



SPECIALIZING IN MEDIATION & ARBITRATION & DISPUTE REVIEW BOARDS

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March 15, 2016

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HOME WARRANTY **ARBITRATION RULES AND PROCEDURES**

March 15, 2016

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THESE HOME WARRANTY ARBITRATION RULES SHALL GOVERN ALL ARBITRAITONS FILED WITH CDRS AFTER MARCH 15, 2016

THESE HOME WARRANTY ARBITRATION RULES AND PROCEDURES SHALL BE UTILIZED WHEN THE ARBITRATION IS A RESULT OF A DISPUTE INVOLVING A HOME WARRANTY COMPANY, BUILDER, SUBCONTRACTOR OR ANY OTHER PARTY WHO HAS A DIRECT INTEREST IN THE RESIDENCE THAT IS SUBJECT TO THE ARBITRATION PROCESS, THAT IS STIPULATED AS THE DISPUTE RESOLUTION PROCESS IN A HOME WARRANTY POLICY, BOOKLET OR RELATED DOCUMENT. THE RULES AND PROCEDURES SPECIFIED BELOW SHALL REPLACE THE GENERAL CDRS ARBITRATION RULES AND PROCEDURES. THE GENERAL CDRS ARBITRATION RULES AND PROCEDURES SHALL BE UTILIZED UNLESS THERE IS A CORRESPONDING RULE OR PROCEDURE SPECIFIED BELOW IN THESE RULES AND PROCEDURES.

THE HOME WARRANTY ARBITRATION RULE (WA) CORRESPONDS TO THE GENERAL CDRS ARBITRATION RULES AND PROCEDURES (A).

PLEASE KEEP IN MIND THAT THERE MAY BE SLIGHT ADMINISTRATIVE CHANGES TO THESE RULES AS NOT ALL HOME WARRANTY COMPANIES HANDLE THEIR ARBITRATION REQUESTS UTILIZING THE SAME ADMINISTRATIVE PROCEDURES.

RULE-WA3 INITIATION OF ARBITRATION

A party may initiate the arbitration process, as authorized by the warranty document, by fully executing a CDRS *Request for Dispute Resolution Services* and the required arbitration request form from their home warranty company and transmitting them to the Home Warranty Company as instructed by the Home Warranty Company by US Mail, Fed-Ex or similar recognized delivery service, along with the required filing fee made Payable to CDRS. The party requesting the arbitration shall be the "Claimant". The Claimant shall send a copy of the *Request for Dispute Resolution Services* and a copy of the warranty company arbitration request form to the warranty company and/or builder, as applicable, by certified or registered mail, return receipt requested or as instructed by the Home Warranty Company. The Other party to the arbitration shall be referred to as the "Respondent"

RULE-WA8 APPOINTMENT OF ARBITRATOR

There shall be one arbitrator assigned to the case by the CDRS Senior Case Administrator. The CDRS Senior Case Administrator will consider the construction-related expertise of the arbitrator required to handle the arbitration, the location of the arbitrator and the fees of the arbitrator in selecting the arbitrator to handle the dispute. Neither the Claimant nor Respondent shall participate in the selection of the arbitrator although CDRS will try to accommodate a specific request for an arbitrator if that arbitration is mutually agreed to by the parties.

RULE-WA9 ARBITRATOR DISCLOSURE AND DISQUALIFICATION

- (a) If the arbitrator is dismissed, a new arbitrator shall be appointed according to RULE-WA8. (replaces RULE-A9(d))
 - (b) If an arbitrator becomes ill, resigns or is unable to continue with the arbitration, a new arbitrator shall be appointed according to RULE-WA8. (Replaces RULE-A9(e))
- (All other provisions of RULE-A9 shall remain in effect)

RULE-WA10 LOCATION OF ARBITRATION

The arbitration shall be held at the residence of the claimant that is the subject residence of the arbitration that is covered by the warranty unless both the claimant and respondent agree to hold the arbitration at a different location.

RULE-WA11 DATE(S) OF ARBITRATION HEARING

CDRS shall select and specify the date(s) of the arbitration hearing. CDRS shall make every effort to accommodate the requests of the parties as to a convenient date(s) to conduct the arbitration hearing with the concurrence of the arbitrator.

