



# BBB AUTO LINE Dispute Resolution

**Arbitration Rules for California**

**Reglas de Arbitraje de BBB AUTO LINE, California en español >**

## **WHAT IS BBB AUTO LINE?**

BBB AUTO LINE® is a dispute resolution program administered by BBB National Programs, Inc. to resolve automotive warranty disputes. **BBB AUTO LINE does not charge a fee to consumers.** To protect impartiality, funding for staff and program administrative costs of BBB AUTO LINE are committed in advance by the participating manufacturers. BBB AUTO LINE staff and arbitrators are independent of manufacturers that participate in BBB AUTO LINE, and perform no duties for these manufacturers other than providing impartial dispute resolution services.

If you are experiencing a problem with your vehicle that has not been resolved to your satisfaction, this booklet will tell you about the BBB AUTO LINE program and how it can help resolve your dispute.

## **HOW DO I CONTACT BBB AUTO LINE?**

You can reach BBB AUTO LINE online at [bbbprograms.org/programs/bbb-autoline](http://bbbprograms.org/programs/bbb-autoline) or by calling 1.800.955.5100.

All documents, correspondence, notices and request for records should be directed to:

**BBB AUTO LINE**  
A division of BBB National Programs  
1676 International Drive, Suite 550  
McLean, VA 22102  
Fax: 703.247.9700

## **WHEN IS MY CLAIM FILED WITH BBB AUTO LINE?**

Your case is officially filed with BBB AUTO LINE once you provide us with the following information:

- Your name and address
- The Vehicle Identification Number (VIN) of your vehicle
- The make, model and year of your vehicle
- A description of the problem with your vehicle

## **ADVISING THE COMPANY ABOUT YOUR COMPLAINT**

When we open your case, we will send a copy of your claim form to the manufacturer with whom you have a dispute.

## **WHAT IS ARBITRATION?**

Arbitration is an informal process in which two parties present their views of a dispute to an impartial third party, an arbitrator, who will decide how the dispute should be resolved.

## **WHO IS THE ARBITRATOR?**

BBB AUTO LINE arbitrators are persons from your community who are interested in the fair and expeditious resolution of consumer disputes. They are trained and certified by BBB AUTO LINE a division of BBB National Programs, Inc.

## **EFFORTS TO RESOLVE THE DISPUTE BY SETTLEMENT**

The settlement process is voluntary, and you may proceed to arbitration at any point if your dispute falls within the program's jurisdiction. Please inform your Dispute Resolution Specialist if you do not wish to start or continue settlement discussions.

Upon receipt of the information about your case, a representative from the manufacturer may contact you to discuss settlement options.

You and the manufacturer representative may explore settlement options directly, or you may be assisted by a Dispute Resolution Specialist from BBB AUTO LINE.

The role of BBB AUTO LINE staff is to open communication between you and the manufacturer representative and to facilitate the exchange of offers. We will not comment on whether or not an offer made to you is "fair" or "unfair"; to do so would compromise our neutrality. Only you can decide whether an offer is satisfactory.

In some cases, a pre-hearing "settlement conference" will be held by telephone if all parties are willing to do so. During that telephone conference—which will include you, a manufacturer representative and a BBB AUTO LINE Dispute Resolution Specialist—you will discuss the specific vehicle problems that you wish to arbitrate, hear the other party's position and explore possibilities for a mutually-agreed settlement of your claim.

If you and the manufacturer representative agree to a settlement, please inform your Dispute Resolution Specialist as soon as possible.

If a settlement is reached at any point, we will send a letter to both parties that summarizes the terms of the settlement. We will follow up with you within 10 days after the date of any action required by the settlement to confirm that the terms of the agreement were carried out.

## **TECHNICAL EXPERTS**

The arbitrator may ask to have an impartial technical expert examine your vehicle.

The consumer or the manufacturer may request that the arbitrator obtain the assistance of an impartial technical expert to inspect your vehicle either before or after the hearing. Requests for a pre-hearing impartial technical inspection must be made in writing and must be received by BBB AUTO LINE at least 10 days before the hearing.

If a request for an impartial technical expert is made prior to the hearing, the arbitrator will be provided with the request as well as all current case documents.

If the arbitrator determines that an impartial technical expert is needed, BBB AUTO LINE staff will make all necessary arrangements.

Whenever an impartial technical expert participates in the BBB AUTO LINE process, all parties will be given an opportunity to review and comment on the findings and credentials of the technical expert.

## HOW TO PREPARE FOR ARBITRATION

Before coming to your arbitration hearing, you should prepare an outline of your argument to help you in your presentation. You may want to use the suggestions at the end of this section to assist you in your preparation.

Also, before the hearing, you should prepare a list of questions you want to ask the manufacturer representative.

