

## AGREEMENT TO ARBITRATE CLAIMS

In consideration of the at-will employment relationship between the Employer<sup>1</sup> and Employee and the mutual desire of the parties to enter into this Agreement to Arbitrate Claims ("Agreement"), the parties hereby agree that any and all disputes, claims or controversies between the parties, including but not limited to any dispute arising out of or relating to this Agreement, the employment relationship between the parties, or the formation or termination of the employment relationship, or which arise after the termination of the employment relationship, which are not resolved by their mutual agreement shall be resolved by final and binding arbitration by a neutral arbitrator. For purposes of this Agreement, "Employer" shall also include any claims that the Employee has against Employer and/or its officers, directors, employees, owners, shareholders, members, agents, representatives, benefit plans, sponsors, fiduciaries, agents, parents, subsidiaries, or affiliated entities. This Agreement also applies to claims the Employer has against the Employee.

The claims covered by this Agreement include, but are not limited to, claims for: wrongful termination; breach of any contract or covenant, express or implied; breach of any duty owed to Employee by Employer or to Employer by Employee; personal, physical or emotional injury (excluding claims covered under any workers' compensation statute); discrimination or harassment because of race, gender, color, pregnancy, religion, national origin, ancestry, age, disability, medical condition, marital status, sexual orientation, gender identity or any other characteristic protected by applicable law; retaliation; violation of any local, state, or federal constitution, statute, law, ordinance or regulation; fraud, misrepresentation, defamation, invasion of privacy, and any other tort claims; wages, overtime, premiums, gratuities, tips, service/administrative charges, or any other compensation due; penalties; benefits; reimbursement of expenses; any claim for trade secret violations or unlawful competition, and any representative State claims. This Agreement shall be binding on all of the parties, their heirs, and successors. This Agreement shall not apply to any dispute if an agreement to arbitrate such dispute is prohibited by law.

This Agreement also does not apply to workers' compensation or unemployment compensation claims that must be filed with the appropriate agency. Employees are also not barred from filing a claim or charge with a governmental administrative agency, such as the National Labor Relations Board or Equal Employment Opportunity Commission, though Employees are giving up the opportunity to recover monetary amounts from any such governmental agency and would instead be able to pursue a claim for monetary amounts through arbitration. Also, if a third party seeks to have Employer garnish Employee's wages, Employee may be subject to third-party garnishment proceedings in court, even though such a dispute concerns wages.

In arbitration, each side in the dispute presents its case, including evidence, to a neutral third party called an "arbitrator," rather than to a judge or jury. Any arbitration shall be conducted before one neutral arbitrator selected by the parties and shall be conducted under the JAMS Employment Arbitration Rules & Procedures ("JAMS Rules") in effect as of the date Employee receives this Agreement. The arbitrator shall be either an attorney or a retired judge. *Employee may obtain a copy of the JAMS Rules by requesting a copy from Human Resources or by accessing the JAMS website at [www.jamsadr.com](http://www.jamsadr.com).* **By signing this Agreement, Employee acknowledges that Employee has had an opportunity to review the JAMS Rules before signing this Agreement.** The parties expressly acknowledge and agree that the employment relationship between the parties involves interstate commerce because Employer has multi-state operations and out-of-state support services and Employee is engaged in the production and/or sale of goods and/or services in the stream of interstate commerce. Therefore, the parties agree that the interpretation and enforcement of the arbitration provisions herein will be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq* ("FAA") to the exclusion of any different or inconsistent state or local law, ordinance, or judicial rule.

The arbitration shall take place within 25 miles from where Employee worked for the Employer. The parties are entitled to be represented by their own legal counsel in the arbitration proceeding and agree to maintain the proceedings and the award, including the hearing, as confidential, except as is otherwise required by court order, required by law, or as is necessary to confirm, vacate or enforce the award. The arbitrator shall have the authority to order such discovery by way of deposition, interrogatory, document production, or otherwise, as the arbitrator considers necessary for a full and fair exploration of the issues in dispute, consistent with the expedited nature of arbitration. The arbitrator is authorized to award any remedy or relief available under applicable law that the arbitrator deems just and equitable, including any remedy or relief that would have been available to the parties had the matter been heard in a court. The arbitrator has no authority to consolidate claims by different persons into a single proceeding, nor shall the arbitrator have the power to hear an arbitration as a group, class, or collective action;

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<sup>1</sup> Your "Employer" is the entity that owns and operates the restaurant/business at which you work. The actual entity name of your employer can be found on your paychecks.

however, nothing in this Agreement shall prevent the parties from consolidating claims should they mutually agree to do so. Nothing in this Agreement shall prohibit or limit the parties from seeking provisional remedies, such as injunctive relief from a court of competent jurisdiction. The arbitrator shall have the authority to provide for the award of attorney's fees if such award is separately authorized by applicable law. The Employer shall pay all arbitrators' fees and any JAMS arbitration administrative expenses. The decision of the arbitrator shall be in writing and shall provide the reasons for the award unless the parties agree otherwise. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. **The arbitrator's decision is final and binding which means there will be no trial by a judge or jury, or ability to appeal the arbitrator's decision except as provided by the FAA or analogous state law.**

The Employer may change or terminate the Agreement after providing 60 days written or electronic notice. If the Employer changes the Agreement, those changes will not apply to any claims pending at the time of the change or any claim filed during the notice period. The terms of this Agreement control over any prior or subsequent oral discussions between the Employee and an Employer representative about arbitration.

