



RECEIPT AND ACKNOWLEDGMENT OF SUMMARY PLAN DESCRIPTION

By my signature below, I acknowledge that I have received and read (or had the opportunity to read) the Summary Plan Description (the "SPD") for the Injury Benefit Plan of effective .

INJURY NOTICE AND MEDICAL PROVIDERS. I understand and agree that if I am injured on the job, I must notify my manager or manager on duty by the end of my shift on the day of the Accident causing the injury; and receive any medical care from a Plan-approved physician in order to receive benefits under the Plan.

I agree to perform my job according to the Company's safety rules. I also agree to immediately report to my manager any accident that involves another employee, a customer, a vendor, or me. I will also immediately report to my manager or the manager on duty any unsafe act, condition or equipment. I will also cooperate with any accident investigations, and actively participate in any safety training programs provided by Company.

RECEIPT AND ARBITRATION ACKNOWLEDGMENT

I acknowledge that the **Mutual Agreement to Arbitrate** includes a mandatory company policy requiring that certain claims or disputes relating to an Employee's employment with the Company, including an on-the-job injury, (that cannot otherwise be resolved between the Company and me) must be submitted to an arbitrator, rather than a judge and jury in court. I understand that by receiving the **Mutual Agreement to Arbitrate** and becoming employed (or continuing my employment) with the Company at any time on or after , I am accepting and agreeing to comply with the Arbitration Agreement. I understand that the Company is also accepting and agreeing to comply with the terms of the Arbitration Agreement. All covered claims brought by my spouse, children, beneficiaries, representatives, executors, administrators, guardians, heirs or assigns are also subject to the arbitration policy, and any decision of an arbitrator will be binding on such persons and the Company.

X	
Employee's Signature	Date
Print Employee's Name	Employee's Social Security Number
Employee's Address	Employee's Telephone Number

MUTUAL AGREEMENT TO ARBITRATE

1. Effective Date and Acceptance Date.

The Effective Date of this Mutual Agreement to Arbitrate Claims ("Agreement") is . Company and Employee mutually agree to resolve all Covered Claims which occur on or after the Effective Date according to the terms and conditions of this Mutual Agreement to Agreement (the "Agreement").

2. Definitions.

a. "Company" means

The term "Company" also includes all current and former employees, officers, directors, agents, franchisors, franchisees, successors, representatives, predecessors, affiliated or related entities.

b. "Employee" means a person who is or was employed by Company on or after the Effective Date and who has a Covered Claim. The term also includes an Employee's spouse, children, parents, estate, heirs, successors and assigns.

c. "Course and Scope of Employment" means an activity of any kind or character that has to do with or originates in the work, business, trade, or profession of Company and that is performed by Employee while engaged in or about the furtherance of the affairs or business of Company. The term includes an activity conducted on the premises of Company or at other locations, such as the home or facility where a customer of Company resides.

d. "Covered Claim" or "Covered Claims" means any and all claims included or described in Paragraph 6(a) of this Agreement.

3. Acts of Acceptance.

Any one of the following actions shall constitute acceptance of the terms and conditions of this Agreement:

- a. If an Employee receives notice of this Agreement prior to commencing work at Company, Employee's commencement of work at Company shall constitute acceptance.
- b. If an Employee receives notice of this Agreement after commencing work at Company, Employee's continuation of employment at Company constitutes acceptance if Employee continues to work for at least three (3) days after receipt of the notice.
- c. If an Employee incurs an injury within the Course and Scope of Employment and has not previously accepted under

subsection (a) or (b) above, notice of this Agreement may be provided to Employee. If such notice is provided, Employee's subsequent receipt of any benefit payable under the Company's Employee Injury Benefit Plan shall constitute acceptance.

- d. For an Employee who hauls goods, merchandise, and equipment interstate, in addition to coverage under this Agreement by virtue of continued employment after receiving notice of this Agreement, Employee's receipt of benefits under Company's Occupational Injury Plan forms the consideration for enforcement of this Agreement as to Employee.

4. Federal Arbitration Act Applies.

Company is engaged in "commerce" as that term is defined in Section 1 of the Federal Arbitration Act ("FAA"). The FAA governs all aspects of this Agreement, including conduct of the arbitration and all procedures following an arbitrator's award.

5. Arbitration is Mandatory for Covered Claims.

Covered Claims shall be exclusively resolved by binding arbitration pursuant to the terms of this Agreement. While both Employee and Company retain all substantive legal rights and remedies under this Agreement, Employee and Company are both waiving all rights which either may have with regard to trial, whether jury or non-jury, in state or federal court for any Covered Claim.

