

## **Dispute Resolution Agreement**

Differences may arise between CENTRAL FLORIDA RESTAURANTS\_\_ (the “Company”) and Employee (collectively, the “Parties”) during or following employment with the Company. Employee and the Company understand and agree that any such differences will be resolved by the terms of this Dispute Resolution Agreement (“Agreement”).

### **No Change in At-Will Status**

The Company and the Employee agree that the employment of Employee is at-will and that either party may terminate the employment relationship at any time for any or no reason. Company has no intention of creating anything other than an employment-at-will of Employee.

### **Mutual Promise to Resolve Claims by Binding Arbitration**

In signing the Acknowledgment and Receipt, Employee agrees that all claims or disputes covered by this Agreement must be submitted to binding arbitration, and that this binding arbitration will be the sole and exclusive remedy for resolving any such claim or dispute. The Company also agrees that all claims or disputes covered by this Agreement that Company may have against Employee will be submitted to binding arbitration as the sole and exclusive remedy for any such claim or dispute.

### **Consideration**

This Agreement is intended to be of mutual benefit to the Company and the Employee. The Employee’s employment or promotion on or after the effective date of this Agreement is consideration for and constitutes a commitment by Employee to follow the terms of the Agreement.

### **Claims Covered by the Agreement**

This Agreement applies to disputes and claims for relief Employee or Company may now or in the future have against each other or against officers, directors, supervisors, managers, employees, or agents in any way related to Employee’s employment or termination of employment; including, but not limited to, claims for: wrongful discharge (constructive or actual); claims for discrimination or harassment; including, but not limited to, harassment or discrimination based on sex, race, gender, gender identity, sexual orientation, marital status, religion, national origin, veteran status, age, pregnancy, medical condition, psychological condition, mental condition, handicap or disability or any other claim of discrimination, harassment, or retaliation, claims for breach of contract (express or implied), and tort claims. This Agreement also applies to claims brought under state or federal laws including, but not limited to, Title VII, the Americans with Disabilities Act, the Family and Medical Leave Act, the Age Discrimination in Employment Act, the Pregnancy Discrimination Act, the Railroad Labor Act, the Equal Pay Act, the Jones Act, and the Employee Retirement Income Security Act (ERISA). The Parties to this Agreement also agree that all wage-related claims brought under the Fair Labor Standards Act (FLSA) or similar state laws concerning employment or compensation including, but not limited to, claims for overtime, unpaid wages, misclassification, penalties, bonus payments and benefits, claims

involving meal and rest breaks, and any other statutory and common claim claims under any law of the United States or local agency shall be subject to this Agreement.

**Claims Not Covered by this Agreement**

The following claims or disputes are not covered by this Agreement: claims for unemployment insurance benefits; claims for workman’s compensation benefits; claims filed in small claims court, claims that both Employee and Company agree are not covered in the Agreement; or, claims that, as a matter of law, the Parties cannot agree to arbitrate.

Nothing in this Agreement precludes Employee from filing a complaint with a state or federal governmental agency; including, but not limited to, the Equal Employment Opportunity Commission or similar state agency, the National Labor Relations Board, the Occupational Health and Safety Administration, or the Department of Labor. Nothing in this Agreement precludes the Parties from conciliating any charge pending before an appropriate government agency.

**Class, Collective or Other Representative Action Waiver**

The Parties agree to arbitrate solely on an individual basis. This Agreement does not permit class arbitration or any claims brought as a plaintiff or class member in any class or representative arbitration proceeding. The arbitrator or arbitral tribunal may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding.

Notwithstanding the waiver of an employee’s right to bring or participate in a class, collective or other representative proceeding for any claim that is subject to this Agreement, employees may have a statutory right (e.g., under the National Labor Relations Act) to act concertedly on behalf of themselves and others to challenge this waiver. If an employee acts concertedly to pursue any such proceeding, the Company will not retaliate against Employee for doing so. The Company is entitled, however, to enforce this policy, including Employee’s agreement to arbitrate all claims and to forego pursuing any covered dispute on a class, collective or representative basis, and is entitled to seek dismissal of any such class, collective or representative action and otherwise assert this waiver as a defense in any proceeding.

In the event the prohibition on class, collective, or representative arbitration is deemed invalid or unenforceable, then the remaining portions of the arbitration agreement will remain in force. In the event a dispute involves some claims that are subject to arbitration and some claims that are determined not to be arbitrable, the parties agree that the arbitrable claims shall be resolved first and the non-arbitrable claims shall be stayed pending completion of the arbitration proceedings.

