

KIRKMAN BECK, LLC DBA HIRE UP STAFFING & HEALTHCARE MUTUAL AGREEMENT TO ARBITRATE EMPLOYMENT DISPUTES

*If you would like to request this agreement in Spanish, please contact your local Hire Up office.
Si desea solicitar este acuerdo en español, comuníquese con su oficina local de Hire Up.*

1. **AGREEMENT TO ARBITRATE:** _____ (“Employee”) and Kirkman Beck, LLC dba Hire Up Staffing & Healthcare or any client in which Hire Up has placed the Employee (“Employer” or “Company”) agree to resolve all claims, disputes, or controversies arising out of or relating to Employee’s employment and/or the termination of employment (“Employment Claims”) exclusively by final and binding arbitration to the extent permitted by law. The state law governing this agreement shall be the state in which the location of the employment worksite resides (“State”). For remote Employees or Employers, the work site shall default to the state law where Hire Up’s corporate office is located, which is Texas.

2. **RELINQUISHMENT OF RIGHTS:**

a. **No Jury Trials.** By signing this Agreement, the Parties are voluntarily giving up their respective rights to a jury trial and their rights to proceed with litigation before any court or administrative agency for all Employment Claims to the fullest extent permitted by law.

b. **No Consent to Class/Representative Action Arbitration Proceedings.** The Parties intend to arbitrate any disputes between them and against Third-Party Beneficiaries on an individual (bilateral) basis only, involving only a single party seeking relief and the party or parties against whom such relief is sought based on the transactions and occurrences underlying the claim(s) alleged. To the fullest extent permitted by law, the Parties agree that they shall not join or consolidate Employment Claims subject to this Agreement with those of any other person(s), and that no form of class, collective, or representative action (including representative claims under the PAGA) shall be maintained in arbitration without the mutual, written consent of the Parties. The Parties acknowledge that the arbitrator may award relief only in favor of the individual party seeking such relief and only to the extent necessary to provide relief warranted by the individual party’s claim. Unless the Parties expressly agree in writing, the arbitrator may not consolidate more than one person’s claim(s) and may not otherwise preside over any form of class, collective, or representative action.

3. **SCOPE OF AGREEMENT:**

a. This Agreement shall apply to claims made by Employee or Employer arising under the Fair Labor Standards Act, any respective State Labor Code, any respective State Government Code (including, but not limited to, the Fair Employment and Housing Act), any respective State Business and Professions Code, any respective State Private Attorneys General Act (“PAGA”), and the common law to the extent permitted by law. These examples of Employment Claims are illustrative, not exhaustive, and shall not be construed to limit the Employee’s and Employer’s general obligation to arbitrate Employment Claims. This Agreement shall not be construed to require arbitration of any claim for which arbitration is not legally permitted, including any claims relating to unemployment or workers’ compensation benefits.

b. This Agreement does not restrict Employee from exercising Employee’s statutory right to file a complaint, claim, or unfair labor practice charge with the Civil Rights Department (“CRD”) (formerly known as the Department of Fair Employment and Housing (“DFEH”)), the U.S. Equal Employment Opportunity Commission (“EEOC”), the National Labor Relations Board (“NLRB”), the Agricultural Labor Relations Board (“ALRB”), and/or any other federal, state, or local government agency that has jurisdiction over such claim so that the agency may prosecute the claim. This Agreement does not affect the right of any federal, state, or local government agency with jurisdiction over Employee’s claim from prosecuting a civil action in such agency’s name. However, any litigation brought by the Employee – including litigation brought before the State Labor Commissioner or other governmental agency – is subject to this arbitration agreement.

