonable time and not saved until the end of a project.

Payment should be passed through from the Owner not more than seven days after the Contractor is paid, or within a reasonable time after the Contractor would have been paid absent circumstances that are not the fault of the Subcontractor. Past due payments should bear interest at a reasonable rate, so long as payment delay is not the fault of the Subcontractor. A Subcontractor should reserve an express right to stop work for non-payment whenever non-payment is not the sub's fault, upon reasonable notice and opportunity to cure, including costs of shut-down, delay and start-up. A Subcontractor should be entitled to payment for suitably stored materials. A general Contractor should hold payments for the benefit of Subcontractors.

Retainage should be limited to the amount retained by the Owner, with any reductions or early release of retainage passed through immediately to Subcontractors. The Contractor should use best efforts to obtain release of retainage from the Owner as soon as permitted under the general conditions.

Contractor's Responsibilities (Article 4): A Subcontractor should have access to complete project financing information, including change orders, in order to evaluate its risk of nonpayment. Disclosures that demonstrate adequate project financing are a necessary condition to a commencement or continuation of a Subcontractor's performance.

Progress Schedule (Article 5): See ASA comments under Article 3 pertaining to a Subcontractor's reasonable time for performance.

Deadlines for claims should be based on actual knowledge of facts giving rise to a claim (rather than constructive knowledge) and should permit a reasonable time for claims; time extensions should be required for all causes reasonably beyond the Subcontractor's control; price adjustments should include the entire cost of delays not caused by Subcontractor (including



overhead) and should include a reasonable amount of overhead and profit for extra work. A Subcontractor's time and price adjustments should not be tied to amounts received by the Contractor from the Owner. A Subcontractor should have a right to payment for any extra work that is performed at the Contractor's direction, provided that the Subcontractor confirms verbal instructions in writing before starting work.

One-sided terms that deny a Subcontractor any right to collect damages for delay, often called "no-damage-for-delay" clauses, are unacceptable. Mutual waivers of consequential damages, such as extended home office overhead, are beneficial and encouraged. A Contractor may reserve the right to assess a Subcontractor for a share of liquidated damages actually paid to the Owner, but only to the extent such share is proportionate to the fault of the Subcontractor in causing a delay.

Changes in the Subcontract Work (Article 7): See ASA comments under Article 5 pertaining to deadlines for claims being based on actual knowledge.

See ASA comments under Article 3 pertaining to the requirement that a Subcontractor conduct a site visit.

Payment (Article 8): See ASA comments under Article 3 pertaining to hold harmless terms, retainage, and payment passed through from the Owner and closeout procedures:

The prevailing Party in any dispute arising out of a construction subcontract should be entitled to attorneys' fees and costs. Terms only requiring payment of a Contractor's attorneys' fees in the event of a Subcontractor's default are one-sided and should be avoided. Terms that permit fees only for designated dispute resolution procedures may exclude other lawful collection procedures and should also be avoided.

Subcontracts should require Contractors to provide copies of any payment bond to Subcontractors on request, and should expressly exempt steps to preserve lien rights from any dispute resolution requirements.

Language requiring one Party to sign waivers in whatever form is considered suitable by the other Party is generally unacceptable. Any waiver form should be specified before the contract is signed, should be conditional on payment (except for payments already received), should not apply to funds still held as retainage, and should not apply to claims unrelated to the payment security rights of the Contractor.

Indemnity, Insurance and Waiver of Subrogation (Article 9): See ASA comments under Article 3 pertaining to hold harmless terms.

Any requirements to name additional insureds on any of the Subcontractor's liability insurance policies, and any waivers of subrogation for claims covered by the Subcontractor's liability insurance policies (particularly workers compensation), are unacceptable. Requirements to



provide special notices of policy cancellation or policy non-renewal often cause great difficulties and friction although they have never been shown to provide any benefits to anyone, and are also unacceptable. Requirements for continuation of coverage beyond the policy period, in the absence of a binding commitment from an insurer to provide that coverage, are also unacceptable. Separate liability insurance to cover the Owner and the Contractor for liability arising from “general supervision” of the project, such as Owners and Contractors Protective Liability Insurance (“OCP” - CG 00 09) may be required in lieu of any requirements to name additional insureds or to waive subrogation on the Subcontractor’s liability insurance policies. The Owner or Contractor should be responsible to purchase all-risk property insurance including coverage for a Subcontractor’s interest in installed work and in materials delivered, suitably stored or in transit. Coverage gaps required to be filled by a Subcontractor should be reimbursed.

Contractor’s Right to Perform Subcontractor’s Responsibilities and Termination of Agreement (Article 10): See ASA comments under Article 8 pertaining to prevailing Parties in disputes.

See ASA comments under Article 3 pertaining to backcharges and when termination is not due to the Subcontractor’s fault.

The Subcontractor should be entitled to claim time and price adjustments for any suspension of work which is not the fault of the Subcontractor. The Subcontractor should be able to terminate the contract for unreasonably long suspensions measured in the aggregate, and not by consecutive days. Terms restricting recovery where work “would have been” suspended anyway due to Subcontractor’s fault merely restate common law requirement for causation.

Dispute Resolution (Article 11): Early mediation of disputes is beneficial and should be a condition precedent to the use of any other dispute resolution procedure. Should mediation not resolve a dispute, arbitration by an industry professional such as an architect, engineer, Contractor or Subcontractor is always preferable to litigation before a judge or jury. Arbitration should always be conducted subject to the terms of the written subcontract, so specific subcontract terms can assist Subcontractors to ensure that arbitration will provide a quick and efficient mechanism for resolving disputes. For example, subcontract terms can expressly provide that “The award shall be made within nine months of the filing of the notice of intention to arbitrate (demand), and the arbitrator(s) shall agree to comply with this schedule before accepting appointment. However, this time limit may be extended by Agreement of the Parties or by the arbitrator(s) if necessary.” Drafting Dispute Resolution Clauses - A Practical Guide, AAA 12/7/2000. Or, subcontract terms may require direct participation by the Parties (not merely through their representatives) for

- selection of the arbitrator (to ensure an industry professional is selected),
- any Agreement or ruling to permit a continuance, and
- any Agreement or ruling to permit any discovery (particularly depositions, which add considerable time and expense) beyond the discovery of information contemplated by Rule



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F-7 of the AAA's Construction Industry Arbitration Rules, Fast Track Procedures in fast track cases (no claim or counterclaim exceeds \$75,000), or Rule R-22 of the AAA's Construction Industry Arbitration Rules, Regular Track Procedures in regular track cases (\$75,001-\$500,000), or Rule L-4 of the AAA's Construction Industry Arbitration Rules, Procedures for Large, Complex Construction Disputes.

Subcontractor claims should not be tied to resolution of claims by the Contractor against the Owner.

See ASA comments under Article 8 pertaining to attorneys' fees and costs.

Miscellaneous Provisions (Article 12): Subcontracts should provide that the appropriate venue for dispute resolution procedures such as litigation or arbitration is the place where the project is located, and also that the law of the place where the project is located shall govern.



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Comments from National Ground Water Association (NGWA) on ConsensusDOCS 750:

Due to the unique nature of water well contracting, the following ConsensusDOCS documents are recommended by the National Ground Water Association (NGWA - www.ngwa.org) to be used to assemble a water well contractor's ConsensusDOCS contractual foundation: 202 (change order form from long form 200), 205, 220, 221 (Schedules A – C), 260, 261, 262, 706, 707, 710, 750, 751, 781, 782 and 795.