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Arbitration of Extended Warranty Contracts

Sec. 42-260-1. Applicability

This regulation shall apply to the resolution of disputes arising out of extended warranty contracts purchased by Connecticut residents pursuant to Public Act 93-258. (Effective July 21, 1994)

Sec. 42-260-2. Definitions

As used in this Regulation:

- (a) "Commissioner" means the Insurance Commissioner.
 - (b) "Arbitrator" means a person selected by the Insurance Commissioner to review written submissions, hear and decide disputes between an extended warranty buyer and an extended warranty provider.
 - (c) "Buyer" means a person who purchases an extended warranty from an extended warranty provider.
 - (d) "Claimant" means a buyer of an extended warranty from an extended warranty provider who attempts to gain the benefit of his extended warranty contract.
 - (e) "Complaint" means a letter in which the claimant sets forth in a short and plain statement the grounds of his dispute with the extended warranty provider.
 - (f) "Extended Warranty" means a contract or agreement for repair service of operational or structural failure of a product due to a defect in materials, skill or workmanship given for consideration over and above the lease or purchase price of a product.
 - (g) "Extended Warranty Provider" means a person who issues, makes, provides or offers to provide an extended warranty to a buyer, excluding a retail seller of an extended warranty if such seller: (1) is the manufacturer of the product covered under the extended warranty; or (2) sells or offers an extended warranty for a product obligating the manufacturer, distributor or importer to provide the service of the extended warranty.
 - (h) "Mediation" means the process of attempting to settle a dispute between a claimant and an extended warranty provider by persuading them to adjust their position with regard to the dispute.
- (Effective July 21, 1994)

Sec. 42-260-3. Mediation

(a) Parties to an extended warranty contract or agreement shall make reasonable efforts to resolve disputes over the terms of the warranty. In the event that the parties cannot reach agreement, the claimant may file a formal written complaint with the Consumer Affairs Division of the Insurance Department.

(b) The complaint shall contain a short and plain description of the nature of the dispute, including a description of any attempts made to resolve the dispute and the results of such attempts. The claimant shall state the purchase or lease price of the item subject to the extended warranty, the cost of repair of the item and shall include a copy of the extended warranty contract or agreement. The complaint shall be mailed to:

State of Connecticut
Insurance Department
P.O. Box 816
Hartford, CT 06142-0816
ATTN: Consumer Affairs

(c) Upon receipt of the complaint an examiner shall be assigned to review the complaint, forward a copy of same to the extended warranty provider, and mediate the dispute.

(d) Within ten (10) days of receipt of the complaint the extended warranty provider shall respond in writing to the allegations of the complaint explaining the position taken by the provider and the basis for that position.

(e) The examiner shall provide a copy of any documents received from either party to the opposing party.

(f) If the examiner is unable to resolve the dispute through mediation within thirty (30) days of receipt of the extended warranty provider's response, the examiner shall transfer the matter to the Arbitration Unit within the Insurance Department for commencement of arbitration proceedings. The examiner shall notify the claimant and the extended warranty provider in writing that the matter has been referred for arbitration and that each party has the right to object to binding arbitration within ten (10) days of the mailing of the date of mailing of the notice. Failure to file such written objection shall be deemed consent to binding arbitration. Each party shall remit a non-refundable fee of thirty (\$30.00) dollars to the Arbitration Unit, payable to the Treasurer, State of Connecticut for deposit in the Insurance Fund established pursuant to Section 38a-52a of the Connecticut General Statutes, within fifteen (15) days of the date of mailing of the notice informing the party that the matter has been referred for arbitration. Failure to submit the fee within the required fifteen (15) days shall allow the Commissioner, in his discretion, to note such failure upon the record and render a decision by default against the failing party. In cases where neither party has complied with the fee deadline, the matter shall be dismissed with prejudice and the Arbitration Unit shall close the file.

(Effective July 21, 1994)

Sec. 42-260-4. Arbitration

Arbitration shall be conducted upon the submission of documents if the lease or purchase price of the item covered by the extended warranty contract or the cost of repair is one thousand (\$1,000.00) dollars or less. Arbitration shall be conducted at an oral hearing if the lease or purchase price of the item covered by the extended warranty contract or the cost of repair exceeds one thousand (\$1,000.00) dollars.

(a) (1) If the purchase or lease price of the item subject to the extended warranty or the cost of repair, exclusive of sales tax, is one thousand (\$1,000.00) dollars or less the Commissioner shall appoint an arbitrator from the Arbitration Unit to review written documentation from the parties and to render a written decision resolving the dispute. The arbitrator shall, within five (5) days of his appointment by the Commissioner, notify the parties of the arbitrator's name and that they may submit additional written or photographic documentation necessary to present their case within fifteen (15) days of receipt of the arbitrator's notification to them of his appointment. All such documentation shall also be provided to the opposing party when submitted to the arbitrator.

(2) If the purchase or lease price of the item subject to the extended warranty or the cost of repair exceeds one thousand (\$1,000.00) dollars the Commissioner shall appoint an arbitrator from the Arbitration Unit to conduct a hearing and render a written decision resolving the dispute. The arbitrator shall, within five (5) days of his appointment by the Commissioner, notify the parties of the arbitrator's name, the date, time and location of the hearing at least ten (10) business days prior to the hearing. Parties may submit additional written or photographic documentation

necessary to present their case to within three (3) days of the hearing. All such documentation shall also be provided to the opposing party when submitted to the arbitrator.

(b) If upon such notice either party has a reasonable objection to the selected arbitrator then that party must notify the Arbitration Unit of its objection within three (3) days of receipt of such notice. The Commissioner, at his discretion, may appoint an alternative arbitrator.

(c) The arbitrator, at his discretion, may establish a date for hearing of oral testimony and argument by providing written notice to the parties of the arbitrator's name, the date, time and location of the hearing at least ten (10) business days prior to the hearing.

(d) The arbitrator may request the Commissioner to issue subpoenas on behalf of the arbitrator to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. When the arbitrator believes technical assistance is necessary to decide a case, he may consult with an independent expert recommended by the Commissioner.

(e) Within fifteen (15) days following the final date by which documents must be submitted or following hearing providing the parties an opportunity to present evidence supporting their position, the arbitrator shall render a decision setting forth any remedy, either equitable or monetary and disclosing the findings and the reasons for the findings.

(f) Decisions favoring the claimant in which damages are awarded shall be paid within ten (10) days of receipt of the decision. Failure to pay the award within ten (10) days shall accrue interest at a rate of ten (10%) percent computed by dividing the number 365 into ten (10%) percent multiplied by the number of days late. If an equitable award is rendered in favor of the claimant such award shall be performed or satisfied within ten (10) days of receipt of the decision. The arbitrator, for good cause shown, may allow additional time for satisfaction of an equitable remedy. Failure to comply with a decision for an equitable remedy shall subject the extended warranty provider to a penalty of one hundred (\$100.00) dollars for each day late, but no more than five thousand (\$5,000.00) dollars.

(g) The non-prevailing party shall reimburse the successful party his thirty (\$30.00) dollar fee paid under section 42-260-3 (f) of these regulations.

(h) If either party fails to meet a deadline in this section, the arbitrator, at his discretion, may close the file or order any remedy he deems appropriate, based upon the information he has at the time, or order an extension of time and continue arbitration.

(Effective July 21, 1994)

Sec. 42-260-5. Records

The Insurance Department shall maintain a record of each arbitration which shall include the docket number, names and addresses of the parties involved, decision of the arbitrator and information concerning compliance.

(Effective July 21, 1994)