

## **BINDING VS. NON-BINDING ARBITRATION**

The Lemon Law Consumer Handbook explains the difference between these two options. Please read the explanation carefully before making your decision. Additionally, here are some frequently asked questions and their answers.

**Q: If I elect non-binding arbitration, will the manufacturer appeal the case if I win?**

A: The manufacturer will certainly have the right to appeal. In practice, however, this rarely occurs.

**Q: If I elect non-binding arbitration and lose, how do I appeal?**

A: You would need to get a private attorney to help you file an appeal. The appeal must be filed within 30 days. This would provide you with the opportunity to have your case heard again, on the merits, in court. Your arbitration decision is NOT admissible as evidence at the trial. You must be able to improve your position by at least 25 percent at trial or you will be subject to court costs and attorney fees incurred at trial.

**Q: What happens if I elect non-binding arbitration and I win?**

A: If neither party appeals within 30 days of service of the arbitrator's decision, the decision becomes binding upon both parties.

**Q: What happens if the manufacturer disagrees with my election?**

A: Nothing. This is your election.

## ELECTION OF CONSUMER

### Option #1:

#### ***Binding Arbitration***

*Pursuant to the provisions of Chapter 481I, Hawaii Revised Statutes, I, the undersigned consumer hereby agree to participate in and be bound by the operation and decision of the State Certified Arbitration Program ("SCAP"). It is my understanding that this agreement obligates all parties to the above-captioned arbitration to participate in and be bound by said operation and decision. It is my understanding that a trial de novo will not be available to either party, based upon my decision that the arbitration be binding in nature.*

*Dated:* \_\_\_\_\_

\_\_\_\_\_  
*Print Name of Consumer (or Designated Representative)*

\_\_\_\_\_  
*Signature of Consumer (or Designated Representative)*

## ELECTION OF CONSUMER

### Option #2

#### ***Non-Binding Arbitration with Time Limitation***

*Pursuant to the provisions of Chapter 481I, Hawaii Revised Statutes, I, the undersigned consumer hereby agrees to participate in but not be bound by the operation and decision of the State Certified Arbitration Program (“SCAP”). It is my understanding that this agreement obligates all parties to the above-captioned arbitration to participate in but not be bound to the decision of the arbitrator. Accordingly, a trial de novo may be demanded by either party following the arbitration decision, based upon my decision that the arbitration be non-binding in nature. It is also my understanding that if there is no trial de novo demanded within thirty (30) days following the service of the arbitrator’s decision, then the arbitrator’s decision shall become final and binding upon all parties.*

*Dated:* \_\_\_\_\_

\_\_\_\_\_  
*Print Name of Consumer (or Designated Representative)*

\_\_\_\_\_  
*Signature of Consumer (or Designated Representative)*