**Exclusive, Final and Binding Remedy for Eligible Disputes**

If Employee or Company is seeking to resolve claims covered by this Agreement, they must use binding arbitration. As to any such dispute, arbitration is designed as a substitute for court action and except as provided by this Agreement is the exclusive, final, and binding method to resolve the dispute, whether based on federal, state, or local law. Neither the Company nor the Employee can initiate or prosecute a lawsuit which raises a dispute covered by this Agreement. Employee must first pursue an administrative

claim or charge under federal or state discrimination laws prior to seeking arbitration of that claim or charge as required by law. The Company and Employee agree to give up their respective constitutional rights to have these claims decided in a court of law before a jury, and instead are accepting the use of final and binding arbitration.

In the event of a dispute between the Parties regarding the enforceability, applicability, or interpretation of this Agreement, the Arbitrator, and not any federal, state, or local court agency shall have the exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Agreement; including, but not limited to, any claim that all or any part of this Agreement is void or unenforceable.

### **Procedures**

The arbitration proceedings shall be conducted in accordance with the procedures set forth herein and the Employment Dispute Resolution Rules (EDR Rules) of the American Arbitration Association (AAA) in effect at the time the demand for arbitration is made (the current rules are available for review electronically at [www.adr.org](http://www.adr.org)), in the office of the AAA closest to Employee's place of employment or at a mutually agreed upon site. In the event of a conflict between the EDR Rules of the AAA and those set forth herein, the rules set forth herein shall apply. The Employee is free to hire his/her own attorney for the proceedings at his/her own expense, but is not required to do so. After a dispute arises, the Employee and Company may mutually agree, in writing, to utilize a dispute resolution service other than AAA.

### **Required Notice of All Claims**

The Company and Employee agree that the party seeking arbitration must file a written notice of its intention to arbitrate at any AAA office. The notice must set forth the names, addresses and telephone numbers of the parties; a brief statement of the nature of the dispute; the amount in controversy; the remedy sought; and the requested hearing location. The notice shall be sent to the other party by certified or registered mail, return receipt requested. Written notice to the Company, or its officers, directors, employees or agents, shall be sent to its General Counsel at 3550 Mowry Avenue, Suite 301 Fremont, California 94538. The employee will be given written notice at the last address recorded in Employee's personnel file. The notice shall be within the applicable limitations period for the claim or claims asserted. This time period shall not be extended because of informal attempts to resolve the dispute.

The party upon whom notice is served shall respond to the notice consistent with the rules of AAA.

### **Discovery**

"Discovery" is the term used to describe the ways each party can find out relevant information from the other party. All discovery shall be completed within a time frame determined by the Arbitrator (unless the Arbitrator extends the time in response to a written request made by either party before the end of this discovery period). The Arbitrator shall order such discovery as the

Arbitrator considers reasonably necessary to a full and fair exploration of the issues in dispute. Discovery will consist of the following:

- (1) Each party shall have the right to take depositions of fact witnesses and any expert witness designated by another party. The Arbitrator shall determine the number of depositions to be taken and the length of each deposition.
- (2) Each party also shall have the opportunity to obtain documents from the other side through “requests for production of documents.” The Arbitrator shall designate the number of requests which may be propounded.
- (3) Each party shall have the opportunity to obtain information from the other side through the use of “Interrogatories” and “Requests for Admission.” The Arbitrator shall designate the number of Interrogatories or Requests each side may propound.
- (4) The subpoena right specified below applies to discovery. Additional discovery may be had only where the Arbitrator so orders, upon a showing of substantial need.

### **Designation of Witnesses**

At least 30 days before the arbitration, the parties must exchange lists of witnesses, including any expert, and copies of all exhibits to be used at the arbitration.

### **Subpoenas**

Each party shall have the right to subpoena witnesses and documents for the arbitration.

### **Selection and Power of Arbitrator**

- (1) The parties shall attempt to agree upon an arbitrator to hear the dispute. If agreement is not reached within thirty (30) days of receipt of the notice for arbitration, the party seeking arbitration shall request from AAA a list of seven (7) arbitrators experienced in arbitrating labor and/or employment disputes. Each party may reject any or all of the arbitrators on the list. The AAA then assigns an arbitrator from among those acceptable to both parties. If there is no mutually acceptable arbitrator on the first list, the AAA will send a second list, from which each party again may delete any unacceptable arbitrator. If there is no mutually acceptable arbitrator on that list either, the AAA will send out a third list, where the parties will alternately strike names until only one arbitrator is left.
- (2) The Arbitrator shall apply the substantive law of the state in which the claim arose, or federal law, or both, as applicable to the claim(s) asserted. The Federal Rules of Evidence shall apply.

