

HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

BINDING ARBITRATION AGREEMENT

PLEASE TAKE THE TIME TO READ THE FOLLOWING MATERIAL. IT APPLIES TO ANY PERSON SUBMITTING AN APPLICATION OR ACCEPTING EMPLOYMENT AND EMPLOYEES OF THE HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT (HABD). IT WILL GOVERN ALL CLAIMS, DISPUTES AND LITIGATION FOR APPLICANTS AND EMPLOYEES OF HABD. By signing or submitting your application, you are agreeing to submit all claims against HABD to binding arbitration. Please read the following very carefully. If hired, this Agreement will govern your employment at HABD.

Arbitration Agreement

In consideration of each party's promise to resolve Claims by arbitration in accordance with the provisions of this Agreement as governed by HABD rules of arbitration, incorporated by reference in every Arbitration Agreement (available upon request), and as a condition of employment at the HABD, I agree that any controversy or claim whatsoever arising out of or relating to my application, employment, continued employment, employment relationship or the termination of that relationship with the HABD shall be settled by arbitration whether made against HABD or affiliated entities, its individual officers, directors, commissioners, employees or agents. All controversies and claims will be submitted for final and binding arbitration.

Claims covered include, without limitation, claims for wages or other compensation due, claims for breach of any contract or covenant, express or implied, failure to hire, tort claims, claims for discrimination or harassment on bases which include, without limitation, race, sex, sexual orientation, religion, national origin, age, marital status, disability or medical condition, claims for benefits (except where excluded in this Agreement), and claims for violation of any federal, state or other governmental constitution, statute, ordinance, regulation, or public policy including, without limitation, Title VII of the Civil Rights Act of 1964, as amended, any other civil rights statutes, Age Discrimination in Employment Act, The Americans with Disabilities Act, Family and Medical Leave Act, Equal Pay Act, the Fair Labor Standards Act or other wage statutes, the WARN Act, or any federal or state law affecting employment in any manner whatsoever.

All controversies or claims shall be resolved by binding arbitration in accordance with the arbitration rules established by HABD. Judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. In the event a claim is brought pursuant to any statute or law providing for the allocation of attorney's fees or cost, the arbitrator shall have the authority to make such allocations in accordance with the applicable law or statute.

Claims not covered by this Agreement involves suits brought on behalf of HABD or employee/applicant seeking a temporary restraining order, preliminary injunction and/or permanent injunction ("injunctive relief") based upon violation of non-compete, and/or confidentiality, and/or non disclosure, and/or solicitation agreements, in the event there is immediate and irreparable injury, loss or damage. The parties agree that neither shall seek monetary damages under this exception to the agreement to arbitrate. However, in the event that HABD is successful in obtaining injunctive relief as defined herein, employee/applicant shall be liable for payment of employer's attorneys' fees, costs and expenses incurred in connection with obtaining injunctive relief. Additional claims not covered by this Agreement are for workers compensation (with the exception of retaliatory discharge under workers compensation), unemployment compensation, company benefits or welfare plans that contain an appeal procedure for resolution of disputes.

The employee and applicants understands that class and collective actions are not permitted under this Agreement and covenants that employee and applicants will not pursue any class or collective actions or

serve as class representative against HABD, but rather will pursue all claims individually via arbitration as outlined herein.

Exclusive Remedy

The parties shall be precluded from bringing or raising in court or another forum any dispute that was or could have been brought or raised under the procedures set forth in this Agreement. For claims covered by this Agreement, arbitration is the parties' exclusive legal remedy. The arbitrator has exclusive authority to resolve any dispute relating to the applicability or enforceability of this Agreement.

Internal Efforts

As a pre-requisite for submitting an employment dispute to arbitration (this requirement does not apply to applicants who were denied employment), both HABD and I agree to make good faith efforts at resolving the dispute through the internal grievance process according to the HABD policy. The appropriate grievance forms and procedures may be obtained from the HABD Human Resources Department. Rules governing the arbitration process may also be obtained from the Human Resources Department. Only when those internal efforts fail will an employment dispute be submitted to a final and binding arbitration under the terms of this Agreement. This will be HABD and the employee's full, final and complete recourse for resolution of employment disputes.

Fees and Costs

The parties agree to share equally the arbitrator's fees and expenses. The HABD will advance the payment for fees and expenses for the arbitrator up to and through the arbitration management conference. All other costs and expenses associated with the arbitration, including, without limitation, each party's respective representative's fees shall be borne by the party incurring the expense. Fee and expense allocation, and reimbursement for advance payments will be determined at the arbitration management conference. In the event of an extreme hardship on an employee (as determined by the arbitrator and pursuant to HABD arbitration rule 15), the arbitration fees may be waived or reduced.

Neutral Arbitrator

Unless the parties agree otherwise, for all hearings one (1) neutral arbitrator shall conduct the hearing and issue a decision.

Initiation of the Arbitration Process

An employee or applicant initiating an arbitration claim must give written notice of any claim to the HABD Executive Director within 45 days from the date the nonbinding decision was rendered through the HABD internal grievance process or within 45 days from the date employment was denied. The notice shall be made in accordance with the HABD arbitration rules. Copies of the rules are available upon request from the HABD Human Resources Department.

Arbitration Procedures

Arbitration pursuant to this Agreement shall be conducted in accordance with the procedures set forth in the HABD arbitration rules in effect at the time the claim is filed, unless the law or the Agreement of the parties provide otherwise. In the event this Agreement conflict with the arbitration rules, the arbitration rules shall govern. In the event federal and state rules conflict with the HABD arbitration rules, the federal and state rules shall govern the proceedings.

HABD retains the right to modify or supplement the arbitration rules on thirty (30) days' written notice and the rules in effect at the time a claim was received governs the claim.

Representation

Parties may act on their own behalf or may be represented by an attorney or by a person who makes an appearance on behalf of a party. All parties and their representatives must follow the procedures, HABD arbitration rules, and the appropriate federal or state rules of evidence, civil procedure, and appellate procedure. The arbitrator may impose sanctions against any offending party.

Governing Law

In reaching a decision, the arbitrator shall apply the governing substantive law of the state of Alabama and or applicable federal law.

The parties expressly agree that the Federal Arbitration Act (FAA) governs the enforceability of this Agreement

Location of Arbitration

Any arbitration conducted under this Agreement shall take place in Birmingham, Alabama unless an alternative location is chosen by the mutual agreement of the parties.

Date and Time of Hearing

The arbitrator shall have the authority to set the date and time of the hearing in consultation with the parties.

Rights

The parties understand that by signing this agreement, and except for those matters excluded, the employee, applicants and HABD waive any right to have employment related disputes litigated in a court or by jury trial.

Statute of Limitation

Any claim governed by this Agreement shall be barred if not filed within 45 days from the nonbinding decision rendered through the HABD internal grievance process for employees and/or within 45 days from the date employment was denied for applicants.

No Retaliation

I understand that HABD has a policy of no retaliation. Under no circumstances will an HABD employee be retaliated against in any way for invoking the Agreement in good faith to seek resolution of a dispute.

Not an Employment Agreement

This Agreement is not, and shall not be construed to create, any contract of employment, expressed or implied, nor shall this Agreement in any way alter the at-will employment status of the employee. All employees are at-will in that either HABD or the employee may discontinue the employment relationship at any time, for any reason or no reason with or without notice.

Severability

A court construing this Agreement may modify, or interpret it in order to render it enforceable. If this Agreement is declared unenforceable and cannot be administered, interpreted, or modified to be enforceable, the parties agree to waive any right to a jury trial with respect to any dispute to which this Agreement applies. If any provision of this Agreement is adjudged to be void or otherwise unenforceable, in whole or in part, such adjudication shall not affect the validity of the remainder of the Agreement.

Term- Modification- Revocation

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

HABD reserves the right to change this Agreement upon thirty (30) days' written notice to employees.

Entire Agreement

This Agreement sets forth the complete agreement of the parties on the subject of arbitration of the covered claims defined above and supersedes any prior or contemporaneous oral or written understanding on these subjects. No party is relying on any representations, oral or written, on the subject or the effect, enforceability or meaning of this Agreement, except as specifically set forth in this Agreement. This Agreement shall be binding upon all successors, assigns, representative, heirs, executor, or administrators.

Applicant/
Employee: _____
(Print Name)

(Signature)

Date _____

HABD
Representative: _____
(Print Name)

(Signature)

Date _____