CALIFORNIA DISPUTE SETTLEMENT PROGRAM RULES

for the Informal Non-Binding Resolution of Automobile Warranty Disputes

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1. Introduction

The National Center for Dispute Settlement ("NCDS") is a private, independent, impartial organization that administers auto warranty disputes in accordance with the Magnuson-Moss Warranty Federal Trade Commission Improvements Act of 1975.[1] Pursuant to this statute, numerous original equipment manufacturers now offer consumers an informal dispute resolution mechanism for disputes that may arise under explicit warranties at the time of sale.

The California Dispute Settlement Program (CDSP), as administered by NCDS, administers all disputes pursuant to state, federal law and Federal Trade Commission Regulations and abides by the highest standards of impartiality, fairness, and integrity. This process is regulated by the Federal Trade Commission (FTC) under the Magnuson-Moss Warranty Act, and the California Code of Regulations, Title 16, Professional and Vocational Regulations, Division 33.1 Arbitration Certification Program, which provides for the expedient resolution of consumer disputes. Therefore, under the applicable California and Federal regulations, CDSP is required to close the dispute within forty (40) days of the date the claim was received by CDSP, unless otherwise provided herein.

The CDSP is a certified program in the State of California and has been certified by the California Department of Consumer Affairs Arbitration Certification Program and complies with the requirements of the California Code of Regulations, Title 16, Professional and Vocational Regulations, Division 33.1 Arbitration Certification Program. The following California Dispute Settlement Program Rules for the Informal Non-Binding

[1] The Magnuson-Moss Warranty Federal Trade Commission Improvements Act (P.L. 93-637), a/k/a, the Magnuson-Moss Warranty Act, is a United States federal law (15 U.S.C. § 2301 *et seq.*), which governs warranties on consumer products. The law does not require any product to have a warranty (it may be sold "as is"), but if it does have a warranty, the warranty must comply with this law.

Resolution of Automobile Warranty Disputes (hereinafter "Rules") govern the initiation and conduct of the CDSP informal dispute resolution arbitration process.

2. Authority

These Rules apply whenever the parties have agreed to utilize the California Dispute Settlement Program (CDSP) under a Manufacturer's certified program in the State of California. If a consumer has a dispute, while the vehicle is still under New Vehicle Limited Warranties, the consumer may elect to use this process to resolve their dispute, free of charge. Any decision rendered by an arbitrator under this program is non-binding. If the consumer accepts the decision, the vehicle manufacturer is bound by the decision and will be required to comply with its terms within the time frame specified. If the consumer rejects the decision, the consumer may pursue other legal remedies available in the state.

3. Initiation of Arbitration Process

Consumers can eFile a claim at www.ncdsusa.org. Alternatively, consumers can print and complete the current claim form at www.ncdsusa.org and either mail or email it to CDSP at info@ncdsusa.org or to the address stated herein. CDSP will conduct an eligibility determination to establish that the matter is properly eligible for arbitration. The dispute must be under the applicable New Vehicle Limited Warranties.

CDSP shall inform the consumer of the reasons for a claim not being eligible and shall inform the consumer that a single arbitrator will consider a written appeal of the eligibility decision if filed by the consumer within thirty (30) days after the date the written notification of the eligibility determination was transmitted to the consumer. The written appeal can be sent to CDSP via mail or email.

4. Appointment of Arbitrator(s)

CDSP shall appoint a single arbitrator from its panel of qualified arbitrators when a consumer requests an oral meeting (In Person Oral Meeting or Teleconference Meeting) or a Documents Only Meeting.

5. Qualifications and Impartiality of Arbitrator(s)

All persons on the CDSP Arbitrator List are deemed competent to hear and decide automobile warranty disputes. An arbitrator selected to serve under these Rules must, at the time of appointment or as soon afterwards as it becomes known, disclose to CDSP any information likely to affect impartiality, or create an appearance of partiality or bias. Such information includes past and present financial, business, personal or professional relationships with any of the parties, their representatives or witnesses, or employees of CDSP or the vehicle manufacturer. Upon receipt of such information from the arbitrator or any other source, CDSP management will conduct an internal investigation into the disclosure and shall decide whether the arbitrator should be disqualified. If the disclosure of information occurs at the oral meeting, and either party objects, the arbitrator shall be

disqualified, and a new arbitrator shall be appointed promptly by CDSP. Any determination on arbitrator disqualification shall be conclusive.

6. Time and Place of Arbitration Meeting

CDSP will coordinate and contact the arbitrator to set the date, time, and place of the meeting. Notice of the arbitration meeting logistics shall be given to the parties by CDSP at least five (5) calendar days in advance. Therefore, under the applicable California regulations, the California Dispute Settlement Program (CDSP), is required to close your case within forty (40) days of the date the dispute was received by CDSP.

