

# SERVICEMASTER *WE LISTEN* DISPUTE RESOLUTION PLAN

## 1. INTRODUCTION

I understand and agree that this ServiceMaster We Listen Dispute Resolution Plan, 2012 revision (“*We Listen*” or the “Plan”), is designed to provide an exclusive, easy-to-use, three-step program for economical and prompt resolution of claims or controversies (“Disputes”) between The ServiceMaster Company, including its subsidiaries and affiliates (the “Company”) and all present and former employees and applicants for employment (collectively “Associates”). The Plan includes a mutual agreement to arbitrate covered Disputes which is the exclusive, final and binding remedy for both the Company and me and a class action waiver. I understand that neither the Company nor I will be allowed to bring any Disputes to a court or jury for a resolution except as set forth in the Plan. Please see Clause 7 for Associates who have lived and worked in California.

## 2. WHO IS COVERED

The Plan covers any Associate who is in the employ of the Company on or after January 1, 2009, and any person seeking or has sought employment on or after that date.

## 3. DISPUTES COVERED BY THE PLAN

The Company and I mutually consent to resolution under the Plan and to final and binding arbitration of all Disputes, including, but not limited to, any preexisting, past, present or future Disputes, which arise out of or are related to my application for employment, my employment, the termination of my employment, or reemployment, on-duty or off-duty, in or outside the workplace, that I may have against any of the following: (i) the Company; (ii) its current and former officers, directors, employees, or agents in their capacity as such or otherwise; (iii) the Company's parent, subsidiary, and affiliated entities; and/or (iv) all successors and assigns of any of them, or that the Company may have against me. Further, Disputes include any claim or controversy regarding the Plan itself or its interpretation, applicability, unconscionability, arbitrability, enforceability or formation, with the exception noted in the Class Action Waiver clause.

The Plan covers the following legal claims that either the Company or I could bring relating to my employment relationship with the Company, including, but not limited to, those related to: (i) discrimination based on race, creed, color, religion, sex, age, disability, leave status, national origin, ancestry, sexual orientation, marital status, veteran or military reserve status, privacy or any other characteristic protected by federal, state or local law, (ii) retaliation, including, but not limited to, whistleblower status or retaliation for filing a workers' compensation claim, (iii) torts, including, but not limited to, defamation, invasion of privacy, infliction of emotional distress, or workplace injury not otherwise covered by applicable workers' compensation laws, (iv) all employment related laws, including, but not limited to, Title VII of the Civil Rights Act, the Civil Rights Acts and amendments of 1866, 1871 and 1991, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Americans with Disabilities Act, the Equal Pay Act, Genetic Information Nondiscrimination

Act, the Family and Medical Leave Act, the Worker Adjustment Retraining and Notification Act, the Fair Labor Standards Act, and any amendments to these laws, and any such related or similar state or local laws, (v) any federal, state or local law or common law doctrine for breach of contract, promissory estoppel, wrongful discharge or conversion, (vi) claims for interference with rights under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), or other claims concerning administration of ERISA plans not excluded below, and (vii) claims under federal or state law regarding wages, wage penalties, classification, reimbursement of expenses, compensation, stock or incentive bonus plans, or intellectual property rights and associated laws.

## 4. CLAIMS NOT COVERED BY THE PLAN

I agree that the following claims are not considered as a covered Dispute and are excluded under the Plan: (i) Workers' Compensation claims; (ii) unemployment compensation claims; (iii) claims for benefits under employee benefit plans covered by ERISA that contain an appeal procedure or other exclusive and binding dispute resolution procedure in the respective plan; (iv) claims under the National Labor Relations Act; and (v) the Dodd-Frank Wall Street Reform and Consumer Protection Act or other federal laws barring pre-dispute arbitration agreements. I also agree that a Dispute does not include the adoption, change, revision, interpretation or discontinuance of Company policies, practices, rules and procedures, unless the Company's actions would result in stating a claim for unlawful discrimination, retaliation or violation of a legally protected right.

## 5. HOW TO INITIATE *WE LISTEN* TO RESOLVE DISPUTES

To “Initiate” *We Listen* to resolve a Dispute, I agree that I must notify any of the following: my manager, a Human Resources representative, the Associate Relations Department, the Ethics Department, or the Ethics Helpline (**1-800-937-9888**) (“Helpline”). The filing of a claim in a court or administrative agency will also be considered as a request to Initiate the Plan. I further understand that I must follow the steps of the Plan in order and the failure to exhaust these contractual remedies may be raised as an affirmative defense in arbitration. Upon Initiation, a Human Resources representative will be appointed to review the Dispute and investigate my concerns (“Ombudsman”). I recognize that the Company cannot respond or find a solution if it does not understand the facts or the problem. During the investigation the Ombudsman may try to resolve the Dispute through informal discussions. The investigation may take up to 30 days to complete. If more time is needed for the investigation and informal discussion, 15 days may be added. At times the Ombudsman may seek assistance from other Human Resource managers or other appropriate resources, and work with local management to reach a satisfactory resolution of the Dispute.