Prior to the hearing, you may receive documents and a position statement submitted by the manufacturer. Be sure to review these materials and prepare any questions you have about them.

The arbitrator will receive a copy of your *Customer Claim Form* as well as any documents submitted by the parties. You should review a copy of the *Customer Claim Form* before the hearing and be prepared to discuss all of the problems you have listed on it.

## WHAT WILL HAPPEN AT THE HEARING?

The arbitrator will determine the exact format of the hearing, which will include an opportunity for you to:

- State the facts as you see them
- Present documents and witnesses in support of your case
- Question witnesses who testify on behalf of the manufacturer
- Rebut any testimony or evidence presented by the manufacturer's representatives or witnesses

The manufacturer will be given the same opportunity to present its case, question you and your witnesses and rebut testimony or evidence presented.

The arbitrator also will ask questions to clear up uncertain areas and to gain a fuller understanding of the dispute. After each side has presented its case and the questioning is completed, you should be prepared to give a summary of your position, deal with any questions that have not been answered, and tell the arbitrator exactly what you think the decision should be and why.

Remember that the sole purpose of the hearing is to allow the arbitrator to gather and sort the facts in order to make a fair decision. You should be prepared to convince the arbitrator that your position is right.

A cooperative approach works best. You are there because you and the manufacturer have a disagreement, but keep that disagreement factual and within the bounds of normal courtesy and conventional language. Arbitrators may not have technical expertise, so your presentation may be more productive if you can use layman's terms to describe what happened to your vehicle.

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<sup>1</sup> We will accept an attorney's signature in lieu of the consumer's signature on the Customer Claim Form only if it is accompanied by a retainer agreement signed by the owner/lessee explicitly stating the attorney is authorized to represent them in the BBB AUTO LINE claim.

Put yourself in the arbitrator's position—a person whose only purpose is to resolve your dispute. Use common sense and professional courtesy as you proceed.

Note: You should arrange for an interpreter if that would help you present your case. If you cannot provide your own interpreter, contact your Dispute Resolution Specialist and we will try to find a volunteer interpreter.

### **TESTIMONY AND EVIDENCE YOU SHOULD PRESENT**

During your presentation at the hearing you should provide testimony and evidence about the following:

- The problems you have experienced with your vehicle
- Why you believe the problems are the responsibility of the manufacturer
- Why you believe you have not contributed to the cause of the problems
- Why the problems represent a substantial impairment to the use, value or safety of your vehicle
- Whether the manufacturer and its dealers, agents or representatives have had a reasonable opportunity to repair your vehicle

### **LEGAL AND EQUITABLE FACTORS THE ARBITRATOR WILL TAKE INTO ACCOUNT**

In making a decision, the arbitrator will take into account all legal and equitable factors including the following:

- Your vehicle's written warranty
- Federal Trade Commission regulations set out in 16 C.F.R. Part 703
- California Commercial Code Division 2 (starting with Section 2101)
- All provisions of the Song-Beverly Consumer Warranty Act [California Civil Code section 1790 et seq.]. This includes section 1793.2 (d), which is summarized in the appendix of this booklet
- California Health and Safety Code Sections 43204 - 43205.5
- California Code of Regulations Sections 3396.1 - 3399.6
- Any other equitable considerations appropriate in the circumstances (e.g., whether you still own or possess the vehicle; whether the vehicle is available for inspection)

### **BBB AUTO LINE MAY REQUEST INFORMATION FROM MANUFACTURER**

BBB AUTO LINE staff will request from the manufacturer any pertinent documents in its possession or under its control, such as technical service bulletins, recall or parts replacement notices, U.S. Department of Transportation publications, a vehicle's repair history, and any other documents which it is reasonable that the manufacturer should provide.

BBB AUTO LINE staff will send you any documents submitted by the manufacturer prior to the hearing.

### **SUGGESTIONS FOR PREPARING YOUR CASE**

Organize your materials in the order you wish to present them. This will help you present your case

<sup>2</sup> Effective March 2020, due to the COVID-19 pandemic, BBB AUTO LINE is holding all non-document hearings virtually until further notice.

clearly and logically. List all repair attempts to your vehicle and gather all repair orders that show what was done.

List all the times you spoke to the manufacturer and its dealers, agents or representatives about your vehicle's problems.

For each conversation, note:

- With whom you spoke
- The date of the conversation
- What you were told
- What, if any, actions or repair attempts were made as a result of the conversation

Contact potential witnesses—such as mechanics or sales personnel—and ask them to testify in person or to submit written statements. Please remember that you are responsible for your witnesses' submission of information. If you want them to testify in person, keep them informed about the time and place of the hearing.

Gather all documents that support your case, including your repair orders, vehicle's maintenance records, etc.