**BY EMPLOYEE'S CONTINUED EMPLOYMENT WITH THE COMPANY, THE PARTIES HEREBY WAIVE THEIR RIGHT TO HAVE ANY DISPUTE, CLAIM OR CONTROVERSY DECIDED BY A JUDGE OR JURY IN A COURT.**

**BY EMPLOYEE'S CONTINUED EMPLOYMENT WITH THE COMPANY, THE EMPLOYER AND EMPLOYEE AGREE THAT EACH MAY BRING AND PURSUE CLAIMS AGAINST THE OTHER ONLY IN THEIR INDIVIDUAL CAPACITIES, AND MAY NOT BRING, PURSUE OR ACT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE OR COLLECTIVE PROCEEDING.**

**THE PARTIES FURTHER AGREE THAT NEITHER PARTY MAY BRING, PURSUE, OR ACT AS A PLAINTIFF OR REPRESENTATIVE IN ANY PURPORTED REPRESENTATIVE PROCEEDING OR ACTION, OR OTHERWISE PARTICIPATE IN ANY SUCH REPRESENTATIVE PROCEEDING OR ACTION OTHER THAN ON AN INDIVIDUAL BASIS EXCEPT TO THE EXTENT THIS PROVISION IS UNENFORCEABLE AS A MATTER OF LAW.**

**THE PARTIES AGREE THAT ANY REPRESENTATIVE CLAIMS THAT ARE FOUND NOT SUBJECT TO ARBITRATION UNDER THIS AGREEMENT SHALL BE RESOLVED IN COURT AND ARE STAYED PENDING THE OUTCOME OF THE ARBITRATION. THE PARTIES AGREE THAT A COURT, NOT THE ARBITRATOR, SHALL DETERMINE WHETHER ANY CLAIM FOUND NOT SUBJECT TO ARBITRATION UNDER THE AGREEMENT MAY PROCEED ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS.**

In the event that any provision of this Agreement is held to be void, null or unenforceable, the remaining portions shall remain in full force and effect. If Employee has any questions about this Agreement or wishes to have any of its terms explained, Employee may ask Human Resources (1-800-394-3839). Employee may also wish to consult an attorney about the pros and cons of this Agreement.

The original version of this Agreement is in the English language. Any discrepancy or conflicts between the English version and any other language version will be resolved with reference to and by interpreting the English version.

Should Employee work for more than one Employer and/or transfer to a new Employer, this Agreement shall remain valid and enforceable as to all Employers for whom Employee has worked. This Agreement shall survive termination of any employment relationship between Employee and any Employer.

**I ACKNOWLEDGE THAT I HAVE HAD AN OPPORTUNITY TO REVIEW AND ASK QUESTIONS CONCERNING THIS AGREEMENT AS A CONDITION OF EMPLOYMENT. I UNDERSTAND THAT I AM PERMITTED TO TAKE THIS AGREEMENT WITH ME AND REVIEW IT WITH AN ATTORNEY OF MY CHOICE IF I SO DESIRE.**

**I FURTHER UNDERSTAND THAT BY CONTINUING TO WORK FOR COMPANY, MY CONTINUED EMPLOYMENT WILL BE CONSIDERED ACCEPTANCE OF THE AGREEMENT, EVEN WITHOUT SIGNATURE.**

**AGREEMENT TO ARBITRATE CLAIMS**

**ACKNOWLEDGEMENT**

I ACKNOWLEDGE THAT I HAVE RECEIVED AND CAREFULLY READ THE COMPANY'S AGREEMENT TO ARBITRATE CLAIMS, THAT I UNDERSTAND ITS TERMS, AND THAT I HAVE ENTERED INTO THIS AGREEMENT VOLUNTARILY, WITHOUT UNDUE PRESSURE AND NOT IN RELIANCE ON ANY PROMISE OR REPRESENTATION BY THE EMPLOYER OR ANY PERSON OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

<b>EMPLOYEE</b>  _____ (Print Name)  _____ (Signature)  _____ (Date)	<b>EMPLOYER</b>  By: <u><i>Julia Liebelt</i></u>  Its: Vice President of Human Resources
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**NOTICE:** Continuing employment either a) thirty (30) days beyond your date of hire; b) upon transfer or re-hire to an affiliated entity; or c) after the effective date of this Agreement shall constitute acceptance of this Agreement, regardless of whether you signed this agreement or noted any refusal to any of its terms.