- (a) If additional time shall be required to complete the hearing, the arbitrator shall select and specify the additional date(s) for the continuance of the arbitration hearing. The arbitrator shall make every effort to accommodate the requests of the parties as to a convenient date(s) to conduct the continuance of the arbitration hearing.
- (b) By mutual consent of the parties and the arbitrator, any scheduled arbitration event may be rescheduled.
- (c) Upon a request by either of the parties, the CDRS case administrator and/or the arbitrator, if appointed, shall determine if there is good cause or compelling circumstances that would merit a postponement or cancellation of the arbitration proceeding. If the request for a postponement is approved by the case administrator and/or by the arbitrator, the case administrator and/or the arbitrator shall select and specify the rescheduled date(s) of the arbitration hearing. The arbitrator shall make every effort to accommodate the requests of the parties as to a convenient date(s) to conduct the rescheduled arbitration hearing.
- (d) If the CDRS case administrator or the arbitrator determines that a case needs to be postponed due to an illness or injury to one of the parties or the arbitrator, due to inclement weather, due to non-payment of fees due to CDRS, due to travel arrangement problems or due to any other reason where the case administrator or arbitrator decides that a postponement is necessary, the case administrator will notify the parties as soon as practicable as to the postponement and the date(s) of the rescheduled arbitration hearing. The case administrator and arbitrator shall

make every effort to accommodate the requests of the parties as to a convenient date(s) to conduct the rescheduled arbitration hearing.

RULE-WA15 PRE-HEARING ARBITRATOR'S CONFERENCE

If the arbitrator determines that it is necessary, a pre-hearing arbitrator's conference shall be held between the arbitrator and all of the parties or their representatives to the arbitration prior to the arbitration hearing. The conference may be held in person or may be held by teleconference phone call at the discretion of the arbitrator. Items to be discussed shall include but not be limited to the following: claims and counterclaims, opening statements, closing statements, witnesses, depositions, the issuance of subpoenas, rules and procedures to be followed during the hearing, dates and location for the hearing, arbitrator disclosure information, and other related items at the discretion of the arbitrator or at the request of the parties. The arbitrator shall be empowered to schedule additional pre-hearing arbitrator conferences if deemed necessary by the arbitrator or requested by one or more of the parties, with the approval of the arbitrator. At the conclusion of the pre-hearing conference, the CDRS Administrator shall issue to the parties, an *Arbitration Pre-Hearing Order* specifying the particulars of the arbitration as agreed to by the parties or as specified by the arbitrator during the pre-hearing conference.

RULE-WA16 PARTY REPRESENTATION

A party to an arbitration may be represented by themselves, their attorney(s), or any individual(s) that the party designates to be their representative(s). The party must notify the CDRS case administrator, and the other named parties to the arbitration, if they are to have any other individual serve as their representative. The representative's name, address, phone number, fax number, e-mail and any pertinent information about the representative must be supplied in writing to the case administrator and to the other named parties to the arbitration, as soon as possible. Parties who choose to not represent themselves and/or will utilize the assistance of an attorney, must notify CDRS, and the other named parties to the arbitration, of the name, address, telephone number, fax number and e-mail address of the attorney at the time of submission of the *Request for Dispute Resolution Services*. If a decision to utilize the services of an attorney is made after the submission of the *Request for Dispute Resolution Services* has been filed with CDRS, the parties must notify CDRS, and the other named parties to the arbitration, of the attorneys information, as stipulated above, as soon as the decision has been made to utilize the services of an attorney.

RULE-WA26 FEES, COSTS AND EXPENSES

All fees, costs and expenses of the arbitration should be specified in the CDRS or Home Warranty Company documents related to the arbitration. If there is no formal document specifying the fees and costs of the arbitration process, the CDRS case administrator will specify the fees and costs as is appropriate.

- (a) The cost of the arbitration, as to which party is responsible to pay the initial costs of the arbitration, should be as specified in the appropriate home warranty company document.
- (b) The CDRS Arbitration Fee for the arbitrator shall be \$600 for the first two hours of the arbitrator's time. Each additional hour shall be billed according to the arbitrator's personal fee schedule. Administrative time by CDRS will be covered in the fees of the arbitrator unless there is administrative time spend by CDRS prior to any time spent by the arbitrator on the case and the case is cancelled.

- (c) Prior to the arbitration award, any payments for the arbitration process shall be made according to the payment process as stipulated in the appropriate home warranty company document or as otherwise specified by CDRS.
- (d) If the parties agree to hold the arbitration at a location other than at the residence and there is a need for a jobsite visit after the arbitration hearing has concluded, if the arbitrator requests post hearing briefs, or any other reason why the arbitration is not concluded at the end of the arbitration hearing, the parties will receive an invoice at the end of the arbitration hearing and another at the conclusion of the arbitration process after the arbitration award has been written and forwarded to CDRS. Failure to pay when due may delay the issuance of the certified copy of the arbitration award from CDRS.
- (e) At the conclusion of the arbitration hearing, the parties will be invoiced for their applicable portion of the arbitration fees, costs and expenses. Failure to pay when due may delay the issuance of the certified copy of the arbitration award.
- (f) If specified and allowed in the appropriate home warranty company document, the arbitrator shall, as part of the arbitration award, stipulate and allocate as to which party is responsible to pay the costs related to the arbitration process. The arbitrator may allocate the costs of the CDRS arbitration process to the parties as he/she deems it to be appropriate.
- (g) RULE-A26 of the CDRS General Arbitration Rules and Procedures shall be in effect except as stipulated in RULE-WA26 herein.