### **WHAT TO BRING TO THE HEARING**

Collect and bring to the hearing all available materials relating to your vehicle's problems.

If you are missing any documents, you may be able to get copies from your dealer or repair facility, bank or credit card company.

Please bring the original of any documents you have sent to BBB AUTO LINE. While electronically-imaged copies of documents we receive are submitted to the manufacturer and the arbitrator before the hearing, it may be necessary to refer to the original document if there is any difficulty in reading the copy.

If you bring to the hearing any documents that you did not previously send to BBB AUTO LINE, please bring extra copies for the arbitrator and the other party.

Documents that might be useful include:

- Sales contract/lease agreement
- If you no longer have possession of the vehicle; government-issued proof of prior ownership and proof of transfer of ownership or termination of lease
- Your vehicle's warranty
- Your vehicle's repair, service and maintenance records
- Correspondence between you and the manufacturer or its dealers, agents or representatives
- Other documents that may support your case, e.g., newspaper/magazine articles, photographs, court decisions and legal documents, consumer group information, brochures, information about state lemon laws and technical information

Bring anything or anybody that can verify the problem with your vehicle. It is better to be over prepared than under prepared. You also have the right to have your own technical expert serve as a witness at your own expense.

The arbitrator will accept all relevant evidence presented at the hearing. The arbitrator will decide the importance of each piece of evidence after the hearing is closed.

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### **IN SUMMARY**

- Organize your case.
- Back up your position with evidence.
- Provide a clear, concise and well-organized presentation supported by relevant facts and good documentation to help the arbitrator fulfill his or her responsibility.

We make every effort to assist persons with disabilities. If you require special assistance, please contact BBB AUTO LINE staff.

## 1. DEFINITIONS

The following list defines key words as they are used in these Rules.

- A. Arbitration** is a process in which two or more persons agree to let an impartial person or panel decide their dispute.
- B. Arbitrator** refers to the individual or panel selected to conduct your arbitration hearing and make a decision in your dispute. Any action taken and decision made by a panel shall be by majority vote.
- C. Dispute Resolution Specialist** refers to the BBB AUTO LINE staff person assigned to help you and the manufacturer's representative resolve your dispute.
- D. Days** refers to calendar days.
- E. Decision** refers to the written document signed by the arbitrator and sent to the parties.
- F. Parties** refers to the participants in the dispute. These Rules often refer to the individual parties in an arbitration as the "consumer" and the "manufacturer."
- G. Shall** is mandatory; may is discretionary.
- H. We** and **Us** refer to BBB AUTO LINE staff.
- I. You** refers to the parties involved in the dispute being arbitrated.

## 2. JURISDICTION OF BBB AUTO LINE

- A. Disputes That May Be Arbitrated.** Disputes must arise under a participating manufacturer's written new vehicle warranty and under the Song-Beverly Consumer Warranty Act. Certain disputes that do not fall within the jurisdiction of these Rules may still be eligible for resolution in BBB AUTO LINE – please contact your Dispute Resolution Specialist for more information.
- B. Filing Deadline.** Claims must be received by BBB AUTO LINE within six months of the expiration of the applicable warranty.
- C. Type of Vehicle/Vehicle Use.** Disputes must involve a motor vehicle covered by the Song-Beverly Consumer Warranty Act. The motor vehicle (this includes the chassis or chassis cab of a motor home, and also includes a dealer- owned vehicle, a "demonstrator" or other vehicle sold with a manufacturer's new car warranty) must
  - be used or bought for use primarily for personal, family or household purposes OR
  - have a gross vehicle weight under 10,000 pounds and be bought or used primarily for business purposes by any person or business to which not more than five motor vehicles are registered in CaliforniaIn addition, the motor vehicle must have been
  - purchased or leased at retail in California OR
  - purchased or leased by a full-time active duty member of the Armed Forces who was stationed or residing in California at the time of purchase or lease or at the time the claim is filed with BBB AUTO LINE
- D. Specific Disputes That Will Not Be Arbitrated.** The following disputes will not be arbitrated:
  - Claims for which BBB AUTO LINE does not receive a Customer Claim Form signed by at least one titled owner/lessee, or signed by the customer's authorized representative if the representative also submits evidence of the customer's authorization
  - Claims that include a request for punitive damages or damages for personal injury or mental anguish
  - Claims that include allegations of fraud or other violations of law
  - Claims involving a vehicle that is the subject of a lawsuit brought against the manufacturer or its authorized dealer
  - Claims involving a vehicle if the consumer alleges or has alleged that a vehicle defect has caused personal injury
  - Claims involving a vehicle if the consumer alleges or has alleged that a vehicle defect has caused property damage where the damage is greater than \$500



