

VERSION DATED 1-21-05  
ARBITRATION AGREEMENT

Agreement made, effective as of \_\_\_\_\_, by CHIPPEWA HEALTH ACCESS COALITION, a corporation organized and existing under the laws of the State of Michigan, with its principal office located at Sault Ste. Marie, Michigan, referred collectively to in this agreement as the company, and \_\_\_\_\_ referred to in this agreement as the employee.

RECITALS

A. The parties expect that differences may arise between the company and the employee arising out of or relating to the employee's employment with the company or the termination of that employment.

B. The parties agree that resolution of any differences in the courts is rarely timely or cost-effective for either party.

C. The company and the employee accordingly wish to arbitrate claims in order to establish and gain the benefits of a speedy, impartial and cost-effective dispute resolution procedure.

D. THE PARTIES RECOGNIZE THAT THIS AGREEMENT TO ARBITRATE SHALL WAIVE EACH PARTIES RIGHT TO HAVE CLAIMS RESOLVED IN A JUDICIAL FORUM BY EITHER TRIAL BEFORE A JUDGE OR TRIAL BEFORE A JURY.

E. THE PARTIES RECOGNIZE THAT THIS AGREEMENT TO ARBITRATE SHALL REQUIRE EITHER PARTY TO COMMENCE ANY ACTION OR OTHER LEGAL PROCEEDING NOT MORE THAN SIX MONTHS AFTER THE EVENT COMPLAINED OF AND THEY AGREE TO WAIVE ANY STATUTE OF LIMITATIONS TO THE CONTRARY EXCEPT FOR ACTIONS UNDER THE FEDERAL FAIR LABOR STANDARDS ACT WHICH SHALL FOLLOW THE STATUTORY LIMITATIONS PERIOD AND CLAIMS UNDER THE FEDERAL AMERICANS WITH DISABILITIES ACT WHICH SHALL HAVE A 12 MONTH LIMITATIONS PERIOD.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

SECTION ONE.

AGREEMENT TO ARBITRATE

Except as otherwise provided in this agreement, the company and the employee consent to the resolution by arbitration of all claims or controversies for which a court otherwise would be authorized by law to grant relief, whether or not arising out of, relating to or associated with the employee's employment with the company, or its termination, which the company may have against the employee or that the employee may have against the company or against its officers, directors, employees or agents in their capacity as such or otherwise. The termination claims covered by this agreement include, but are not limited to: claims for wages or other compensation due; claims for breach of any contract or covenant, express or implied; tort claims, claims for discrimination, including but not limited to discrimination based on race, sex, religion, national origin, age, marital status, sexual orientation, disability or medical condition; claims for benefits, except as excluded in the following Section; and claims for violation of any federal, state or other governmental constitution, statute, ordinance or regulation.

## SECTION TWO.

### CLAIMS NOT COVERED BY THIS AGREEMENT

This agreement does not apply to or cover claims for workers' compensation benefits; claims for unemployment compensation benefits; claims by the company for injunctive or other equitable relief for unfair competition or the use or unauthorized disclosure of trade secrets or confidential information; and claims based upon an employee pension or other benefit plan the terms of which contain an arbitration or other non-judicial dispute resolution procedure in which case the provisions of such plan shall apply. Nothing in this agreement affects an employee's right to file a discrimination charge with an administrative agency such as THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, STATE OF MICHIGAN UNEMPLOYMENT COMMISSION, OR STATE OF MICHIGAN WORKERS COMPENSATION COMMISSION.

## SECTION THREE.

### ARBITRATION PROCEDURES

Any arbitration required by this agreement shall be conducted in accordance with the procedures specified in the FEDERAL ARBITRATION ACT at 9 USC 1 and in accordance with the rules of appellate review, right to representation, and procedure as stated in REMBERT v. RYAN'S FAMILY STEAK HOUSES, INC. (a Michigan appellate court decision) as supplemented by the attached exhibit entitled "Arbitration Procedures," which is incorporated by reference and which the employee acknowledges having received and read prior to signing this agreement.

## SECTION FOUR.

### CONSIDERATION

Each party's promise to resolve their claims by arbitration in accordance with the provisions of this agreement, rather than through the courts, is consideration for the other party's like promise. In addition, the consideration by the company of the employee's application for employment, or employment by company, or participation in the company's bonus, profit sharing, or stock option program are independent considerations for employee's agreement to arbitrate termination claims.

## SECTION FIVE.

### INTERSTATE COMMERCE

Employee understands and agrees that the company is engaged in transactions involving interstate commerce and that his or her employment involves such commerce.

