

Rules and Procedures for the Informal Resolution of Automobile Warranty Disputes

1. Agreement of Parties - Various Programs

These Rules shall apply whenever the parties have agreed to utilize them or under any warranty or similar dispute settlement program providing for administration by the National Center for Dispute Settlement (NCDS). The parties shall be deemed to have agreed to these Rules in the form in effect when the request for Arbitration is received by NCDS and shall be acknowledged and confirmed by the participation of the parties in the NCDS process. These Rules apply to several NCDS programs, which may differ as to the number of Arbitrators. In programs where three (3) Arbitrators are appointed, the decision of the Arbitrators means a majority.

2. Initiation of Proceedings

Proceedings are initiated by the filing of a request for Arbitration with NCDS in accordance with the directions contained in the documents under which the dispute has arisen. After initiation of the proceeding, no new or different claim may be added without compliance with all pre-Arbitration notice requirements, written agreement of all parties and consent of the Arbitrator(s).

3. Appointment of Arbitrator(s)

NCDS shall appoint a single Arbitrator, or in some programs three (3) Arbitrators, from its panel of qualified Arbitrators.

4. Qualifications of an Arbitrator

Any person appointed as an Arbitrator shall disclose to NCDS any circumstances likely to affect impartiality, including any bias, any financial or personal interest in the outcome of the proceeding, any past or present relationship with the parties or their counsel. Upon receipt of such information from the Arbitrator or any other source, NCDS shall communicate the information to the parties and, if it deems appropriate, to the Arbitrator(s).

Upon objection of a party to the service of the Arbitrator(s), NCDS shall determine whether the Arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

5. Vacancy

NCDS is authorized to appoint another Arbitrator if a vacancy occurs or if any appointed Arbitrator is unable to serve promptly. The Arbitrator so appointed shall be subject to disqualification for the same reasons specified in Rule 4.

6. Time and Place of Hearing

The Arbitrator(s) have the authority to fix the date, time and place of the hearing, notice of which shall be given to the parties at least ten (10) calendar days in advance, unless the time period is waived by all parties.

7. Representation

Any party to the proceeding may attend the hearing or be represented at the hearing by another person. In the case of representation by an attorney, in the interest of fairness to all parties, the party retaining counsel or their attorney must advise NCDS and the other parties at least five (5) calendar days prior to the date of the hearing. Failure to follow this Rule with regard to notice may result in an adjournment of the scheduled hearing.

8. Attendance at Hearing

All parties to the dispute, as well as their representatives are entitled to attend the hearing. Unless excused by the Arbitrator(s), the registered owner of the vehicle shall be present. Witnesses may attend the hearing subject to the Arbitrator(s) authority to limit attendance or sequester witnesses during all or part of the hearing. The Arbitrator(s) shall determine whether any other person may attend the hearing.

9. Postponements

Hearings shall be postponed by the Arbitrator(s) only for good cause.

10. Confidentiality

To the extent permitted by law, the proceedings are deemed to be private and the statements of all participants are deemed to be confidential. The parties may make appropriate notes of the proceedings but audio or video recordings are strictly prohibited.

11. Stenographic Record

A stenographic record of the hearing is not required. Any party who wishes to, may make provision for a certified court stenographer at that party's own expense. A copy of the transcript must be provided to each Arbitrator and a copy made available for the review of the other party. The transcript is agreed by the parties to be confidential.

12. Proceedings and Communication with an Arbitrator

The hearing shall be conducted by the Arbitrator(s) in any manner which will permit full and expeditious presentation of the case by all parties. There shall be no direct communication between any party or representative of a party and any Arbitrator other than at the hearing except when initiated by an Arbitrator pursuant to Rule 6 and limited to the time or place of the hearing. In addition, the parties agree to protect the Arbitrator(s) from involuntary communications or testimony, other than the actual time and place of the hearing, in any other forum. The parties or their representative may speak with any other party or that party's representative at any time.