- (3) The Arbitrator shall have authority to hear and rule on a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure.
- (4) Either party, at its expense, may arrange for and pay the cost of a court reporter to provide a stenographic record of proceedings. The other party may obtain a copy of the record by paying the reporter's normal fee for it.
- (5) Unless Employee and Company agree otherwise, the Arbitrator will issue a final and binding written decision within 30 days after the hearing is closed. The decision shall set forth a summary of the claim(s), the factual basis and legal principles for the decision, and the award, if any, and the damages or other relief granted, if any. Judgment on any award by the Arbitrator may be entered in any court having jurisdiction.

### **Judicial Review**

Judicial review of the Arbitrator's final decision is limited to determining whether (1) the award was procured by corruption, fraud or other undue means; (2) there was corruption in the arbitrator; (3) the rights of the party were substantially prejudiced by misconduct of a neutral arbitrator; (4) the arbitrator exceeded his/her power; (5) the rights of the party were substantially prejudiced by the arbitrator's refusal to postpone the hearing upon sufficient cause being shown or the arbitrator's refusal to hear evidence material to the controversy; or (6) the arbitrator failed to disclose a ground for disqualification of which the arbitrator was aware. The judicial review may also correct an award and confirm it if it determines that there was an evident miscalculation of figures or an evident mistake in the description of the award; the Arbitrator exceeded his/her powers but the award may be corrected without affecting the merits of the decision; or the award is imperfect in a matter of form, not affecting the merits of the controversy.

### **No Loss of Rights**

This procedure, and the Agreement implementing it, does not create or destroy any individual legal rights; it only changes the forum in which those rights will be resolved. In other words, the Employee will be able to arbitrate the same claims he/she could bring in court, and the Arbitrator will apply exactly the same laws and principles as would a judge or jury. The arbitrator can award to the winning party the same recovery the party would be entitled to in a court of law subject to the same limitations used by courts of law.

### **Arbitration Fees and Costs**

The Company and Employee acknowledge that there are two types of administrative fees and costs associated with the arbitration: (i) a filing fee with the AAA and (ii) payment to the arbitrator for his/her services. The parties agree that such fees will be allocated as follows:

- (1) The Employee will pay a filing fee to AAA equal to the lower of the AAA filing fee or the fee for filing a lawsuit in the state or federal court in the jurisdiction where the arbitration claim is filed. The Company will pay the remaining portion of the filing fee.

If Employee is unable to pay the filing fee, Employee may apply for a hardship waiver from the AAA.

- (2) The Company will pay the fees and costs of the Arbitrator and any AAA administrative fees other than the Employee's portion of the initial filing fee discussed above.
- (3) Each party will be responsible for their own attorney's fee, if any; however, if any party prevails on a statutory claim which allows the prevailing party to be awarded attorney's fees, or if there is a written agreement providing for the payment of attorney's fees, the Arbitrator may award reasonable fees to the prevailing party as provided by law.
- (4) If either party pursues a claim covered by this Agreement by any means other than arbitration, the responding party will be entitled to dismissal of such action, and the recovery of all costs and attorney's fees incurred to obtain dismissal of such action.

### **Confidentiality**

The Arbitrator's decision is confidential. Neither Employee nor the Company may publicly disclose the terms of the award unless:

- Agreed to in writing by the other party, or
- Subpoenaed by a court to testify, or
- Required by law

### **Severability**

The provisions of this Agreement are severable and independent, and the invalidity, illegality or unenforceability of any provision herein shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

### **Acknowledgement of Giving Up Certain Rights**

**BY SIGNING THIS EMPLOYMENT DISPUTE RESOLUTION AGREEMENT, EMPLOYEE IS AGREEING TO HANDLE ALL DISPUTES HE OR SHE MAY HAVE WITH THE COMPANY THROUGH THIS DISPUTE RESOLUTION PROGRAM INSTEAD OF THROUGH COURT LITIGATION. BOTH THE EMPLOYEE AND THE COMPANY ARE GIVING UP THE RIGHT TO HAVE A JURY OR JUDGE DECIDE ANY DISPUTES BETWEEN THEM. I UNDERSTAND THAT I AM GIVING UP MY RIGHT TO BRING OR PARTICIPATE IN A CLASS OR OTHER REPRESENTATIVE PROCEEDING FOR ANY CLAIM GOVERNED BY THIS AGREEMENT.**

**I UNDERSTAND THAT I AM GIVING UP MY RIGHT TO A JURY TRIAL WITH RESPECT TO ANY CLAIMS I MAY HAVE AGAINST THE COMPANY.**