The following are the allowances to the 40-day deadline per California Code of Regulations CCR 3398.9(c)(1-3):

(1) For a seven-day period in those disputes in which the consumer has made no attempt to seek redress directly from the manufacturer.
(2) If and to the extent that the delay is due solely to failure of a consumer to provide promptly his or her name and address, the brand name and vehicle identification number (VIN) of the vehicle, and a statement of the nature of the defect or other dispute.
(3) For a reasonable period not to exceed 30 days to enable CDSP to respond to a request made under 16 CCR 3398.5(f) for an inspection, test drive or investigation of the vehicle.

7. Representation

Any party to arbitration may retain an attorney to represent them at the meeting. In fairness to all parties, a party retaining an attorney must advise CDSP in writing at least five (5) days in advance of their meeting of the name and contact information of the attorney. Failure to follow this rule may result in a postponement of the scheduled meeting. Nothing in this rule prevents a party from having a non-attorney represent them at the meeting.

8. Attendance at Meetings – Open Proceedings

All parties to the dispute, and their representatives if any, are entitled to attend the meeting. Witnesses may attend the meeting. Under state law, arbitrations conducted under these Rules are open proceedings. This means that a member of the general public, or a state or federal regulator, may attend and observe the meeting. The identity of the parties and products involved need not be disclosed at these meetings. As these meetings are open to the public, media personnel cannot video or audio record these proceedings.

If a language interpreter is needed by a party, it is their responsibility to provide the interpreter. CDSP will assist in the procurement of a sign language interpreter as required by the Americans with Disabilities Act.

9. Arbitration in the Absence of a Party

The arbitration may proceed in the absence of a party or representative who has received notice and fails to be present or fails to obtain a postponement. A decision shall not be made solely on the default of a party. CDSP can allow an oral presentation by one party, if the other party fails to appear at the agreed upon time and place, as long as all of the requirements under Title 16, California Code of Regulations CCR 3398.8(a) and (b) to allow an oral presentation by the parties have been satisfied.

10. Postponement of a Meeting

A request for postponement and reason for postponement shall be sent to CDSP for a determination by the arbitrator.

11. Stenographic Record

As an informal proceeding, a stenographic record is typically not taken of the meeting. However, any party who wishes to make such a provision for a certified court stenographer may do so at their own expense. The parties may make appropriate notes of the proceedings, but audio or video recordings of the meetings are strictly prohibited.

12. Communication with the Arbitrator

There shall be no communication between any party or representative of a party and the arbitrator other than at the meeting. The parties or their representative may speak with any other party or that party's representative at any time.

13. Evidence

Each party has a right and the ability to present and rebut evidence to the arbitrator which shall be submitted to CDSP within the time deadlines noted herein. The parties may present audio, video, or any other written documentation, such as repair orders, that are relevant and material to the dispute. The presentation of evidence lies within the domain of the parties, unless the arbitrator determines it is cumulative. For oral meetings only, all evidence must be submitted by the parties to CDSP within two (2) business days prior to the scheduled meeting date for proper processing. The deadline for submission of evidence for Documents Only cases is a specific date that is noted in the document only board meeting letter. Arbitrators have been instructed not to request evidence as this is deemed to violate their oath of neutrality. The arbitrator 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.

Evidence is within the control of the parties to present, and thus the parties are responsible for presenting it to the arbitrator. If additional post-meeting evidence is to be supplied, the arbitrator will keep the meeting open for the duration of the time specified. At the end of this time, the evidence presentation will be closed. The expense of witnesses, expert witnesses, or report submitted by any party shall be paid by the party producing such witnesses or reports.

Inspection/Test Drives

The vehicle which is the subject of the dispute may be available at the meeting in the event the arbitrator would like an inspection/test drive. Any party may request an inspection/test drive. However, the arbitrator will make the final determination. An inspection/test drive is considered a part of the meeting and shall be conducted in a manner consistent with the Rules. If a test drive is conducted, the vehicle owner, or representative, will be required to provide current driver's license, registration, and proof of insurance.

The arbitrator, or a majority of the arbitrators, may at any time request through CDSP any or all of the following at no cost to the consumer per Title 16, California Code of Regulations 3398.5(f)(1) through (4) as follows: (1) An inspection and written report on the condition of the vehicle by an independent automobile expert. (2) Consultation with any other person or persons knowledgeable in the technical, commercial, or other areas relating to the vehicle, provided that the consultation does not violate the requirement that the manufacturer and CDSP be insulated from one another pursuant to Title 16, California Code of Regulations 3398.1(c) and (e). (3) An opportunity for the arbitrator, or one or more of the arbitrators, to personally inspect and test drive the vehicle. (4) Further investigation and report by CDSP on any issue relevant to a fair and expeditious decision.