- Claims that have been previously resolved by settlement or arbitration unless there have been substantive changes (such as a further repair attempt) after the resolution or a repair decision that has not remedied the problem

### 3. REMEDIES THAT MAY BE AWARDED IN BBB AUTO LINE

**A.** The following applies if the consumer owns or leases the vehicle throughout the entire arbitration process.

**1. The arbitrator may award:**

- Repairs to a vehicle
- Reimbursement for money paid to repair a vehicle
- Repurchase of a vehicle (including collateral charges and incidental damages)
- Replacement with a substantially identical new vehicle (including collateral charges and incidental damages)

BBB AUTO LINE will inform the parties of any modification to this Rule that authorizes the arbitrator to award any other remedy.

**2. Repurchase.** A repurchase will include the following:

- Purchase price of the vehicle. This is the actual price paid for the vehicle. It includes any charges for transportation and manufacturer- installed options, but does not include manufacturer rebates, credit card earnings, or charges for nonmanufacturer items installed by a dealer or the consumer.
- Collateral charges. These are official fees associated with the sale of the vehicle. They include items such as sales or use tax, license fees, registration fees, and other official fees.
- Incidental damages. These are reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing or replacing the vehicle. Incidental expenses include, but are not limited to reasonable repair, towing and rental car costs actually incurred by the consumer.
- Prepayment penalties, early termination charges and earned finance charges, if actually paid, incurred, or to be incurred by the buyer. These do not include charges for which the consumer is justly responsible.

**3. Replacement.** A replacement vehicle will be new and substantially identical to the vehicle replaced. The replacement vehicle will be accompanied by all express and implied warranties that normally accompany new motor vehicles of that kind. The manufacturer will also pay for collateral charges [see above definition] in connection with the replacement vehicle (not the original vehicle) as well as incidental damages [see above definition].

The consumer shall not be required to accept a replacement and may elect a repurchase instead.

**4. Deduction for Reasonable Use of the Vehicle.** The arbitrator will use the following formula if the arbitrator chooses to make a deduction for the consumer's use of the vehicle:

# of miles driven by the consumer prior to first delivery to the manufacturer or dealer for repair of the nonconformity that led to repurchase or replacement  
÷ 120,000 X Vehicle Purchase Price = Use Deduction

- 5. Remedies That Will Not Be Considered.** Arbitrators will not consider or provide attorneys' fees unless the manufacturer otherwise agrees. Arbitrators will not consider or provide the following remedies: punitive damages or multiple damages, or consequential damages other than as provided in subdivisions (a) and (b) of California Civil Code Section 1794.
- 6.** If a repurchase or replacement is awarded the consumer will be required to turn over the vehicle and provide clear title to the manufacturer. The manufacturer may deduct for charges for which a consumer is justly responsible.
- B.** *The following applies only if the consumer DOES NOT own or lease the vehicle throughout the entire arbitration process. To issue an arbitrator's award under this section, BBB AUTO LINE shall require proof of transfer of ownership or termination of lease, or an affidavit signed under penalty of perjury.*

**1. The arbitrator may award:**

- Restitution
- Reimbursement for money paid to repair a vehicle

**2. Restitution.** An award for restitution will include the following:

- *Purchase price of the vehicle.* This is the actual price paid for the vehicle. It includes any charges for transportation and manufacturer-installed options, but does not include manufacturer rebates, credit card earnings, or charges for nonmanufacturer items installed by a dealer or the consumer.
- *Collateral charges.* These are official fees associated with the sale of the vehicle. They include items such as sales or use tax, license fees, registration fees, and other official fees.
- *Incidental damages.* These are reasonable expenses incident to the vehicle problem for which the manufacturer is repurchasing or replacing the vehicle. Incidental expenses include, but are not limited to reasonable repair, towing and rental car costs actually incurred by the consumer.
- *Prepayment penalties, early termination charges and earned finance charges, if actually paid, incurred, or to be incurred by the buyer.* These do not include charges for which the consumer is justly responsible.

**3. Deduction for Reasonable Use of the Vehicle.** The arbitrator will use the following formula if the arbitrator chooses to make a deduction for the consumer's use of the vehicle:

# of miles driven by the consumer prior to first delivery to the manufacturer or dealer for repair of the nonconformity that led to restitution ÷ 120,000 X Vehicle Purchase Price = Use Deduction

- 4. Deduction for Proceeds from a Transfer of Ownership.** In calculating restitution, the arbitrator will make a deduction for any credit, benefit, or other value received by the consumer related to any transfer, trade, or loss of the vehicle (including sale of the vehicle, trade-in value, or insurance claim payment). In the event of a dispute about the value received by the consumer, the arbitrator may take into account any relevant information provided by the parties.
- 5. Remedies That Will Not Be Considered.** Arbitrators will not consider or provide attorneys' fees unless the manufacturer otherwise agrees. Arbitrators will not consider or provide the following remedies: punitive damages or multiple damages, or consequential damages other than as provided in subdivisions (a) and (b) of California Civil Code Section 1794.
- 6.** The manufacturer may deduct for any charges in which the consumer is justly responsible.