The Plan allows me to use informal avenues to raise my concerns with my managers. Many times addressing these concerns with my immediate manager will lead to a resolution. If I feel uncomfortable raising these concerns with my manager,

or my manager does not respond to my concerns, I may raise the concern directly with Human Resources, Associate Relations, the Ethics Department, or I can call the Ethics Helpline. I understand that I will not be retaliated against for initiating or pursuing the *We Listen* dispute resolution steps.

At the end of the investigation and informal discussions the Ombudsman will provide a “Final Response” to my Dispute. If I am not satisfied with the Final Response to my Dispute I may request Step One in the Dispute Resolution Process, Senior Executive Review. I will have 10 days from the date of the Final Response to make the request to the Ombudsman.

## 6. DISPUTE RESOLUTION STEPS

### Step One: Senior Executive Review

A committee of senior executives of the Company reviews the facts and decisions made by the applicable manager(s) in order to correct mistakes and misunderstandings. The Ombudsman will present the Dispute to a rotating committee of up to five senior executives to review *We Listen* Disputes. I may, but am not required, to submit a written statement to the committee, which will review the facts and either ratify the original resolution or recommend an alternative solution. The Senior Executive Review process will normally take no more than 30 days and I will be informed in writing of the outcome by the Ombudsman. If the Dispute is not resolved to my satisfaction during the Senior Executive Review process, I may move forward with Step Two of the Plan, Mediation.

### Step Two: Mediation

Mediation is a non-binding process where a neutral third-party (a mediator) works with the parties to reach a mutually agreeable settlement of the Dispute. If a settlement is not reached, the mediator has no authority to impose one. I may invoke Mediation either by making a written request to commence Mediation to the American Arbitration Association (“AAA”), or to the Ombudsman. This request for Mediation must be received within 10 days of being notified of the outcome of the Senior Executive Review. I can obtain the form from the Ombudsman or it is available on the AAA website ([www.adr.org](http://www.adr.org)). The Company will pay all of the fees and costs of Mediation. If a resolution is not reached in mediation, I may move to the final step of *We Listen*, final and binding Arbitration.

### Step Three: Arbitration

Arbitration is a formal dispute resolution process where an arbitrator, like a judge, takes evidence at a hearing and makes a final binding decision which may be enforced against either party. If I am not satisfied with the results of the Mediation, I may invoke Arbitration by serving a written request for Arbitration on AAA, or to the Ombudsman. This request for Arbitration must be received within 10 days of close of the Mediation. I can obtain the form from the Ombudsman or it is available on the AAA website ([www.adr.org](http://www.adr.org)). The

Company will pay all of the fees and costs of Arbitration. I understand that this is the last step of *We Listen* and the decision of the arbitrator will be final and binding on both the Company and me.

## 7. CALIFORNIA ASSOCIATES ONLY

If I was or am an Associate assigned to a branch or unit, or work in California, I agree that Step One as described in the Dispute Resolution Steps (Clause 6) is not mandatory. After I Initiate *We Listen* under Clause 5, I may take all Disputes directly to Step Two, Mediation, and upon completion, then to Step Three, Arbitration. However, pursuant to this Plan, Steps Two and Three are mandatory.

## 8. JURY TRIAL WAIVER AND EXCLUSIVE REMEDY

**I HEREBY WAIVE MY RIGHT TO A COURT OR JURY TRIAL AND AGREE THAT THE PLAN IS THE EXCLUSIVE REMEDY THE COMPANY AND I HAVE FOR RESOLUTION OF DISPUTES.** Accordingly, I may not pursue relief for any Dispute in any federal or state court of law or administrative tribunal except as stated in the Plan. If I do file a claim in any federal or state court or administrative tribunal, the Company may seek a stay or dismissal of the claim and compel arbitration and the dispute resolution steps under the Plan. **I UNDERSTAND AND AGREE THAT MY SOLE AND FINAL LEGAL REMEDY IS BINDING ARBITRATION.** The only exception is that either party may seek an injunction in a court if interim and/or immediate relief is necessary to preserve the status quo or the meaningfulness of the arbitration process pending the outcome in arbitration, to the extent allowable under federal or state law.