## SECTION SIX.

### TERM; MODIFICATION AND REVOCATION

This agreement shall survive the employer-employee relationship between the company and the employee and shall apply to any termination claim whether it arises or is asserted during or after termination of the employee's employment with the company. This agreement can be modified or revoked only by a writing signed by both parties that refers to this agreement and specifically states an intent to modify or revoke this agreement. In addition the company may, prior to the demand to arbitrate but not after, unilaterally upon 30 days advance written notice to the employee modify the arbitration procedures attached hereto at EXHIBIT A.

## SECTION SEVEN.

### CONSTRUCTION AND ENFORCEABILITY

Any issue or dispute concerning the formation, applicability, interpretation, or enforceability of this agreement, including any claim or contention that all or any part of this agreement is void or voidable, shall be subject to arbitration as provided in this agreement. The arbitrator, and not any federal, state, or local court or agency, shall have authority to decide any such issue or dispute. The decision of an arbitrator on any such issue or dispute, as well as on any termination claim submitted to arbitration as provided in this agreement, shall be final and binding upon the parties.

If any provision of this agreement is adjudged to be void or otherwise unenforceable, in whole or in part, or in conflict with a mandatory provision of applicable law such adjudication shall not affect the validity of the remainder of the agreement, and the conflicting provision shall be modified automatically so as not to be void or otherwise unenforceable, or in conflict with a mandatory provision of applicable law. In the event of automatic modification with respect to a provision the remainder of the rules and procedures shall not be affected and the claims shall proceed to arbitration under the remaining provisions of this agreement

Captions and section headings used in this agreement are for convenience of reference only and shall not be deemed part of the contents of this agreement and shall not affect its interpretation.

Either party may bring an action in any court of competent jurisdiction to compel arbitration under this agreement and to render judgement to enforce the arbitration award in accordance with the arbitrator's decision. Except as otherwise provided in this agreement, both the company and the employee agree that neither party shall initiate or prosecute any lawsuit or administrative action (other than an administrative charge of discrimination) that relates in any way to any termination claim covered by this agreement.

## SECTION EIGHT.

### NOT AN EMPLOYMENT AGREEMENT

This agreement is not, and shall not be construed to create, any contract of employment, express or implied.

## SECTION NINE.

### SOLE AND ENTIRE AGREEMENT

This is the complete agreement of the parties on the subject of arbitration of disputes, except for any arbitration provision contained in any pension or other benefit plan. This agreement supersedes any prior or contemporaneous oral or written agreement or understanding on the subject. In executing this agreement, neither party is relying on any representation, oral or written, on the subject of the effect, enforceability or meaning of this agreement, except as specifically set forth in this agreement.

## SECTION TEN.

### VOLUNTARY AGREEMENT

Employee acknowledges that he or she has carefully read this agreement, that he or she

understands its terms, that all understandings between the employee and the company relating to the subjects covered in this agreement are contained in it, and that he or she has entered into this agreement voluntarily and not in reliance on any promises or representations by the company other than those contained in this agreement itself. Without limiting the above, employee further acknowledges and agrees that pursuant to this agreement employee is giving up any right he or she might possess to have the disputed claims litigated in a court or jury trial.

Employee further acknowledges that he or she has had a reasonable period of time to review and consider this agreement before signing it and that he or she has had an opportunity to discuss this agreement with his or her personal legal counsel and has used that opportunity to the extent he or she wishes.

We agree that any action or suit against either of us arising out of or relating to the employment or termination of employment must be commenced not more than six months after the event complained of and we agree to waive any statute of limitations to the contrary except for actions under the Federal Fair Labor Standards Act which shall follow the particular statutory limitations period and claims under the Federal Americans with Disabilities Act which shall have a 12 month limitations period.

In witness, each party to this agreement has caused it to be executed at SAULT STE. MARIE, MICHIGAN on \_\_\_\_\_.

\_\_\_\_\_  
BY:  
FOR COMPANY

\_\_\_\_\_  
BY:  
EMPLOYEE

#### EXHIBIT A.

#### ARBITRATION PROCEDURES

#### SECTION ONE.

#### REQUIRED NOTICE OF ALL CLAIMS

The aggrieved party must, file a request for arbitration with the AMERICAN ARBITRATION ASSOCIATION (tribunal) on such forms as are required by the tribunal, and give written notice of any claim (including an appeal of an earlier decision rendered during the company's grievance process) to the other party within six months after the event complained of.

Written notice to the company, or its officers, directors, employees or agents, shall be sent or delivered to *the Company President* at the home office of the company. The employee will be given written notice at the last address recorded in the employee's personnel file.

The written notice shall identify and describe the nature of all claims asserted and the facts upon which such claims are based.

The notice shall be personally delivered to the other party or sent by certified or registered mail, return receipt requested.

## SECTION TWO.

### DISCOVERY

"Discovery" is the term used to describe the way each party can find out relevant information from the other party. Under this procedure, discovery consists of the following:

(a). Each party shall have the right to take the deposition of any individual and any expert witness designated by either party.