6. Scope of Arbitration Agreement.

a. **Claims Covered by This Agreement.**

(i) This Agreement is mutual, covering all claims that Company or Employee may have which arise from any injury suffered by Employee while in the Course and Scope of Employee's employment with Company at any time during the relationship between the parties before, during and after the Effective Date of this Agreement, including but not limited to, claims for negligence, gross negligence, and all claims for personal injuries, physical impairment, disfigurement, pain and suffering, mental anguish, wrongful death, survival actions, loss of consortium and/or services, medical and hospital expenses, expenses of transportation for medical treatment, expenses of drugs and medical appliances, emotional distress, exemplary or punitive damages and any other loss, detriment or claim of whatever kind and character.

(ii) This Agreement covers all Claims and causes of action arising under the federal and state employment laws. This includes, but is not limited to, claims under Title VII of the Civil Rights Act, the Fair Labor Standards Act, the Texas Commission

on Human Rights Act, the Americans with Disability Act, the Family and Medical Leave Act, the Age Discrimination in Employment Act, as well as all common law claims, including those for discrimination, retaliation, harassment, tortious interference and wrongful discharge.

(iii) Employee is also obligated to arbitrate any action against a current or former supervisor or other agent of Company in his or her individual capacity based upon any claim arising out of Employee's employment or termination from employment.

b. Claims Not Covered by This Agreement.

This agreement does not apply to any claims barred by law from being decided by arbitration.

Nothing in this Agreement precludes the parties from agreeing to resolve claims that are otherwise not covered by this Agreement the same as if they were Covered Claims.

c. Arbitrability of Particular Disputes.

The arbitrator selected under this Agreement shall have the exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this Agreement. Regardless of any other statement in this Agreement and/or any dispute resolution provider's rules or procedures, any dispute relating to the interpretation, applicability, or enforceability of the Class Action Waiver in Section 6(d) of this Agreement, or any dispute otherwise relating to whether this Agreement precludes a class or collective action proceeding, may only be determined by a court and not an arbitrator.

d. Class Action Waiver.

By this Agreement, Employee waives the right to pursue any claim covered by this Agreement through a joint, collective or class action process in any forum, whether arbitral or judicial. As such, Employee can pursue any Claim only in his/her capacity and behalf and not on behalf of other Company employees. In the event a final judicial determination is made that the Class Action Waiver in this section is unenforceable and that a class or collective action may proceed despite the existence of this Agreement, the arbitrator has no authority to preside over a class or collective action, and any class or collective action may be brought solely in a court of competent jurisdiction.

7. Procedure.

a. Who Shall Arbitrate?

All arbitrations under this Agreement shall be administered by the American Arbitration Association ("AAA") under its rules for the resolution of disputes. However, if there is a conflict

between the AAA rules (or other arbitration provider's rules) and this Agreement, this Agreement shall govern. The parties may utilize any other arbitrator or arbitration service provider that is mutually agreeable to Employee and Company. For any arbitration under this Agreement, a single arbitrator shall be appointed. Company and Employee are to participate in the selection of a neutral arbitrator as follows: The parties shall be presented a panel with a minimum of 7 different arbitrators. Unless otherwise agreed to in writing by Company and Employee, the panel of arbitrators must be individuals with experience in employment and personal injury litigation, and licensed to practice law. Company and Employee can agree to an arbitrator from that list or in any other mutually agreeable manner. If the parties are unable to agree upon an arbitrator, each party to the dispute shall have 15 days from the transmittal date in which to strike names objected to, number the remaining names in order of preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named shall be deemed acceptable. If either party does not find the first panel acceptable, either party can request a second panel. Company and Employee have 7 days from receipt of the first panel to notify AAA and the other party of the request for a second panel. If this process does not result in the selection of a mutually agreeable arbitrator, an arbitrator will be selected in accordance with the AAA Employment Arbitration Rules and Mediation Procedures. Any arbitrator must be neutral as to all parties. Standards for the recusal of an arbitrator shall be the same standards under which trial judges are recused under Texas law.

b. Where Shall the Arbitration Take Place?

The arbitration shall take place within 25 miles of the location where the Employee worked for Company at the time of the incident forming the basis for Employee's claim or other mutually agreeable location.

c. Payment of Fees and Expenses.

