**Arbitration Agreement**

Buchheit Trucking Service, Inc. (“Buchheit”), a corporation organized under the laws of Missouri, and the undersigned independent contractor and its authorized representative (both in its capacity as an authorized representative and in his or her individual capacity) (“Contractor”), hereby enter into this Arbitration Agreement (“Arbitration Agreement”).

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| **Important Information Regarding This Arbitration Agreement****This Arbitration Agreement is optional and not a condition of entering into a business relationship with Buchheit. If Contractor elects to sign this Arbitration Agreement, Contractor will be required to arbitrate any claim (except as otherwise noted) that Contractor may have against Buchheit *unless* Contractor elects to revoke its assent to the Arbitration Agreement within 30 days of signing pursuant to Section 9. This Arbitration Agreement will preclude Contractor from bringing any class, collective, consolidated, or non-Private Attorney General Act representative action against Buchheit. It also precludes Contractor from participating in or recovering relief under any current or future class, collective, consolidated, or non-Private Attorney General Act representative action brought against Buchheit by someone else. By signing this Agreement, Contractor also waives Contractor’s right to a jury trial. Whether to agree to arbitration is an important business decision. It is Contractor’s decision to make, and Contractor should not rely solely upon the information provided herein, as it is not intended to contain a complete explanation of the consequences of arbitration. Contractor should take reasonable steps to conduct further research and to consult with others—including Contractor’s attorney—regarding the consequences of Contractor’s decision, just as Contractor would when making any other important business decision. Contractor has the right to unilaterally revoke its assent to this Arbitration Agreement within 30 days of signing it (*see* Section 9).** |

1. **Disputes Covered by this Arbitration Agreement**

Except as provided in Section 2, any claim, controversy, or dispute between the Parties, or arising out of or relating to the relationship between the Parties (including any request for preliminary or other injunctive relief), whether arising before or after this Arbitration Agreement is signed (together, “Claims”) must be submitted to final and binding arbitration to be administered by the American Arbitration Association (“AAA”). For the avoidance of doubt, Claims include but are not limited to claims (i) arising out of or relating to any acts, omissions, conditions, or events taking place during the term of this Arbitration Agreement; (ii) arising out of or relating to any Independent Contractor Agreement or other written contract between the Parties; (iii) of breach of contract, tort, fraud, and any cause of action arising under the statutes, regulations, or common law of any governmental authority, whether local, state, federal, or foreign, including but not limited to claims arising under the Fair Labor Standards Act or the Federal Leasing Regulations; and (iv) asserted against a Party or a Party’s customer by workers engaged by the other Party, regardless of how those workers are classified and what type of claims they assert. The arbitration must be conducted in accordance with the procedure described in this Arbitration Agreement and the Commercial Arbitration Rules (and related arbitration rules governing requests for preliminary or other injunctive relief) of the AAA ([www.adr.org](http://www.adr.org)). If the AAA is unable to serve as the administrator, JAMS ([www.jamsadr.com](http://www.jamsadr.com)) shall serve as the administrator; in the event JAMS is unable to serve as the administrator, the Parties shall confer in good faith to mutually select an administrator. The Parties agree this Arbitration Agreement is governed by the Federal Arbitration Act (9 U.S.C. § 1 *et seq.*) (“FAA”) and is not exempt from the FAA. If the FAA is held not to apply, this Arbitration Agreement will be governed by the arbitration laws of the State of Missouri.

1. **Claims *Not* Covered by this Arbitration Agreement**

The arbitration clause of Section 1 shall not apply to the following claims:

* 1. Claims within the jurisdiction of a small claims court that either Party elects to file in such a court, as long as the matter remains in such court (or, solely for appealing the judgment of the small claims court and not for removing the original trial of the Claim therefrom, in such other court as the applicable law may designate for such appeals) and advances only an individual (non-class, non-collective, non-consolidated, and non-representative) Claim.
	2. Claims for workers compensation, state disability insurance, or unemployment insurance benefits.
	3. Claims brought before an administrative agency if applicable law permits access to such an agency notwithstanding the existence of an agreement to arbitrate. Such administrative claims include without limitation claims or charges brought before the Equal Employment Opportunity Commission (www.eeoc.gov), the U.S. Department of Labor (www.dol.gov), the National Labor Relations Board (www.nlrb.gov), and the Office of Federal Contract Compliance Programs (www.dol.gov/esa/ofccp). Nothing in this Arbitration Agreement shall be deemed to excuse a Party from bringing an administrative claim before any agency in order to fulfill the Party's obligation to exhaust administrative remedies before making a claim in arbitration.
	4. Claims that may not be the subject of a mandatory arbitration agreement as provided by Section 8116 of the Department of Defense ("DOD") Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118), Section 8102 of the DOD Appropriations Act for Fiscal Year 2011 (Pub. L. 112-10, Division A), and their implementing regulations, or any other DOD appropriations act addressing the arbitrability of such claims.
	5. Claims brought under the California Private Attorney General Act, Cal. Lab. Code § 2698, *et seq.* (“PAGA”), pursuant to which Contractor seeks to recover civil penalties (a portion of which would be allocated to the California Labor and Workforce Development Agency) on behalf of anyone who has provided services to Buchheit other than Contractor. For the avoidance of doubt, private claims pursuant to which Contractor seeks claimant-specific relief (e.g. statutory damages), including claims alleging violations of the California Labor Code that may be the predicate of a PAGA claim for civil penalties, are covered by this Arbitration Agreement unless applicable law requires that they be adjudicated before an administrative agency notwithstanding the existence of an agreement to arbitrate.
	6. Statutory claims for public injunctive relief.
	7. Any other claim for which it is unlawful for the parties to agree, on a predispute basis, that the claim must be arbitrated pursuant to the terms of this Arbitration Agreement.
1. **Issues Delegated to an Arbitrator**

An arbitrator shall decide all issues arising out of or relating to the interpretation or application of this Arbitration Agreement, including the enforceability, revocability or validity of this Arbitration Agreement or any portion of it, except the issue of the availability of class, collective, consolidated, or representative arbitration of claims, which issue shall be reserved.

1. **This Arbitration Agreement Waives Class, Collective, Consolidated, And Representative Actions**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ARBITRATION AGREEMENT, THE PARTIES AGREE THAT NO CLASS, COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ARBITRATION OF CLAIMS SHALL BE ALLOWED AND THAT THE ARBITRATOR IS NOT EMPOWERED TO CERTIFY, CONDUCT, OR AWARD RELIEF IN ANY SUCH ARBITRATION. IF A COURT OR ARBITRATOR NEVERTHELESS ALLOWS OR REQUIRES A CLASS, COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ARBITRATION, THE PARTIES AGREE THAT SUCH A DETERMINATION IS IMMEDIATELY APPEALABLE** **TO THE STATE OR FEDERAL COURTS SERVING THE CITY OF SCOTT CITY, IN THE STATE OF MISSOURI, AS CONTRARY TO THE INTENT OF THE PARTIES IN ENTERING INTO THIS ARBITRATION AGREEMENT AND THAT ALL ARBITRAL PROCEEDINGS, INCLUDING DISCOVERY, SHALL BE STAYED PENDING APPEAL. IN THE EVENT THE DETERMINATION IS NOT REVERSED ON APPEAL, THE PARTIES AGREE THAT THIS ARBITRATION AGREEMENT SHALL BE NULL AND VOID IN ITS ENTIRETY WITH RESPECT TO THE PENDING DISPUTE, ANY ARBITRATION AWARD UNDER IT WITH RESPECT TO THE PENDING DISPUTE SHALL BE NULL AND VOID, AND ANY SUCH DISPUTE BETWEEN THE PARTIES SHALL BE RESOLVED BY COURT ACTION, NOT ARBITRATION, IN THE FOREGOING STATE OR FEDERAL COURTS. IF AT ANY POINT THIS PROVISION IS DETERMINED TO BE UNENFORCEABLE, THE PARTIES AGREE THAT THIS PROVISION SHALL NOT BE SEVERABLE, UNLESS IT IS DETERMINED THAT THE ARBITRATION WILL STILL PROCEED ON AN INDIVIDUAL BASIS ONLY.**

1. **Filing of Arbitration Demand**

Any demand for arbitration shall be filed pursuant to the Administrator’s directions and delivered by hand, by First Class U.S. Mail, or by overnight delivery service to the other Party at the address such Party last provided written notice of to the other Party. The demand shall be filed and served within the time allowed by the shortest statute of limitations applicable to at least one claim set forth in the demand. The Arbitrator shall resolve all disputes regarding the timeliness or propriety of the demand for arbitration. At least 60 days before filing a demand for arbitration, the Party with a Claim shall provide written notice to the other Party clearly identifying the claimant, the factual support for the Claims, and the relief to be requested. In addition to any requirements herein, any demand for arbitration must include an express authorization by the claimant to the filing of the demand on claimant’s behalf.