#### **4. SELECTING YOUR ARBITRATOR**

BBB AUTO LINE maintains a pool of individuals who are interested in the fair and expeditious resolution of consumer disputes. These persons have been trained and certified by BBB AUTO LINE, a division of BBB National Programs, Inc. They do not necessarily have mechanical or legal expertise but can call upon the assistance of an expert when necessary.

Based on the parties' preferred date for the arbitration hearing, BBB staff will randomly obtain an arbitrator from the pool of arbitrators available on the designated date.

The arbitrator(s) will be selected in an impartial manner that ensures the arbitrator does not have a financial, competitive, professional, family or social relationship with any party (unless, pursuant to Rule 6, all parties are aware of any such relationship and specifically agree that the arbitrator may serve).

#### **5. COMMUNICATING WITH THE ARBITRATOR**

You or anyone representing you shall not communicate in any way with the arbitrator about your dispute except (1) at an inspection or hearing for which the other party has received notice or (2) when all other parties are present or have given their written permission.

All other communication with the arbitrator must be sent through BBB AUTO LINE.

Violation of this rule may result in your case being discontinued.

## **6. QUALIFYING THE ARBITRATOR**

The arbitrator shall sign a special oath pledging to make an impartial decision in your dispute. If the arbitrator believes that he or she cannot make an impartial decision, the arbitrator shall refuse to serve.

If a financial, competitive, professional, family or social relationship exists (even if the arbitrator believes the relationship is so minor that it will have no effect on the decision), it shall be revealed to everyone, and you may decide whether this arbitrator should serve in your case.

We reserve the right to reject any arbitrator for any reason that we believe will affect the fact and appearance of impartiality of the program.

## **7. YOUR REPRESENTATIVE**

You may present your own case or have someone represent you.

If your representative is a lawyer, please give the lawyer's name and address to us at least five days before the hearing. Your Dispute Resolution Specialist will notify the other parties to give them an opportunity to obtain a lawyer, if they decide it necessary. Your failure to give BBB AUTO LINE advance notice may result in a rescheduling of your hearing.

## **8. INSPECTION BY THE ARBITRATOR**

The arbitrator may request an inspection of the vehicle involved in your dispute.

It is strongly recommended that the consumer bring the vehicle to the hearing in case the arbitrator would like to inspect it. If the vehicle is inoperable, please call your Dispute Resolution Specialist to discuss whether towing can be arranged. If an inspection has to be scheduled after the hearing, all parties will receive at least three days' notice (unless waived by the parties).

The arbitrator will determine whether a test drive will be taken in the vehicle. A test drive may not be taken unless the consumer has liability insurance that satisfies the minimum requirements in California. The consumer's liability insurance will apply during any test drive.

During the test drive, all laws will be observed and reasonable safety precautions will be taken.

## **9. TECHNICAL EXPERTS**

At the request of the arbitrator, we may obtain an impartial technical expert to inspect your vehicle.

Both parties will have an opportunity to evaluate and comment on the qualifications and findings of the technical expert.

You also have the right to have your own technical expert serve as a witness at your own expense.

## **10. HEARING NOTICE**

We will set a date, time (during normal business hours) and a place for your arbitration hearing. The hearing will be set with due regard for the schedule of the parties and the arbitrator as well as the time limits provided by these Rules. Notice of the date, time and place of the hearing will be sent to you at least 10 days in advance of the hearing so parties will receive the notice of the hearing at least five days before the hearing.

If an emergency prevents you from attending the hearing, call us prior to the scheduled hearing time.

We reserve the right to make a final determination as to the time, date and place for the arbitration hearing.

## **11. MANNER IN WHICH HEARING IS CONDUCTED**

Although most arbitrations involve in-person hearings, at your request, we may arrange to have your statement and evidence presented by telephone or in writing.

If the consumer asks to present his or her case at an in-person hearing, that request will be honored. If the consumer appears in person, the manufacturer may present its case in person, by telephone or in writing.

If the consumer presents his or her case by telephone, the manufacturer may present its case by telephone or in writing.

If the consumer presents his or her case in writing, the manufacturer must also present its case in writing.

When one or more parties present their case by telephone, a speaker phone or conference call will be used so all parties can effectively participate in the hearing.

## **12. ATTENDANCE AT HEARINGS**

Arbitration hearings shall be open to observers on reasonable and nondiscriminatory terms.