## 9. THE ROLE OF ADMINISTRATIVE AGENCIES

Disputes may be brought before an administrative agency to the extent applicable law requires access to an agency notwithstanding the existence of this Plan, including, but not limited to, claims or charges brought before the Equal Employment Opportunity Commission, the U.S. Department of Labor, the National Labor Relations Board, the Office of Federal Contract Compliance Programs and other federal and state law enforcement authorities. Nothing in the Plan shall be construed to: (i) relieve any party of the duty to exhaust administrative remedies by filing a charge or complaint with an administrative agency and obtaining a right to sue notice, where otherwise required by law, or (ii) prevent either party from cooperating with a federal or state body as required by law. I further understand that the Company will not retaliate against me for filing a claim with an administrative agency. I understand, however, that because my exclusive remedy is provided by the Plan, I will not receive a double recovery or be eligible to receive any monetary benefit from any action brought by an administrative agency except as required by law.

## 10. CLASS ACTION WAIVER

**I HEREBY WAIVE ANY RIGHT FOR ANY DISPUTE TO BE BROUGHT, HEARD, DECIDED OR ARBITRATED AS A CLASS AND/OR COLLECTIVE ACTION.** Notwithstanding any other clause contained in this Plan, the preceding sentence shall not be severable from this Plan in any

instance in which the Dispute to be arbitrated is brought as a class and/or collective action. **I ALSO HEREBY WAIVE ANY RIGHT FOR ANY DISPUTE TO BE BROUGHT, HEARD, DECIDED OR ARBITRATED AS A REPRESENTATIVE ACTION.** However, this representative action waiver may be severed if it would otherwise render this Plan unenforceable in any action brought under a private attorneys general law.

I understand that I will not be retaliated against, disciplined or threatened with discipline as a result of exercising rights under Section 7 of the National Labor Relations Act by the filing of or participation in a class, collective or representative action in any forum, however, the Company may lawfully seek enforcement of this Plan and the Class Action Waiver under the Federal Arbitration Act and seek dismissal of such class, collective or representative actions or claims. Notwithstanding any other clause contained in this Plan, any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void or voidable may be determined only by a court of competent jurisdiction (by a Federal court, if such court has jurisdiction) and not by an arbitrator.

#### **11. TIME LIMITS FOR COMMENCING *WE LISTEN* AND REQUIRED NOTICE OF ALL CLAIMS**

I agree that Disputes must be Initiated with the Plan prior to the end of the applicable statute of limitations. The statute of limitations will be tolled (i.e., stayed) upon Initiation and during the Dispute Resolution Steps.

#### **12. REPRESENTATION**

I understand that I have the right to be represented by the attorney of my choice, to review the terms of the Plan and provide advice, and at Mediation and/or Arbitration. I understand, however, that I am solely responsible for the payment for my attorney's fees and the Company will not reimburse me. Under some federal and state laws, the arbitrator may award attorney's fees to me if I am the prevailing party in Arbitration.

#### **13. GOVERNING LAW**

As the Company is headquartered in Tennessee and both parties have and will continue to have substantial contacts with the State of Tennessee in the performance of this Plan, I expressly agree that this Plan shall be construed, interpreted and its validity and enforceability determined, strictly in accordance with the Federal Arbitration Act (9 U.S.C. §1, *et seq.*) and the laws of the State of Tennessee, without applying its conflicts of laws principles, unless otherwise required by applicable law. I agree that the Plan evidences a transaction involving interstate commerce. I further agree that this Plan and any revisions are retroactive and apply to any pre-existing Disputes, except those which I may have already Initiated under the Plan.

#### **14. PROCEDURES AND RULES**

Any mediation or arbitration will be conducted by the American Arbitration Association ("AAA") under its Employment Arbitration and Mediation Procedures in effect at the time of Initiation, except as modified by the Plan or as otherwise

mutually agreed in writing. The AAA Rules are available at [www.adr.org/employment](http://www.adr.org/employment) as well as at [www.servicemaster.com](http://www.servicemaster.com). This Plan specifically prohibits class, collective or representative arbitrations even if allowed under AAA rules. The arbitrator shall be a member of the Bar of the state in which the arbitration is heard, if available. Otherwise, the arbitrator shall be a retired judge from the jurisdiction. I agree that the venue of the arbitration of my Dispute shall be within 50 miles of the branch or unit where I was assigned or I may specify the Western District of Tennessee.

