

ARBITRATION REMEDIES—COSTS AND FEES (EXCLUDING ATTORNEY FEES)

- All fees and expenses of the arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs.

[Comment by Ed Costello: The clause does not provide for any cost shifting based on who wins the most in the arbitration award. It is perfectly appropriate when it is reasonably certain that the other party will not try to abuse the process either by making numerous frivolous claims or by handling the preparation stages of the arbitration in a way designed to cause a party to spend more money. Keep in mind, however, that most arbitrations involve modest "discovery," and it is discovery which accounts for most pre-hearing expenses in both arbitration and litigation.