Unless there is approval by all parties and the arbitrator, no one other than BBB AUTO LINE staff shall be permitted to bring cameras, lights, recording devices or any other equipment into the hearing.

All observers shall be subject to BBB staff's directions regarding proper behavior.

## **13. YOUR ABSENCE FROM THE HEARING**

If one party does not attend a hearing after receiving proper notice, the arbitrator will proceed with the hearing after receiving proper notice, the arbitrator will proceed with the hearing and receive evidence from the present party, including oral testimony. In that event, the arbitrator may either decide the dispute or give the absent party an opportunity to explain or rebut any contradictory information and submit additional materials before a decision is made. We will notify all parties if the arbitrator requests additional information.

## **14. RECORD OF HEARING**

We will maintain basic file information on your arbitration hearing, such as the witnesses' names and documents presented as evidence at the hearing. Copies of these materials and other official arbitration forms relating to your case will be given to you on request. A reasonable copying fee may be charged.

We will record the hearing if requested by a party or the arbitrator. Copies of the recording will be furnished to a party upon request; a reasonable copying fee may be charged. Requests for a copy of the recording must be made within 60 days after the hearing, since the record may be erased after that time.

## **15. OATH OF PARTICIPANTS**

You and your witnesses shall be placed under oath at the hearing.

## **16. HEARING PROCEDURES**

The arbitrator will decide on the order and procedures for you to present your side of the dispute.

You will be given an opportunity to make a personal presentation of your case, and you may present any witnesses and evidence in support of your case. You may also question the other parties, their witnesses and their evidence. After everyone has presented his or her case, each party will be given an opportunity to make a closing statement.

Parties should restrict their presentation to no more than an hour.

If the arbitrator determines that additional information is necessary in order to make a fair decision, the arbitrator may direct that this additional evidence be submitted at a subsequent hearing or in any manner deemed appropriate by the arbitrator. The arbitrator will make every effort to obtain all necessary information in a timely manner so that the decision may be rendered within the applicable time limits.

Before the arbitrator makes a decision, you may ask the arbitrator to give you a reasonable number of days to respond to a written statement or document presented by the other party at the hearing. The arbitrator may grant your request at his or her discretion.

If the arbitrator directs that written evidence be submitted after the initial hearing, the evidence shall be sent to BBB AUTO LINE within five days, unless a different time period is specified by the arbitrator. We will send a copy to the other party and solicit a response.

We will send both the written evidence and any response to the arbitrator.

When the arbitrator is satisfied that all testimony and evidence have been presented, your hearing will be closed.

## **17. ADMISSION OF EVIDENCE AT THE HEARING**

You may present your case without being restricted by courtroom rules of evidence. However, you should be sure your evidence is relevant to your case.

The arbitrator may limit your presentation if the arbitrator believes it is repetitious or irrelevant.

## **18. ABSENTEE STATEMENTS/DOCUMENTS FOR TELEPHONE HEARINGS**

If you have a witness who cannot attend the hearing, you may present that person's written statement to the arbitrator. You must make a copy for the other party to read and use for response.

To help resolve your claim promptly, if you present your case by telephone you should submit to BBB AUTO LINE at least seven days before your hearing any written documents on which you will rely. We will provide these documents to the other party before the hearing.

## **19. SUBPOENAS**

You may send BBB AUTO LINE a request that the arbitrator subpoena witnesses or evidence that are relevant to your case. Any request should include a statement as to why the witnesses or evidence are relevant, and why you feel a subpoena is necessary.

If the arbitrator agrees with your request, then a subpoena will be sent according to state law. Subpoenas may only be sent to persons within California.

The party requesting a subpoena shall be responsible for any expenses involved in the issuance of the subpoena and shall be responsible for enforcement of the subpoena if the subpoenaed party does not appear.

## **20. POST-HEARING ADMISSION OF EVIDENCE**

Before a decision is made, an arbitrator may schedule new or additional hearings or otherwise request new or additional evidence to get all relevant facts about your dispute.

If you have been asked or allowed by the arbitrator to furnish additional evidence in support of your case, the arbitrator will set a deadline by which you must send it to BBB AUTO LINE. We will give the other party an opportunity to respond to your evidence and then will send all materials to the arbitrator. Receipt of all additional materials by the arbitrator shall signal the close of your hearing. In making a decision, the arbitrator may consider the failure of any party to provide requested information or to respond to information submitted.

Before a decision is made, you may contact us with new information that was impossible to present at your original hearing and request that it be considered. Any such new information must be sent to BBB AUTO LINE, which will send it to the other party for their response and then forward the information and any response to the arbitrator.