#### **15. JURISDICTION OF ARBITRATOR**

- a) The arbitrator may award to me or the Company any remedy to which that party is entitled under applicable law (including, but not limited to, legal, equitable and injunctive relief), but such remedies are limited to those that would be available to a party in a court of law for the Disputes presented to and decided by the arbitrator.
- b) The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any Dispute relating to the interpretation, construction, applicability, unconscionability, arbitrability, enforceability or formation of the Plan including, but not limited to, any claim that all or any part of the Plan is void or voidable. However, the preceding sentence shall not apply to the clause entitled "Class Action Waiver."
- c) The arbitrator shall have jurisdiction to hear and rule on pre-hearing disputes and is authorized to hold prehearing conferences by telephone or in person, as the arbitrator deems necessary. The arbitrator shall have the authority to entertain 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. The arbitrator shall have the authority to issue appropriate protective orders to ensure the confidentiality of the proceedings or safeguard personal or privacy rights. Should any party refuse or neglect to appear for, or participate in, the arbitration hearing, the arbitrator shall have the authority to decide the dispute based upon whatever evidence is then before him or her.
- d) The arbitrator shall not have authority to combine or aggregate similar claims from more than one claimant or conduct or oversee any class, collective or representative action. Nor shall the arbitrator have authority to make an award to any person or entity not a party to the arbitration.
- e) The arbitrator shall render an award by written opinion no later than 30 days from the date the arbitration hearing concludes or the post-hearing briefs (if requested) are received, whichever is later, unless the parties agree otherwise. The opinion shall be in writing and include the factual and legal basis for the decision.

**16. JUDICIAL REVIEW**

Judicial review shall be governed by the Federal Arbitration Act. To the extent necessary to enforce it, the decision of the arbitrator may be entered and enforced as a final judgment in any court of competent jurisdiction.

**17. CONFIDENTIALITY**

Except to the extent prohibited or otherwise required by law, I agree to maintain the confidentiality of the arbitration, except: (i) to the extent agreed upon otherwise, (ii) as may be otherwise appropriate in response to a governmental agency or legal process, provided that each immediately serves upon the other the request in order to allow an opportunity to object or seek a protective order, (iii) as is necessary to enforce the arbitrator’s award, or (iv) if the law provides to the contrary.

**18. CONSTRUCTION**

Except as provided in Clause 9, “Class Action Waiver,” above, if any provision of this Plan is adjudged to be void, voidable or otherwise unenforceable, in whole or in part, such provision shall, without affecting the validity of the remainder of the Plan, be: (i) modified to the extent necessary to render such term or provision enforceable preserving to the fullest extent possible the intent and agreements herein, or (ii) to the extent such modification is not permissible, severed from this Plan. All remaining provisions shall remain in full force and effect. A waiver of one or more provisions of this Plan by any party shall not be a waiver of the entire Plan or any other provision of the Plan.

**19. CONSIDERATION**

I and the Company agree that the mutual obligations by the Company and me to arbitrate Disputes, my continued employment, the Company’s processing and evaluation of my application for employment, and the Company’s agreement to pay the applicable fees for mediation and arbitration, provide adequate consideration for this Plan. Further, if I am a current Associate on the effective date of this Plan revision, I acknowledge that I am already subject to the *We Listen* program, including, but not limited to, its obligation to arbitrate Disputes, and I agree to the Plan as evidenced by my continued employment after receiving notice of this revision to the Plan, and other valuable consideration. Submission of an application for employment, regardless of form, constitutes consent by both the applicant and the Company to be bound by the Plan or any subsequent waiver.

**20. AT WILL EMPLOYMENT**

I understand and agree that the Plan does not in any way alter the “at-will” status of my employment.

**21. SOLE AND ENTIRE AGREEMENT**

I agree that this is the complete agreement of the parties on the subject of resolution of Disputes and arbitration. This *We Listen* 2012 revision supersedes the original version of January 1, 2009. The Plan, with its agreement to arbitrate, shall survive the termination of my employment and the expiration of any benefit. No party is relying on any representations, oral or written, on the

subject of the effect, enforceability, or meaning of this Plan, except as specifically set forth in this Plan. In the case where there is a pre-existing arbitration agreement or written employment agreement containing an arbitration clause, the Plan shall be the governing agreement between the parties regarding the resolution of Disputes, unless the Plan is otherwise not enforceable, and then the pre-existing agreement shall govern. This Agreement does not supersede any restrictive covenant(s) or confidentiality obligations previously entered into by you and the Company.

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**ASSOCIATE ACKNOWLEDGEMENT:**

I acknowledge receipt of the ServiceMaster *We Listen* Dispute Resolution Plan 2012 revision (*We Listen*) and that it describes important information concerning ServiceMaster’s dispute resolution program. As a condition to my employment with ServiceMaster or its affiliates, I agree to use *We Listen* to address any employment-related disputes. I understand that any dispute relating to my employment, unless earlier resolved, must be submitted to binding arbitration administered by the American Arbitration Association in accordance with *We Listen*.

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ASSOCIATE NAME – PRINTED JDE Number

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ASSOCIATE SIGNATURE DATE

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