



## **AGREEMENT TO ARBITRATE**

1. **Binding Arbitration** . The undersigned Employee hereby agrees to submit any claim as defined in this Agreement against \_\_\_\_\_, and all of their parents, subsidiaries, affiliates, partners, officers, directors, employees, shareholders, servants, agents, officials and attorneys, in their official and individual capacities, together with their predecessors, successors and assigns, both jointly and severally (hereinafter collectively and individually referred to as the "Company") to final and binding arbitration rather than resorting to any administrative and/or judicial bodies. This Agreement is entered into pursuant to the Federal Arbitration Act and/or Georgia Arbitration Act, as applicable. \_\_\_\_\_ (initials of Employee).

2. **Consideration** -- In making this Agreement, the undersigned Employee recognizes that the undersigned Employee's employment with and continued employment with the Company serves as good and valuable consideration for the mutual obligations contained herein. The undersigned Employee enters into this Agreement knowingly and voluntarily. The undersigned Employee acknowledges that it is the undersigned Employee's belief and agreement that binding arbitration will lead to a more expedient and cost-effective resolution of any claim arising from the undersigned Employee's employment.

3. **Employment-At-Will** . The undersigned Employee further acknowledges that nothing contained within this Agreement constitutes or creates a contract of employment for a definite duration. The undersigned Employee acknowledges that the undersigned Employee's employment and compensation are indefinite in duration, and the undersigned Employee may resign or be terminated from employment with the Company at any time for any reason or no reason, with or without cause, and with or without notice. The undersigned Employee expressly acknowledges and agrees that any written or oral statements or promises to the contrary are hereby expressly disavowed and are not relied upon.

4. **Rules Governing Scheduling And Conduct Of Arbitration** -- It is the undersigned Employee's understanding that, if an arbitrable claim arises, the procedures to be followed, in scheduling and conducting the arbitration, except as modified by this Agreement, shall be those followed by the BAY Mediation & Arbitration Services, LLC, or a comparable alternative dispute resolution service that the Company may designate at any time (hereinafter "BAY").

5. **Definition Of Arbitrable Claim** -- For purposes of this Agreement, an arbitrable claim is any claim by me of an alleged unlawful act or wrongful act by the Company of any kind, including any claim relating to or arising out of my hire, employment and/or termination of employment with the Company, including, but not limited to, any claim based upon alleged (i) unlawful acts of any kind arising under or in reliance upon any statute (federal, state or local); (ii) interference with or breach of contract of any kind;

(iii) breach of duty and/or tortious conduct of any kind; (iv) claims of any kind under law or equity; and/or (v) claims of any kind asserted or which could have been asserted by me in any other charge or claim in alleged violation of any applicable law, rule, ordinance, regulation or order. An arbitrable claim shall not include a claim for unemployment or Worker's Compensation benefits

**6. Institution Of Arbitration** -- Any claim must be resolved by the filing of a demand for arbitration consistent with the arbitration procedures as provided for by BAY and serving the Company with a copy of the demand by registered mail addressed to Chief Executive Officer- \_\_\_\_\_ or to the most current address of the Company if it has moved its office since execution of this Agreement.

**7. Selection Of Impartial Arbitrator** . In the absence of their mutual agreement, the undersigned Employee agrees that a single Impartial Arbitrator will be selected from a list of five (5) qualified and impartial arbitrators provided to the parties by BAY. From this list, the parties alternately strike names until only one name remains. The Impartial Arbitrator whose name remains shall be declared the Impartial Arbitrator for purposes of my dispute.

**8. Impartial Arbitrator's Authority** -- In conducting the arbitration proceeding, the Impartial Arbitrator shall be guided for purposes of evidentiary matters by the Federal Rules of Evidence. The parties shall allow and participate in discovery as determined by the Impartial Arbitrator. All issues regarding compliance with discovery requests or extensions for discovery shall be decided by the Impartial Arbitrator. At the conclusion of the period for discovery or before, the Impartial Arbitrator shall consider and decide any dispositive motion filed by either party. The Impartial Arbitrator shall decide any such motion by a decision in writing. The Impartial Arbitrator shall set forth the factual and legal bases consistent with applicable law for the decision.

If the Impartial Arbitrator decides that a triable issue of fact exists which requires an evidentiary proceeding, the Impartial Arbitrator shall schedule an evidentiary hearing on the arbitrable claim within thirty (30) days thereafter. The Impartial Arbitrator shall issue a decision on the arbitrable claim within thirty (30) days after the conclusion of the arbitration proceeding. The Impartial Arbitrator shall be empowered to decide the grievance to the same extent as a jury or state or federal judge, pursuant to the Federal Rules of Civil Procedure, the Georgia Civil Practice Act, and/or other federal, state or local law as may be applicable. The arbitration award shall be in writing and shall specify the factual and legal bases for the award unless otherwise agreed in advance by the parties.

**9. Fees And Expenses Of Arbitration** -- The fees associated with the Impartial Arbitrator shall be borne by the Company, unless otherwise directed by the Impartial Arbitrator pursuant to law.

**10. Judicial Jurisdiction** -- With respect to disputes arising under this Agreement that are submitted to a court rather than an arbitrator, including actions to compel arbitration, to confirm the arbitration award, or for equitable relief in aid of

arbitration (which actions the parties are hereby authorized to bring), the parties agree that venue and jurisdiction are proper in any state or federal court lying within or with jurisdiction over the location of the facility where I was employed by the Company, and the parties specifically consent to the jurisdiction and venue of such court for the purpose of any proceedings contemplated by this paragraph. If any part of this Agreement is held to be void, voidable or otherwise unenforceable by any court or arbitrator, nothing contained herein shall limit the enforceability of any other part. This Agreement shall be applied and interpreted consistent with applicable law.

## **11. Additional Terms**

A. This Agreement shall survive the termination of the employee's employment, and can only be revoked or modified by a writing signed by the parties that specifically states an intent to revoke or modify this Agreement.

B. This is the complete agreement of the parties on the subjects of informal dispute resolution procedures and the arbitration of disputes. This Agreement supersedes any prior or contemporaneous oral or written understanding on these subjects. No parties relying on any representations, oral or written, on these subjects of the effect, enforceability or meaning of this Agreement, except as specifically set forth in this Agreement.

C. This Agreement is not, and shall not be construed to create, a contract of employment for a certain term, express or implied. The employee's employment with the Company is at-will and may be terminated by either the Company or the employee at any time, with or without cause and with or without prior notice.

D. The mutual promises to arbitrate any differences, rather than litigate them before courts or other bodies, provide consideration for each other. The hiring and/or continuation of employment of the Employee by the Company provides further consideration for this Agreement. In addition, the Company's payment of all of the reasonable and necessary fees of the arbitration forum and the arbitrator is further consideration for this Agreement.

E. This Agreement shall inure to the benefit of and shall be binding upon the predecessors, successors and assigns of the parties hereto, and each of them. This Agreement is not intended to constitute a third party beneficiary contract.

F. The terms and provisions of this Agreement shall be construed, interpreted and governed by the laws of the State in which the employee that is a party to this Agreement is employed.

G. The Company has recommended and the employee has been given the opportunity to discuss this Agreement with private and legal counsel and has availed himself/herself of that opportunity to the extent he/she wishes to do so.

AGREED to this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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SIGNATURE OF EMPLOYEE

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PRINTED NAME OF EMPLOYEE

AGREED TO:

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SIGNATURE OF  
AUTHORIZED REPRESENTATIVE  
of The Company

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PRINTED NAME OF AUTHORIZED  
REPRESENTATIVE of The Company