After the arbitrator has made a decision in your case, no more arguments or evidence may be presented, even if newly discovered or not available at the time of the hearing.

## **21. SETTLEMENT**

If all parties voluntarily decide to settle the dispute before the hearing, the settlement will end the dispute and no hearing will be held.

If a settlement is reached after the hearing but before the arbitrator's final decision, be sure to notify your Dispute Resolution Specialist at once.

## **22. TIME LIMITS**

We shall make every effort to obtain a decision in your case within 40 days from the time your claim is opened. This time period may be extended:

- a. for seven days if the consumer made no attempt to seek redress directly from the manufacturer prior to filing a claim; or
- b. for up to 30 days if the arbitrator requests an inspection/report by an independent expert; consultation with a person(s) knowledgeable in the technical, commercial or other areas related to the vehicle; an opportunity for an inspection and test drive; or, further investigation and report by BBB AUTO LINE on any issue relevant to a fair and expeditious decision.

## **23. THE DECISION**

When the arbitrator has reached a decision in your case, all parties will receive a written decision accompanied by the arbitrator's reasons for the decision.

### **A. Scope of decision**

A decision shall be one that the arbitrator considers fair and falls within the scope of these Rules.

The decision may order an action to be performed, money to be paid, or a combination of these remedies. The arbitrator may award all or part of what you seek or may decide to award no payment or performance at all.

The arbitrator's decision is not limited to the remedies requested by the consumer.

All decisions requiring performance by the manufacturer will require that performance occur within 30 days after the manufacturer receives notice that the decision has been accepted. The time for performance shall be extended for delays caused by reasons beyond the control of the manufacturer or its representatives, including any delay attributable to any act or omission of the consumer, but only while the reason for the delay continues.

### **B. Decision will be sent to parties**

The arbitrator will normally submit a decision to BBB AUTO LINE within three business days of closing the hearing.

Under special circumstances, the arbitrator may need extra time to submit the decision and we will inform the parties if this occurs.

BBB AUTO LINE will send you a copy of the arbitrator's decision. We will not read a decision to you over the phone.

### **C. Repair decision**

A repair decision will state the conditions/symptoms to be repaired and it will be the manufacturer's responsibility to determine what repairs are necessary to correct the conditions/ symptoms.

If a repair decision is rendered and accepted by the consumer, the consumer should notify BBB AUTO LINE in writing if the repair has not occurred to the consumer's satisfaction. In that case, the arbitrator will be informed of all pertinent facts and may decide to reconsider the decision.

### **D. Mathematical errors/correction**

We reserve the right to correct obvious mathematical errors in the decision.

### **E. Clarifying the decision**

You may request that the arbitrator clarify a decision if you do not understand what action is required by the decision, or if you and the other party disagree about what action is required by the decision. Requests for clarification must be in writing and must be received by BBB AUTO LINE prior to the time that performance is required under the decision.

Appropriate requests for clarification will be sent to the other party for response. We will send the clarification request and any response to the arbitrator, who may either clarify the decision or let the decision stand as written. Before making a decision on a clarification request, the arbitrator may request a telephone conference call with all parties.

You may not ask the arbitrator to clarify the reasons for decision.

**F. Acceptance or rejection of the decision**

We will send the arbitrator's decision to the consumer for acceptance or rejection. Accompanying the decision will be an Acceptance or Rejection form. For a decision to be accepted, it must be accepted by all titled owners of the vehicle in question.

Failure to return the Acceptance or Rejection form to us within 30 days after that form is sent to the consumer shall be considered a rejection<sup>17</sup> of the decision unless we, in writing, extend this period by a reasonable number of days for good cause.

Once the consumer accepts a decision:

- The manufacturer will be bound to abide by the decision and comply with its terms
- The consumer must comply with the terms of the decision

If the consumer rejects a decision:

- The consumer may pursue other legal remedies under state or federal law
- The manufacturer will not be obligated to perform any part of the decision
- The decision may be introduced as evidence by the consumer or the manufacturer in a court action
- BBB AUTO LINE involvement in the case will end

**G. Verification of Performance**

If the consumer accepts the decision, all parties must do what the decision requires within the time limits set by the arbitrator.

The time for performance shall begin when the manufacturer receives written notice of the consumer's acceptance. Within 10 days after the performance date, we shall contact the consumer to verify whether the decision has been performed.

**24. TIMELY OBJECTIONS**

Any failure to follow these Rules that may significantly affect the independence, impartiality or fairness of the arbitration process should be brought to the attention of BBB AUTO LINE at the earliest opportunity.

**25. CONFIDENTIALITY OF RECORDS**

It is our policy that records of the dispute resolution process are private and confidential.

We will not release the results of your individual case to any person or group that is not a party to the arbitration unless all parties agree or unless such release is required by law or pertinent to judicial or governmental administrative proceedings.