13. Proceedings in the Absence of a Party

The Arbitration hearing may proceed in the absence of

any party or representative who has received notice of the hearing and fails to be present or fails to obtain an adjournment. A decision shall not be made solely on the default of a party. The Arbitrator(s) shall require any party who is present to submit such evidence as the Arbitrator(s) may require for the making of a decision.

14. Evidence

The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence as the Arbitrator(s) may deem necessary to an understanding and determination of the dispute. The Arbitrator(s) shall be the sole judge of the relevance and materiality of the evidence offered. Conformity with the legal Rules of evidence shall not be necessary. The expense of witnesses, expert witnesses, or reports submitted by any party shall be paid by the party producing such witnesses or reports. Unless excused by the Arbitrator(s), the vehicle which is the subject of the dispute shall be available at the hearing. Any party may, in an appropriate case, request a test drive. A test drive in such cases is a part of the proceeding and shall be conducted in a manner consistent with these Rules. No Arbitrator shall operate the vehicle during the test drive.

15. Evidence by Filing of Documents

The Arbitrator(s) may receive and consider documentary evidence. Documents to be considered by the Arbitrator(s) may be submitted prior to the hearing, at the hearing or as directed by the Arbitrator(s) provided a copy is simultaneously transmitted to all other parties and to NCDS for transmittal to the Arbitrator(s).

16. Closing of Hearings

The Arbitrator(s) shall ask whether the parties have any further proofs to offer or witnesses to be heard. Upon receiving negative replies or when satisfied that the record is complete, the Arbitrator(s) shall declare the hearing closed.

17. Waiver of Rules

Any party who proceeds and who fails to state an objection in writing before the hearing is concluded regarding any alleged noncompliance with any requirement of these Rules or of the process shall be deemed to have waived the right to any such objection.

18. Time of Decision

The decision shall be rendered promptly by the Arbitrator(s) and unless otherwise agreed by the parties, no later than ten (10) calendar days from the date of the closing of the hearing.

19. Form of Decision

The decision shall be in writing and shall be signed by the Arbitrator(s).

20. Delivery of Decision to Parties

Parties shall accept as legal delivery of the decision the placing of the decision or a true copy thereof in the mail addressed to the party or its legal representative at the last known address, by personal service of the decision, or by the filing of the decision in any other manner that may be permitted by law.

21. Applications to Court and Exclusion of Liability

By agreeing to these Rules or proceeding in any manner under these Rules, each party agrees:

- (a) Neither NCDS, its officers, directors or employees nor any Arbitrator in a proceeding under these Rules is a necessary party in judicial proceedings relating to the Arbitration; and
- (b) Neither NCDS, its officers, directors or employees nor any Arbitrator shall be liable to any party for any act or omission in connection with any Arbitration conducted under these Rules.

22. Hearing on Documents

Under certain programs administered by NCDS, the party initiating Arbitration may select a hearing by a three (3) member board, based upon the submission of documents only. The provisions of these Rules shall apply only to the extent they are consistent with that process.

23. Interpretation and Application of Rules

Except where the Rules specifically state otherwise, the Arbitrator(s) shall interpret and apply these Rules insofar as they relate to the Arbitrator's powers and duties. All other Rules shall be interpreted and applied by NCDS, as administrator.

24. Modification and/or Clarification

Within twenty (20) calendar days of the date of mailing of the decision, any party may request modification and/or clarification of the decision. Applications for modification and/or clarification must be sent to NCDS for transmittal to the Arbitrator(s) and all other parties. A request for modification and/or clarification must set forth the specific portion or portions of the decision which are subject to the request. The Arbitrator(s) is not empowered to redetermine the merits of any claim already decided, but may modify the decision if the Arbitrator(s) find that the decision is not within the scope of the warranty or its coverage or has improperly identified a party or made an error not otherwise affecting the merits of the case. Written objections to modification and/or clarification must be delivered to NCDS for transmittal to the Arbitrator(s) and simultaneously sent to all parties within ten (10) calendar days of the application. The Arbitrator(s) shall rule on the application for modification and/or clarification within ten (10) calendar days from receipt of an objection or the expiration of time to make objections, whichever is earlier.

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