



SPECIALIZING IN MEDIATION & ARBITRATION & DISPUTE REVIEW BOARDS

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CONSTRUCTION DISPUTE RESOLUTION SERVICES, LLC

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HOME WARRANTY AGREEMENT TO ARBITRATE

REVISED 03/27/09

BINDING ARBITRATION AGREEMENT

CLIENT INFORMATION

The parties to this agreement are the Claimant _____

The Respondents are _____.

CONSTRUCTION DISPUTE RESOLUTION SERVICES, LLC (“CDRS”) shall serve as the “Arbitrator” (Arbitrator). The Claimants and the Respondents hereinafter shall be referred to as “Parties”.

ENABLING AGREEMENT TO RESOLVE

The Parties have retained CONSTRUCTION DISPUTE RESOLUTION SERVICES, LLC, of Santa Fe, New Mexico to conduct arbitration for the purpose of settling the dispute(s) between the Parties.

The Parties recognize that this agreement specifies binding arbitration where the Parties will have no choice but to accept the decision of the Arbitrator as the final step in the resolution of this dispute between the Parties. The final award that is rendered by the Arbitrator shall be binding on the Parties and is enforceable in a court of law. The arbitration Award may be appealed by any Party to the arbitration only according to the allowable reasons for appeal as specified in the Federal Arbitration Act in effect in the jurisdiction of the arbitration.

Upon special request, the Parties realize that CDRS may conduct the arbitration without any of the Parties present for the arbitration hearing. The decision of the arbitrator will be made according to documents submitted to CDRS including but not limited to the Home Warranty Booklet, contracts, agreements, engineering reports, technical reports, photographs and other supporting documents and reports.

The Parties hereby authorize the Arbitrator and/or CDRS to schedule the arbitration to be conducted according to the appropriate “CDRS Arbitration Rules and Procedures” and the Federal Arbitration Act.

LEGAL AND PROFESSIONAL REPRESENTATION

The Parties acknowledge that they have been advised by CDRS and/or the arbitrator that:

- i) They should each have separate legal representation and should consult privately with their respective attorneys for independent, legal advice. This advice may be necessary prior to signing this HOME WARRANTY AGREEMENT TO ARBITRATE, NOTICE OF ARBITRATION or any other documents that may be completed and executed prior to the commencement of the arbitration process or at any time during or after the arbitration hearing.
- ii) Without review and advice by their own independent, legal counsel, they may be giving up legal rights to which they are entitled, or running risks of which they are not aware.
- iii) They should seek independent tax advice from their attorneys or other qualified tax advisors to assess any possible financial or tax consequences related to the issues involved in this arbitration proceeding.
- iv) Legal representation by an attorney is not required at the arbitration proceeding; however, it is advised that the Parties have an attorney present.

SCOPE AND AUTHORITY

The hearing will encompass all of the claims each of the Parties may have against the other, all such claims being reasonably known to the Parties at this time. The Parties will, at the conclusion of the hearing, after the Arbitrator(s) has rendered a final award, release each other totally from all claims pertaining to this dispute and each shall be stopped from asserting any other claims pertaining to this dispute in the future. If other disputes materialize during this arbitration process or after the final award is rendered upon the conclusion of this arbitration proceeding, the Parties may enter into a separate dispute resolution proceeding. They may not be added to this arbitration proceeding unless there is a total agreement between the Parties and the Arbitrator to add those items to this arbitration.

The Arbitrator's authority shall be as stipulated in the Federal Arbitration Act and the CDRS Arbitration Rules and Procedures, HWC Rules and Procedures and as specified in other related CDRS arbitration documents as executed between the parties.

POSTPONEMENT AND CANCELLATION

Upon a request by a one or both of the Parties, the Arbitrator shall determine if there is good cause or compelling circumstances that would merit a postponement or cancellation. Non-receipt of the properly executed required documents or of the initial filing fee or deposit by the due date may be considered cause for the CDRS to postpone or cancel the arbitration. Please refer to the CDRS website section "Fees and Costs" for standard cancellation and postponement terms. An arbitration that is postponed or cancelled less than seventy-two (72) hours prior to the scheduled arbitration is subject to an additional \$300.00 fee which is payable by the Party (or Parties) responsible for the postponement or cancellation.

COST OF ARBITRATION

As per the special discounted pricing provided for **Home Warranty Company (HWC)** arbitrations, in addition to the **\$350.00** filing fee that you are now remitting to the HWC, CDRS will only charge a **fixed fee of \$600.00** for this arbitration process which is all inclusive and will cover the total costs of this single non-reasoned arbitration award. If the Arbitration goes beyond the standard two hour time allotted for this Arbitration or if additional travel time is required of the arbitrator, additional fees may be charged. According to the terms and conditions of the **HWC** arbitration procedures, the homeowner is responsible to first pay all costs for the arbitration including the filing fee and the direct fixed costs of the arbitration. The arbitrator, as part of the arbitration award, shall allocate the payment of the arbitration process including the filing fee as he/she feels to be appropriate between the claimants and respondent. The homeowner may receive a refund of all, part or none of the arbitration and filing fees. All direct expenses of the parties shall remain the responsibility of the parties such as: attorneys, inspectors, engineers, experts, etc.

This Home Warranty Agreement to Arbitrate and the required deposit for the arbitration in the amount of \$600.00 (payable to CDRS) shall be due and payable by the Claimant and shall be sent to the Home Warranty Company along with the "Home Warranty Request for Dispute Resolution Services" with its required \$350 filing fee. As soon as CDRS receives this Agreement and the Home Warranty Request for Dispute Resolution Services along with the required deposits from the HWC, we will then notify you of potential dates to conduct the arbitration.

Please be certain to submit two copies of any additional information that you would like the arbitrator to review to the HWC along with this Agreement. A copy of that information must also be sent to the other party to this arbitration if the respondent is other than the HWC.

ACCEPTANCE

CLAIMANTS:

By: _____
Signature

Date: _____

By: _____
Signature

Date: _____

By: _____
Signature of Attorney for Claimant

Date: _____

RESPONDENTS:

By: _____
Signature

Date: _____

By: _____
Signature

Date: _____

By: _____
Signature of Attorney for Respondent

Date: _____