1. **Arbitration Procedure**

The Arbitrator shall be selected by agreement of the Parties. Unless the Parties agree otherwise, the Arbitrator shall be an attorney licensed to practice in the location where the arbitration proceeding will be conducted or a retired federal or state judicial officer who presided in the jurisdiction where the arbitration will be conducted. If the Parties cannot agree to an Arbitrator, the Arbitrator shall be selected pursuant to the Administrator’s rules. The location of the arbitration shall be in a city agreed to by the Parties or, absent such agreement: (a) the City of Scott City, in the State of Missouri; (b) if Contractor is not headquartered or does not reside within 100 miles of the location designated in Section 6(a), the county of Buchheit’s terminal from which Contractor was dispatched; or (c) if Contractor is not headquartered or does not reside within 100 miles of Buchheit’s terminal, the county in which Contractor is headquartered or resides. In the arbitration, the Parties shall have the right to conduct adequate civil discovery, bring dispositive motions, and present witnesses and evidence as needed to present their cases and defenses, and any disputes in this regard shall be resolved by the Arbitrator.

1. **Arbitration Expenses and Attorneys’ Fees**

Each Party shall pay its own arbitration filing fees and an equal share of the fees and expenses of the Arbitrator and the cost of the arbitration site,provided that if Contractor operates no more than one vehicle in its overall transportation business, Buchheit shall pay the full fees and expenses of the Arbitrator and the full cost of the arbitration site as well as (a) the full arbitration filing fee, if Buchheit is the claimant, or (b) the portion of the arbitration filing fee that exceeds the filing fee then in effect for civil actions in the United States District Court for the district that includes the City of Scott City, in the State of Missouri, if Contractor is the claimant. In all other respects, except to the extent otherwise determined by law, as construed and applied by the Arbitrator, the Parties shall be responsible for their own respective arbitration expenses, including attorneys’ fees, subject, in the case of arbitration expenses of Contractor, to any attorneys’ fees or related remedies to which the Arbitrator finds Contractor to be entitled under applicable law. Both Parties agree to be fully and finally bound by the arbitration award, and, where allowed by law, a judgment may be entered on the award in any court having jurisdiction thereof.

1. **Post-Arbitration Procedure**

Within 30 days of the close of the arbitration hearing (which period may be extended by stipulation of the Parties), any Party shall have the right to prepare, serve on the other Party, and file with the Arbitrator a post-arbitration brief. Except as provided in the waiver provision of Section 4 of this Arbitration Agreement, the Arbitrator may award any Party any remedy to which that Party is entitled under applicable law and which would otherwise be available in a court of law for the claims presented to and decided by the Arbitrator. The Arbitrator shall issue a decision or award in writing, stating the essential findings of fact and conclusions of law. A court of competent jurisdiction shall have the authority to enter a judgment upon the award made pursuant to the arbitration.

1. **Contractor’s Right to Revoke this Arbitration Agreement**

Arbitration is not a mandatory condition of Contractor’s relationship with Buchheit. If Contractor does not want to be subject to this Arbitration Agreement, not only may Contractor elect not to sign this Arbitration Agreement in the first place, but Contractor may subsequently revoke its assent to this Arbitration Agreement by notifying Buchheit in writing of such desire within thirty (30) days of the date this Arbitration Agreement is signed by Contractor, which writing must be delivered either (1) by email to \_\_\_\_\_\_\_\_\_\_\_\_\_\_, stating Contractor’s name and intent to revoke this Arbitration Agreement or (2) by sending a letter by U.S. Mail, or by any nationally recognized delivery service (FedEx, etc.), or by hand delivery to \_\_\_\_\_\_\_\_\_\_\_\_\_\_. Contractor’s revocation will be effective as of the date Buchheit receives such notice. The original or a copy of Contractor’s notice shall be maintained by Buchheit. **SUCH UNILATERAL ELECTION BY CONTRACTOR SHALL NOT RESULT IN TERMINATION OF ANY OTHER AGREEMENT BETWEEN THE PARTIES OR ANY FORM OF PENALTY, RETALIATION, OR DISADVANTAGING OF CONTRACTOR BY BUCHHEIT.** If Contractor is or was party to an earlier agreement to arbitrate disputes with Buchheit at the time it enters into this Arbitration Agreement and then later revokes its assent to this Arbitration Agreement pursuant to this Section 9, the earlier arbitration agreement will remain in full force and effect consistent with its terms.