(b). Each party shall have the opportunity to obtain documents from the other side through a request for production of documents.

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. Any disputes regarding depositions, requests for production of documents or other discovery shall be submitted to the arbitrator for determination.

## SECTION THREE.

### DESIGNATION OF WITNESSES

At least 90 days before the arbitration, the parties must exchange lists of witnesses, including any experts, and copies of all exhibits intended to be used at the arbitration.

## SECTION FOUR.

### SUBPOENAS

Each party shall have the right to subpoena witnesses and documents for the arbitration by requesting a subpoena from the arbitrator. Any such request shall be served on the other party, who shall advise the arbitrator in writing of any objections that party may have to issuance of the subpoena within 10 calendar days of receipt of the request.

## SECTION FIVE.

### ARBITRATION PROCESS

Except as otherwise provided in this procedure, or by mutual agreement of the parties, any arbitration shall be administered by the AMERICAN ARBITRATION ASSOCIATION as tribunal in accordance with the then current employment arbitration procedures and rules of the *American Arbitration Association*.

The arbitration or any mediation shall be held in the City of Sault Ste. Marie.

Prehearing and posthearing procedures may be held by telephone or in person as the tribunal or arbitrator deems necessary. The parties will cooperate with each other to hold and schedule any

arbitration in a manner to minimize the disruption and expense to the parties.

The arbitrator shall be selected as follows:

(a). If the parties cannot agree on an arbitrator, the tribunal shall then provide the names of seven available arbitrators experienced in labor and employee law matters along with their resumes and fee schedules.

(b). Each party may strike a single name on the list it deems unacceptable.

(c). The parties shall strike names alternately until only one remains.

(d). The party who did not initiate the claim shall strike first.

The arbitrator shall interpret company policy or rules and regulations and apply the substantive law (and the law of remedies, if applicable) of the state in which the claim arose, or federal law, or both, as applicable to the claims asserted. All remedies (legal or equitable) available under the applicable laws are preserved and are available for the Arbitrator to consider and order. Neither the Federal Rules of Evidence nor the Rules of Evidence of any State shall apply. In reaching his or her decision, the arbitrator shall have no authority to change or modify any lawful company policy, rule or regulation or this agreement. The arbitrator, and not any federal, state or local court or agency, shall have exclusive and broad 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 voidable. The arbitration shall be final and binding upon the parties.

The arbitrator shall have authority to entertain a motion to dismiss or motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure.

The Arbitrator shall arrange for a court reporter to provide a stenographic record of proceedings.

Either party, upon request at the close of hearing, shall be allowed to file a posthearing brief. The time for filing such brief shall be set by the arbitrator.

The arbitrator shall render an award and opinion in writing and shall include findings of fact and conclusions of law in sufficient detail to allow meaningful judicial review of such decision.

## SECTION SIX.

### JUDICIAL REVIEW

Either party may bring an action in any court of competent jurisdiction to compel arbitration under this agreement within the times proscribed by law for filing of such an action in a court of law or equity, or to enforce the arbitration award within the time set by the Federal Arbitration Act.

A party opposing enforcement of an award may not do so in an enforcement proceeding, but must bring a separate action in any court of competent jurisdiction to appeal and set aside the award. Such appeal action must be filed within 93 days of such award.

## SECTION SEVEN.

## ARBITRATION FEES AND COSTS

The parties shall equally share all such fees and costs. Each party will deposit funds for the party's share of the arbitrator's fee and expenses of the Arbitration, in an amount and manner determined by the tribunal.

(A). Each party shall pay for its, his or her own other expenses associated with the arbitration process and their own attorney fees, if any. However, if any party prevails on a statutory claim entitling the prevailing party to attorney fees or costs, or if there is a written agreement providing for fees or costs, then the arbitrator may award reasonable fees or costs to the prevailing party in accordance with such statute or agreement.

(B). The tribunal fees, the arbitrators fees and his or her expenses are taxable as costs the arbitrator may apportion in any award decision.

When the subject matter of the arbitration concerns an Employee's claim to vindicate a Federal or State statutory right, as an alternative to this sections requirement that each party advance its share of the required forum fees and costs, the employee may request at the time the request for arbitration is filed that its advance deposit for the forum fees and costs be advanced by the Company due to financial hardship of the employee. Before action on the merits of the primary claim commence the Arbitrator (at the initial expense of the Company) shall determine if the required deposit shall be advanced on behalf of the Employee by the Company. The inquiry made to determine this shall turn upon the employee's ability to pay its share of the forum fees and costs at issue or whether the forum's fees and costs in a particular case are so expensive as to deter arbitration by the class of such similarly situated employees by job description and socioeconomic background. This paragraph shall not impact the Arbitrator's authority to apportion the total of all fees and costs as allowed in subsection (A) and (B) above.