**26. LEGAL PROCEEDINGS/EXCLUSION OF LIABILITY**

In submitting to arbitration under these Rules, the parties agree that the arbitrator and/or impartial technical expert shall not be subpoenaed by either party in any subsequent legal proceeding.

The parties further agree that BBB National Programs, Inc. (including its employees), the arbitrator, and/or the BBB (including its employees) shall not be liable for any act or omission in connection with any BBB AUTO LINE case.

## 27. COMPLAINTS

Any complaints about program operation or performance of a decision should be sent to:

**BBB AUTO LINE**  
A division of BBB National Programs  
1676 International Drive, Suite 550  
McLean, VA 22102

We will investigate complaints concerning program operation, and will inform the complainant of the results of the investigation and any corrective action taken.

We will inform the Arbitration Certification Program (ACP) of the results of the investigation if the case involves a manufacturer certified by the ACP.

The ACP's role is to serve as state regulators and to comply with the statutory mandate to ensure that all state-certified programs remain in substantial compliance with the regulations that govern the arbitration process. You also may submit a complaint to:

**Arbitration Certification Program Department of Consumer Affairs State of California**  
1625 North Market Boulevard Suite N112  
Sacramento, CA 95834

## 28. RIGHT TO DISCONTINUE ARBITRATION

BBB AUTO LINE at all times reserves the right to discontinue administration of arbitration for any case(s) due to the behavior of a party.

## APPENDIX

### **Section 1793.2(d) of the Song-Beverly Consumer Warranty Act**

Section 1793.2(d)(2) of the Song-Beverly Consumer Warranty Act (California Civil Code Section 1790 et seq.) requires that a vehicle manufacturer, if it is unable to service or repair a vehicle to conform to the manufacturer's written warranties after a reasonable number of attempts, must either repurchase or replace the vehicle.

#### **What vehicles are covered by Section 1793.2(d) (2)?**

Section 1793.2(d)(2) covers motor vehicles (including a dealer-owned vehicle, a "demonstrator" or other vehicle sold with a manufacturer's new car warranty) that:

1. are sold or leased with a manufacturer's new vehicle written warranty and
2. (a) are used or bought for use primarily for personal, family or household purposes,  
OR  
(b) have a gross vehicle weight under 10,000 pounds and are bought or used primarily for business purposes by any person or business to which not more than five motor vehicles are registered in California.

While Section 1793.2(d)(2) does not cover all parts of a motor home, it does cover the chassis and chassis cab of a motor home.

#### **When has the manufacturer had a reasonable number of repair attempts?**

Section 1793.2(d)(2) does not provide a test that conclusively establishes when a reasonable number of repair attempts has occurred within the period covered by the manufacturer's written warranty.

Another section of the Song-Beverly Consumer Warranty Act<sup>1</sup> creates a presumption<sup>2</sup> that a reasonable



number of repair attempts have been made if, within 18 months from delivery to the first retail buyer/lessee or 18,000 miles on the vehicle odometer, whichever comes first, one or more of the following occurs:

1. The same nonconformity results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven AND the nonconformity has been subject to repair two or more times by the manufacturer or its agents AND the consumer has at least once directly notified the manufacturer of the need for the repair of the nonconformity; OR
2. The same nonconformity has been subject to repair four or more times by the manufacturer or its agent (such as an authorized dealer), and the consumer has at least once directly notified the manufacturer of the need for repair<sup>3</sup>, OR
3. The vehicle has been out of service more than 30 calendar days (cumulative) since delivery by reason of repair of one or more nonconformities by the manufacturer or its agent (such as an authorized dealer). The 30-day period is extended if repairs cannot be performed due to conditions beyond the control of the manufacturer or agent.

### **What is nonconformity?**

Section 1793.22(e)(1) defines “nonconformity” as a failure to conform to a written warranty that “substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.”

Section 1794.3 provides that the Song-Beverly Consumer Warranty Act does not apply to any defect or nonconformity in consumer goods caused by the unauthorized or unreasonable use of the goods following sale.

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As approved by the California Department of Consumer Affairs, the manufacturer is not required to comply with the requirements of California Civil Code sections 1793.22(f), 1793.23, and 1793.24 if the consumer is no longer in possession of the vehicle until the consumer’s acceptance of the award.

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### **Footnotes:**

<sup>1</sup> Section 1793.22, which is known as the Tanner Consumer Protection Act.

<sup>2</sup> A presumption is an inference drawn from certain facts and can be overcome (rebutted) by additional facts.

<sup>3</sup> The consumer is required to directly notify the manufacturer only if the manufacturer has clearly explained this requirement in documents included with the warranty or owner’s manual.