Company shall be responsible for the fees of the arbitrator. Employee must pay the initial filing fee for the Arbitration, but in no case shall employee be required to pay a fee in excess of the filing fee Employee would have to file had the claim been brought in the district court of the county in which employee resides.

d. Discovery and Pre-Arbitration Motions.

All parties are entitled to pre-arbitration discovery under the Texas Rules of Civil Procedure. The same discovery devices and scope of discovery as set forth in those rules shall apply. All parties are entitled to file any motions, including dispositive motions, set forth in the Texas Rules of Civil Procedure.

e. Remedies and Defenses.

All parties are entitled to allege any claim, obtain any remedy and assert any legal or equitable defense that the party could allege, obtain or assert in a Texas state or federal court. With respect to any claim that allows for an award of attorneys' fees, the arbitrator must award attorney fees, if any, that bear a reasonable relationship to (1) the amount of the damages award and (2) the time, effort, and efficiency expended by the attorney in securing the damage award.

f. Record and Rules of Evidence.

No record of the arbitration hearing shall be kept unless the party seeking the record pays for its costs. The party not seeking a record of the arbitration hearing shall be responsible for any costs to obtain a copy of same. The arbitrator shall apply the Texas Rules of Evidence to the final hearing.

g. Written Award.

Within a reasonable time after the conclusion of the arbitration hearing, the arbitrator shall issue a written award and send a copy to all parties. Either party can appeal the award under the standards provided in the Federal Arbitration Act.

h. Judgment.

Any party to an arbitration award may file the award in an appropriate court and move that a judgment be entered on the arbitration award.

i. Confidentiality.

The parties agree that any settlement or arbitration of a Covered Claim shall be kept confidential except:

(i) Communications made, pleadings filed and materials submitted in connection with the entry or appeal of an award of the arbitrator;

(ii) Communications or reporting to the Internal Revenue Service;

(iii) If Employee or Company is compelled to testify by subpoena.

8. Consideration.

In addition to any other consideration that may exist for the agreement to arbitrate, Company's and Employee's mutual promise to resolve claims and controversies by arbitration in accordance with the provisions of this Agreement constitutes consideration for this Agreement. Employee's continued employment with Company after receiving notice of the institution of the Agreement also constitutes consideration for this Agreement. Finally, this Agreement is presented in connection with Company's Employee Injury Benefit Plan.

Payments made under that Plan also constitute consideration for this Agreement.

9. Enforceability.

If any provision of this Mutual Agreement to Arbitrate is adjudged to be invalid, illegal or unenforceable, in whole or in part, the balance of this Mutual Agreement to Arbitrate shall remain in effect.

10. Not an Employment Agreement.

This Agreement is not, and shall not be construed to create, any contract of employment, express or implied, nor shall the Agreement be construed in any way to change the employment status of any Employee of Company from at-will status.

11. Termination and Modification of Agreement.

Company shall have the right to prospectively terminate and modify this Agreement. However, any such Termination or Modification is not effective for Covered Claims, which accrued or occurred prior to the date of the termination. Further, any termination or modification shall not be effective until thirty (30) days after reasonable written notice is given to Employee covered by this Agreement.

12. Term of Agreement.

This Agreement commences on the acceptance date defined in Section 1 and applies to all Covered Claims that occurred before, on or after the Effective Date.

This Agreement shall survive the employer-employee relationship between the Company and the Employee and shall apply to any Covered Claim whether it arises or is asserted before, during or after termination of the Employee's employment with the Company or the expiration of any benefit plan.

13. Sole and Entire Agreement.

This Program Agreement constitutes the parties' complete agreement and supersedes any prior agreement regarding arbitration of Covered Claims which occur during the Term of this Agreement.

14. Applicability of This Agreement to Others.

Employee and Company intend and expressly agree that any Covered Claim of Employee's spouse, children, parents, heirs, estate, successors and/or assigns that now exists or that may come into existence in the future which arises from, relates to, or is derivative of any Covered Claim, shall be resolved according to the terms and conditions of this Agreement.

Employee and Company intend and expressly agree that any Covered Claim of Company's officers, directors, agents, predecessors, successors, and affiliated companies that arises from, relates to, or is derivative of any Covered Claim of Company, shall be resolved according to the terms and conditions of this Agreement.

15. Spanish Language Version.

This Agreement has been translated into Spanish. In the event of any discrepancy or conflict between the English and Spanish versions of this Agreement, the terms of the English language version shall control.