Evidence received by CDSP from the parties is disbursed by CDSP to all parties and to the Arbitrator(s) as expeditiously as practicable.

14. Meeting by Documents Only

In some cases, the consumer may elect to proceed to a Documents Only Meeting. For a Documents Only Meeting, CDSP will provide the parties with a final document submission deadline; each party should submit their evidence to CDSP before the expiration of the evidence submission deadline. Any evidence received after the expiration of the evidence submission deadline will not be accepted. A single arbitrator will review the parties' evidence, but live testimony will not be offered. A decision made by a single arbitrator on a Documents Only Meeting basis has the same force and effect as if the decision were made after an oral meeting.

Please note, once all evidence has been received by the evidence submission deadline, the dispute will proceed toward issuance of a decision by the arbitrator. The consumer can change the meeting process type to an oral meeting at any time up to and after the final evidence submission deadline date; provided, however, there is sufficient time to conduct an oral meeting within the 40-day process deadline. In the event an oral meeting cannot be held, and a decision rendered within the 40-day process deadline, the consumer can choose to withdraw their dispute and refile a new dispute for an oral meeting process only.

15. Closing of Oral Meetings

The arbitrator shall ask each party whether they have any further evidence to offer, including witnesses. Upon hearing negative replies, the arbitrator shall declare the meeting closed. Once the meeting is closed, no further evidence or testimony will be admitted. The decision to permit additional evidence rests solely with the arbitrator.

16. Time, Form and Delivery of Decision

The decision, which shall be in writing and shall explain the arbitrator(s)' findings, shall be rendered no later than seven (7) days after the closing of the meeting, or by day 40, whichever occurs first. The decision shall be signed by the arbitrator(s). Parties shall accept as legal delivery the placing of the decision in the mail addressed to each party or representative if any, at their last known address, or by email.

17. Clarification of Decision

Within twenty (20) days of the date of mailing or emailing the decision, any party may request clarification of the decision. A written request for clarification must be sent to CDSP for transmittal to the arbitrator(s) and all other parties. A request for clarification must set forth the specific portions(s) of the decision subject to the request. The arbitrator(s)are not empowered to reexamine the merits of any claim already decided (cannot change the decision) but may clarify the decision. Written objections to the clarification must be delivered to CDSP for transmittal to the arbitrator(s) and simultaneously sent to all parties within ten days of the request. The arbitrator(s) shall rule on the feasibility of the clarification and shall proceed to clarify the decision subject to the limitations set forth in this Rule, within ten (10) days of receipt of the deadline for the filing of any objections. The parties will be advised of these deadlines by CDSP.

18. Interpretation 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 authority and duties. All other rules shall be interpreted and applied by CDSP.

19. Applications to Court and Exclusion of Liability

By proceeding in any manner under these Rules, the parties agree:

(a) Neither CDSP, NCDS, its officers, directors, or employees, nor any arbitrator appointed to serve under these Rules, is a necessary party in any judicial proceeding respecting the arbitration; and,
(b) Neither CDSP, NCDS, its officers, directors, or employees, nor any arbitrator appointed to serve under these Rules shall be liable to any party or entity for any act or omission.

20. Post-Decision

After the arbitrator's decision is rendered, you will receive a letter from CDSP indicating that if you are dissatisfied with the decision, the warrantor's intended actions, or eventual performance, you may pursue other legal remedies, including small claims court. You may refile a new claim, provided you have acquired new evidence since your last meeting decision was issued, and your vehicle is still covered under the applicable warranty. Please note that the Manufacturer may deny eligibility under their program for the refiled case. Finally, you may seek a clarification of the decision, consistent with the requirements set forth in these Rules.

If the consumer asserts that the Manufacturer's performance of a repair decision has not occurred to the consumer's satisfaction, CDSP shall promptly inform the arbitrator who decided the dispute of all of the pertinent facts. In that event, the arbitrator may decide to reconsider the decision. A decision under this section may be made at any time and need not be made at a meeting to decide disputes.

If the arbitrator decides to reconsider the decision, the decision to reconsider shall be deemed to constitute notification of the dispute, and CDSP shall investigate the dispute, and in all respects, treat it as a new dispute, except that CDSP shall expedite all phases of the process, and the same arbitrator, if reasonably possible, shall decide the dispute.

21. Waiver of Rules

Any party who proceeds with arbitration after knowledge that any provision or requirement of these Rules has not been complied with, and who fails to state objections thereto in writing, shall be deemed to have waived the right to object.