1. **Term and Termination**

This Arbitration Agreement shall begin at 12:01 a.m. Eastern Time on the latest date appearing the Signature Block below (“Effective Date”) and, except as provided in Section 9 above, end upon termination by written agreement of both Parties. Notwithstanding the foregoing sentence, this Arbitration Agreement shall continue in effect beyond its termination date with respect to any disputes covered under Section 1 of this Agreement. If Contractor revokes its assent to this Arbitration Agreement and at the time of its receipt of this Arbitration Agreement Contractor was bound by an existing agreement to arbitrate any Claims, that existing arbitration agreement will re-main in full force and effect.

1. **Severability and Waiver**

**IF THE WAIVER PROVISION OF SECTION 4 OF THIS ARBITRATION AGREEMENT IS DECLARED INVALID BY ANY COURT OR ARBITRATOR FOR ANY REASON, THE PARTIES INTEND THAT THIS ENTIRE ARBITRATION AGREEMENT BE VOID.** If any other provision (including any sentence or part of a sentence) of this Arbitration Agreement is declared invalid by any court (overseeing a claim pursuant to Section 2) or Arbitrator for any reason, this Arbitration Agreement shall be void only as to the provision, and this Arbitration Agreement shall remain otherwise binding between the Parties. Any provision voided by operation of the foregoing shall be replaced with provisions that shall be as close to the Parties’ original intent as permitted under applicable law. No waiver of any of the provisions of this Arbitration Agreement shall constitute a waiver of any other provisions whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be deemed effective or binding upon either Party unless executed in writing by the Party making the waiver. The failure or refusal of either Party to insist upon the strict performance of any provision of this Arbitration Agreement or to exercise any right in any one or more instances or circumstances shall not be construed as a waiver or relinquishment of the provision or right, nor shall the failure or refusal be deemed a customary practice contrary to the provision or right. The rights and remedies of either Party under this Arbitration Agreement or under applicable law shall be cumulative, and the exercise of any of them shall not be exclusive of any other right or remedy provided allowed under applicable law.

1. **Benefit and Assignment**

This Arbitration Agreement shall be binding upon and inure to the benefit of the Parties to this Arbitration Agreement and their respective successors. Neither Party shall be authorized to assign or subcontract this Arbitration Agreement or any rights or obligations hereunder without the prior written consent of the other Party.

1. **Confidentiality and Nondisclosure**

Except to the extent applicable law provides otherwise, the Parties agree to keep confidential and not to disclose (and shall make all reasonable best efforts to cause their employees, agents, and attorneys to keep confidential and not to disclose) the existence and/or terms of any decision (whether final or otherwise) issued by an arbitrator concerning a Claim except (i) as authorized in writing by the non-disclosing Party; (ii) as required by law; (iii) as ordered by a court, administrative, or governmental entity, or (iv) to the Party’s attorney.

1. **Completeness and Amendments**

This Arbitration Agreement constitutes the entire agreement between Buchheit and Contractor pertaining to the resolution of disputes between the parties and the subject matter contained herein, and fully replaces and supersedes all prior and contemporaneous agreements, representations, and understandings regarding the same, except as provided in Section 9 of this Agreement. No modification or amendment to this Arbitration Agreement is binding unless in writing and signed by both Buchheit and Contractor.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

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| **Buchheit Trucking Service, Inc.**By:  Signature Authorized Rep.’s Name (Typed or Printed) Title Date | **Contractor:**  By:  Signature Authorized Rep.’s Name (Typed or Printed) Title Date |
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