4. **GOVERNING LAW:**

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a. This Agreement is made pursuant to and shall be governed by and construed in accordance with the Federal Arbitration Act (“FAA”), 9 U.S.C. §1 et seq. The FAA is available for review on the internet or in the Human Resources Office. Employer’s business and the nature of Employee’s employment in that business affect interstate commerce.

b. The arbitrator shall conduct any arbitration had pursuant to this Agreement in accordance with the procedures set forth in the current State Arbitration Act of the state in which the Employee is employed, based on the location of their job worksite. **However, in relation to California where the CAA’s procedures conflict with this Agreement, the procedures set forth in this Agreement shall govern over the CAA.** The California specific CAA is available for review on the internet or in the Human Resources Office, should the Employee’s worksite be located in California. The Parties are entitled to reasonable discovery to prosecute their case in arbitration and the arbitrator is required to issue a written decision explaining the arbitrator’s essential findings upon deciding the case.

c. **The arbitrator shall 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 claim(s) asserted.**

5. **INITIATING ARBITRATION:** To initiate arbitration, Employee or Employer must give written notice of intent to arbitrate to the other within the applicable statute of limitations for the claim(s) asserted. Employee may provide such written notice to the Human Resources Manager or the President of the Company.

6. **SELECTING THE ARBITRATOR:** The Parties shall mutually choose a neutral arbitrator by an agreed upon method; however, if the Parties cannot agree upon a neutral arbitrator, the State Superior Court shall appoint the arbitrator.

7. **COSTS OF ARBITRATION:** Employer shall pay for the arbitration, including the arbitrator’s fees. However, each party shall be responsible for compensating their own attorneys and witnesses, unless the arbitrator orders otherwise.

8. **DELEGATION OF AUTHORITY:** In addition to the power to resolve Employment Claims, the arbitrator shall have exclusive authority to resolve any dispute concerning or relating to the formation, meaning, interpretation, applicability, or enforceability of this Agreement.

9. **AGREEMENT TO BILATERAL ARBITRATION:** The Parties intend to arbitrate any disputes between them on an individual (bilateral) basis only. To the fullest extent permitted by law, the Parties agree that they shall not join or consolidate Employment Claims subject to this Agreement with those of any other persons or the state of California, and that no form of class, collective, or representative action shall be maintained without the mutual consent of the Parties, including representative claims under California’s Private Attorney General Act (PAGA) to the fullest extent allowable under the law. The Parties acknowledge that the arbitrator may award relief only in favor of the individual party seeking such relief and only to the extent necessary to provide relief warranted by the individual party’s claim. Unless the Parties expressly agree in writing, the arbitrator may not consolidate more than one person’s claims and may not otherwise preside over any form of class or representative action.

10. **CONSIDERATION:** In addition to any other consideration, each party’s promise to resolve disputes by arbitration in accordance with the provisions of this Agreement, rather than through the courts or other forums, is consideration for the other parties like promise.

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11. **VERIFICATION OF OPPORTUNITY TO REVIEW:** Employee understands this is an important document that affects Employee’s legal rights and Employee has been given the opportunity to discuss this Agreement with private legal counsel.

12. **SEVERABILITY:** Any provision of this Agreement that is determined to be void or unenforceable shall not affect the validity of the remainder of the Agreement.

13. **SURVIVAL:** This Agreement supersedes any prior or contemporaneous agreement on the subject, shall survive the termination of Employee’s employment, and may only be mutually revoked or modified in a written document signed by the Parties.

14. **RIGHT TO OPT-OUT:** If Employee chooses to execute this Agreement, Employee may subsequently withdraw Employee’s consent and opt out of this Agreement within thirty (30) days from the date that Employee signed this Agreement. To opt-out, the Employee must notify Employer in writing by signing the withdrawal of consent and opt-out form available in the Human Resources Office and submit the signed form to the Human Resources Office within thirty (30) days from the date the Employee initially signed this Agreement.

DATE: _____

EMPLOYEE’S NAME:

EMPLOYEE’S SIGNATURE:

DATE: _____

EMPLOYER’S REPRESENTATIVE’S NAME & TITLE:

EMPLOYER’S REPRESENTATIVE’S SIGNATURE:
