

Expedited Resolution Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Ball Container LLC

I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated the Ball Container LLC (Contractor) establishment located at 110 Ball Drive NE, Rome, GA 30161, beginning on February 17, 2021. OFCCP found that Contractor is not in compliance with Executive Order 11246, as amended (“E.O. 11246” or the “Executive Order”) and its implementing regulations at 41 Code of Federal Regulations (“CFR”) Chapter 60, Sections 60-1 through 60-3. OFCCP has not issued any formal notice of alleged violations regarding the establishment and there have not been any adjudicated findings.

In the interest of resolving the alleged violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and Contractor enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

The attachments to this Agreement are deemed incorporated into this Agreement.

II. GENERAL TERMS AND CONDITIONS

1. In exchange for Contractor’s fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246 based on the alleged violations described in Section III below. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Contractor violates any provision of this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Contractor’s compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Contractor will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Contractor of its obligation to fully comply with the requirements of E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (VEVRAA), their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. Contractor and OFCCP agree that any release of claims required by this Agreement will only pertain to claims of hiring discrimination under E.O. 11246.
5. Contractor agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
8. This Agreement becomes effective on the day it is signed by the Regional Director (Effective Date).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after Contractor submits the final progress report required by this Agreement, unless OFCCP notifies Contractor in writing before the expiration date that Contractor has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Contractor has met all of its obligations under the Agreement.
11. If Contractor violates this Agreement:
 - a. The procedures at 41 CFR 60-1.34 will govern:
 - i. OFCCP will send Contractor a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. Contractor shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If Contractor is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.

- iv. In the event of a breach of this Agreement by Contractor, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms agreed to in the Agreement.
 - b. Contractor may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-1.27 and/or other appropriate relief for violating this Agreement.
12. Contractor does not admit any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than OFCCP.
15. Each party shall bear its own fees and expenses with respect to this matter.
16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
17. All references to “days” in this Agreement, and in the Timeline included as Attachment B (“the Timeline”), are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a federal holiday, that deadline will be extended to the next business day.

III: DISCRIMINATION VIOLATION

Alleged Discrimination in Hiring: OFCCP alleges Contractor is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 Section 202 and 41 CFR 60-1.4(a)(1). Specifically, OFCCP found statistically significant differences in the hiring rates of Black applicants for Production Technician positions when compared to White applicants during the period February 1, 2020 through January 31, 2021, resulting in a shortfall of six (6) Black applicants.

IV. FINANCIAL REMEDY

1. Settlement Fund

- a. **Settlement Fund Account.** Within thirty (30) days after the Effective Date, Contractor will deposit a total of \$309,000.00 in an FDIC-insured interest-bearing account maintained by Contractor at the prevailing interest rate. By the deadline set forth in the Timeline, Contractor will notify OFCCP when this action is complete and provide appropriate documentation, including the name and address of the FDIC-insured banking institution, the account number for the settlement fund, the date of deposit, the deposit amount, and bank records showing the deposit amount. By the dates set forth in the Timeline, Contractor will provide OFCCP with copies of bank records showing the current balance of the account, list of transactions and the amount of accrued interest on the account. The settlement fund is a negotiated amount that represents estimated back pay and accrued interest. Contractor's share of statutory taxes/contributions on the portion representing back pay, such as Federal Insurance Contributions Act (FICA) and Federal Unemployment Tax Act (FUTA) or other state and/or local taxes, is not part of the Settlement Fund. Contractor will be responsible for any banking account fees related to the Settlement Fund.
- b. **Specific Settlement Fund Amounts.** The total Settlement Fund amount of \$309,000.00 includes \$280,002.24 in back pay and \$28,997.76 in interest to resolve specific violations set forth in Section III.

2. **Allocation**

- a. **Total Amount to be Allocated.** The back pay and interest amounts of the Settlement Fund, plus any additional interest that accrues on these interest-bearing accounts, will be distributed as explained in this Section to all Affected Applicants (identified in Attachment A) who timely respond to the Notice Process as explained below, and whose eligibility is verified (hereinafter "Class Member(s)")¹. Individual shares will include appropriate deductions for each individual's share of payroll deductions required by law on the portion representing back pay only, such as federal (FICA), state, or local insurance premiums or taxes.
- b. **Affected Applicants Eligible to Receive Payments.** The Settlement Fund will be distributed to all Class Members listed on the Final List of Class Members ("Final List"). The Settlement Fund will be distributed to the Class Members on the Final List in equal shares. All Class Members are entitled to their share of the monetary settlement regardless of whether they are currently interested in employment with Contractor.
- c. **Payments to Class Members.** OFCCP will provide Contractor a list of the payment amount for each Class Member on the Final List by the date set

¹ With respect to the financial remedy, the term "Class Member(s)" refers to the individuals listed in Attachment A that timely respond to the Notice Process as explained below, even if they are currently employed by Contractor.

forth on the Timeline. Contractor will issue checks or make electronic payments to each Class Member in the stated amount, along with appropriate tax reporting forms (such as Internal Revenue Service (IRS) Forms W-2 and 1099) by the date set forth in the Timeline. Contractor will provide to OFCCP timely documentation of all payments made to Class Members and any payments returned undelivered, or any checks not cashed, as set forth on the Timeline. Reasonable efforts will be made to ensure that all Class Members listed on the Final List have an opportunity to claim their portion of the settlement. Where it is determined that a Class Member did not receive a check or that a check was lost, OFCCP and Contractor will work together to provide a replacement check before any funds are redistributed to other class members. Any checks that remain uncashed 120 days after the initial date checks were mailed to the Class Members will be void. With respect to any uncashed checks, Contractor will deposit the monies within 30 days with the state agency responsible for unclaimed funds of the last known address for the Class Member, in accordance with any and all applicable laws and regulations.² Contractor will notify each Class Member whose check is sent to the state agency in charge of unclaimed property. No portion of the settlement fund shall revert back, directly or indirectly, to Contractor or any affiliate.

- d. **Tax Payments, Forms, and Reporting.** Contractor will pay Contractor's share of social security withholdings and any other tax payments required by law from additional funds separate from the Settlement Fund. Contractor shall mail to each Class Member an IRS Form W-2 for that portion of the payment representing back pay and an IRS Form 1099 for that portion of the payment representing interest. These IRS forms will be provided to the Class Members either at the time of payment or at the end of the year. No Class Member will be required to complete a W-4 or W-9 in order to receive payments under this settlement.³ Pursuant to the Tax Cuts and Jobs Act (TCJA) OFCCP will report to the IRS via a form 1098-F when an employer (or individual) is required to pay fines, penalties, restitution, remediation, or other costs in excess of \$50,000 as a result of a violation of law or an investigation or inquiry into a violation of law.⁴

3. Notice Process

- a. **OFCCP and Contractor Obligations under the Notice Process.** The Notice Process set forth in this agreement is intended to provide Affected Applicants a meaningful opportunity to understand their rights and

² In Georgia, this is the Georgia Department of Revenue Unclaimed Property program.

³ See 26 CFR 31.3402(f)(2)-1(a).

⁴ The IRS issued its implementing regulations in January 2021.

<https://www.federalregister.gov/documents/2021/01/19/2021-00741/denial-of-deduction-for-certain-fines-penalties-and-other-amounts-related-information-reporting>

obligations and act on them in a timely manner. This includes providing technical assistance to Affected Applicants seeking information about their rights and obligations under this Agreement. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, Contractor and OFCCP will regularly meet and confer in person, by phone and/or by email on the notice process to determine how best to carry out the Notice provisions of this Agreement, and to decide whether any activity, deadline or document should be modified. OFCCP and Contractor agree not to unreasonably withhold consent to reasonable modifications proposed by either party.

- b. **Notice Documents.** Contractor will distribute Notice Documents contained in Attachment C to Affected Applicants identified in Attachment A. The Notice Documents include the Notice, Release of Claims, and Information Verification & Employment Interest Forms. The Notice Documents will make clear the information about the settlement is being provided by or on behalf of the U.S. Department of Labor. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, the parties will meet and confer on any reasonable modifications of the Notice Documents or additions to the materials distributed by Contractor, if proposed by either party.
- c. **Timeline.** Attachment B sets forth the agreed Timeline for the Notice Process and for the parties' other obligations under this Agreement. The parties will meet and confer on any reasonable modifications to the Timeline proposed by either party.
- d. **Search for Affected Applicants.** OFCCP shall provide Contractor with complete contact information in its possession or its authority to obtain on the Affected Applicants by the date set forth in the Timeline.
- e. **Distribution of Notice to Affected Applicants.** Contractor will provide initial notice by both regular first-class mail and by email. Contractor will send copies of all the Notice Documents as defined above, including a postage-paid return envelope, by email and by first class mail to the most recent known mailing address for each Affected Applicant, by the date set forth in the Timeline. If envelopes from the initial mail notice are returned with forwarding addresses, Contractor will re-mail the Notice Documents within ten (10) business days of receipt of the forwarding address.

On a biweekly basis, Contractor will notify OFCCP of all letters returned as undeliverable and will re-mail the Notice Documents to Affected Applicants for whom OFCCP provides an updated address within ten days of receiving such an address from OFCCP.

Per the Timeline, Contractor will provide OFCCP the names of the Affected Applicants who did not respond to the Notice Documents, failed to return both forms, or failed to sign a form as required. Based on the response to the initial notice, the parties will meet and confer by the date set forth in the Timeline to assess the results of the initial notice and to ensure that the second round of notice maximizes the potential response rate. Contractor will send a second email and mail notice to Affected Applicants with valid addresses who fail to respond to the first notice by the date set forth in the Timeline unless the parties agree otherwise.

- f. **Distribution of Notice by Other Means.** OFCCP may conduct independent efforts to communicate with Affected Applicants about this Agreement through official U.S. Department of Labor channels and in partnership with community-based organizations.
- g. **Notice Deadline.** The final deadline for any Affected Applicant to respond to the Notice is set forth in the Timeline. The parties will prominently display this deadline on all materials they distribute in paper or online form regarding this Agreement and explain that failure to respond by this deadline will result in a forfeiture of any relief provided by this Agreement.
- h. **Technical Assistance.** The parties will timely respond to any inquiries from Affected Applicants using information consistent with this Agreement and the Notice Documents and will document all inquiries and the result. OFCCP will provide contact information for individuals to contact OFCCP regarding this Agreement. The parties will prominently display this contact information on all materials they distribute in paper or online form regarding this Agreement. Contractor will provide OFCCP's contact information to any Affected Applicant as appropriate.
- i. **Exchange of Information Regarding Affected Applicants.** Contractor and OFCCP will timely exchange information regarding Affected Applicants, including updated contact information and the results of any technical assistance provided.
- j. **Final List of Class Members.** The Final List will include all Affected Applicants who timely respond to the Notice and submit the Information Verification & Employment Interest Form and Release of Claims Form by the deadline set forth in the Timeline and whose eligibility is verified by OFCCP. The parties will establish the Final List by the date set forth in the Timeline. The parties will meet and confer on any outstanding issues or questions regarding the Final List. Either party may identify additional potential Affected Applicants who may have been erroneously excluded from the original or any subsequent list. OFCCP shall make the final determinations of eligibility but will make every effort to negotiate in good

faith to resolve any dispute about the Final List. Contractor will provide to OFCCP any information necessary to determine the Final List.

- k. **Documentation of Payments.** By the deadline set forth in the Timeline, Contractor will provide OFCCP with copies of cancelled checks or electronic documentation of all payments to Class Members, including the amounts paid, the date payment was sent, the date payment was received, or the check cashed, and any uncashed or returned checks.
- l. **Contractor's Expenses.** Contractor will pay all expenses associated with carrying out its duties pursuant to this Section from funds separate and apart from the amount designated in this Agreement for the Settlement.

V. ADDITIONAL INDIVIDUAL RELIEF

1. **Description of Job Opportunities.** As vacancies occur in Production Technician positions, Contractor shall make bona fide job offers with retroactive seniority to Class Members who have expressed interest in employment and are not currently employed in the job at issue by Contractor until four (4) Class Members are hired in Production Technician positions or until the list of Class Members expressing an interest in employment is exhausted, whichever comes first. Class Members expressing an interest in employment in a Production Technician position must meet the minimum requirements of that position. Class Members who receive a written job offer must pass the Mechanical Skills pre-employment test and complete the post-offer requirements in place for all hires to Production Technician positions, including submitting an application⁵ and successfully passing a criminal background screening and drug test. Any minimum requirements and required pre-employment screenings will comply with applicable laws and regulations.

Class Members will have priority over all other candidates for hire into Production Technician positions until four (4) Class Members are hired or until the list of Class Members expressing an interest in employment is exhausted, whichever comes first. As vacancies occur in Production Technician positions, Contractor shall contact the Class Members with a written job offer in the order in which they submitted their Information Verification & Employment Interest Form or, if the Forms were received on the same day, in the order of their original application date. Contractor will make at least two attempts by phone and two attempts by email to contact qualified Class Members who have expressed an interest in employment with Contractor on the Information Verification & Employment Interest Form.

The report-to-work date for Class Members hired pursuant to this Agreement shall be no later than thirty (30) days after the date the written job offer is accepted. The Class Member must report to work on the day designated or provide Contractor

⁵ Class Members must submit the application for the purpose of providing updated information to Contractor.

notice of good cause for their absence on or before that date. If good cause is provided, the Class Member must report to work within five (5) days of the original designated start date. Otherwise, Contractor may withdraw the job offer and shall be under no obligation to hire the Class Member under this Agreement but remains obligated to hire until four (4) Production Technician positions are filled or the list of Class Members is exhausted, whichever comes first.

Contractor agrees to pay Class Members hired under this provision at least the current entry level wage based on applicants' qualifications for Production Technician positions and provide all regular and on-the-job training currently provided to employees in that position. Class Members hired into Production Technician positions must receive retroactive seniority of 33 months for all purposes, including but not limited to job retention, job bidding, and benefits service credit.

2. **Reporting.** Contractor will document the job offers and hires, including job offers made, reasons for rejection, and Class Members hired and terminated during the monitoring period as set forth in Section VIII below.

VI. MODIFICATIONS TO EMPLOYMENT PRACTICES AND OTHER NON-MONETARY RELIEF

1. **Compliance.** Contractor will ensure that all applicants are afforded equal employment opportunities. Contractor agrees to continue and/or to implement the corrective actions detailed below.
2. **Revised Hiring Process.**
 - a. **Nondiscriminatory Selection Procedures.** Contractor agrees to comply with all OFCCP regulations concerning selection procedures, including 41 CFR 60-3. Contractor will not use any selection procedure that has an adverse impact, as defined in 41 CFR 60-3.4D, on applicants of a particular race, ethnicity, or sex unless it properly validates the procedure pursuant to these regulations and can show that the selection procedure is job related and consistent with business necessity.
 - b. **Review and revisions required.** Within the timeframes specified in Attachment B, Contractor will provide a comprehensive written description of the practices, policies, and procedures for the selection process used for all hires into Production Technician positions at its Rome, Georgia establishment (hereinafter "Revised Hiring Process"). Contractor will ensure all policies and qualifications standards are uniformly applied to all applicants.
3. **Training.**

- a. **Revised Hiring Process.** Within 120 calendar days of the Effective Date of this Agreement, Contractor will train every individual involved in recruiting, selecting, or tracking applicants pursuant to the Revised Hiring Process and OFCCP's recordkeeping obligations. The training will include instruction including, but not limited to: the proper implementation of the recruitment, tracking, and selection procedures; neutral application of the specified qualifications and criteria that will be used at each step in the hiring process; procedures to be used to document the decisions made at each step in the hiring process; and the procedures to be used to ensure that documents are retained in accordance with 41 CFR 60-1.12(a) and Part 60-3. Contractor will ensure that Class Members benefitting from the provisions of this Agreement are not retaliated against. Contractor will document and maintain a record of the date of each training, and the name and job title of each employee attending each training.
- b. **Equal employment opportunity obligations.** Within 120 calendar days of the Effective Date of this Agreement, Contractor will meet with management and all individuals responsible for the recruitment and selection process to review its equal employment obligations and nondiscrimination policies related to recruitment and hiring. Contractor will document and maintain a record of the date of each meeting, and the name and job title of each employee attending each meeting.
- c. The training must ensure that managers who have completed the training understand and can implement the requirements to (1) follow nondiscriminatory recruitment and hiring practices, (2) consistently and fairly implement the Revised Hiring Practices, and (3) properly document the results of their decisions and retain appropriate records.

4. **Adverse Impact Analyses and Associated Remedies**

- a. **Adverse Impact Analyses.** Contractor will conduct adverse impact analyses for all expressions of interest to Production Technician positions on an annual basis as well as cumulatively (24-months) for the duration of this Agreement and consistent with the requirements of 41 C.F.R. §§ 60-3.4 and 3.15. In conducting these analyses of future selection results, Contractor will not include hires made pursuant to this Agreement.
- b. **Investigating Causes for Disparities.** Where Contractor identifies a statistically significant disparity in the overall selection process, it will investigate the potential cause(s) of the disparities. This will include analyzing each phase of the selection process and each applicable employment screen or test for adverse impact.

- c. **Remedies.** Where adverse impact is identified, and Contractor is unable to demonstrate that the cause of the impact is job-related and consistent with business necessity, Contractor will modify its policies or procedures accordingly to address the cause of the disparate impact.
 - d. **Reporting.** As part of its monitoring reports under this Agreement, Contractor will provide copies of the adverse impact analyses conducted pursuant to this Agreement, the underlying data used for the analyses, and copies of all subsequent investigation and analyses conducted pursuant to this Section. Contractor will also provide evidence of any actions taken to remedy unjustifiable disparities.
5. **Recordkeeping.** Pursuant to 41 CFR 60-1.12, Contractor will ensure its managers properly document the results of hiring decisions made pursuant to the revised hiring policies and procedures, and properly maintain all records on the revised hiring policies and procedures including any associated underlying data and information such as, recruitment agreements, HRIS and payroll data, job applications, applicant and hire data, disposition codes, and personnel records, and any other records or data used to generate the required reports. Contractor will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

VII: TECHNICAL VIOLATION

1. **VIOLATION:** During the period of February 01, 2020 through January 31, 2021, Ball failed to maintain complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e). Specifically, Ball failed to preserve and make available for inspection complete and accurate records pertaining to the application and hiring process to the Production Technician position, including applications, phone screens, interview guides, background checks, and drug screens.

REMEDY: Ball will keep and preserve complete and accurate personnel and employment records, as required by 41 CFR 60-1.12(a) and (e) and will keep and preserve those records for a period of not less than two years from the date of the making of the record or the personnel action, whichever occurs later.

VIII: OFCCP MONITORING PERIOD

1. **Recordkeeping.** Contractor agrees to retain all records relevant to the violations cited in Section III and VII above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. Contractor will retain these records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. Contractor Reports.

- a. **Schedule and Instructions:** Contractor agrees to furnish OFCCP with the following reports during the Monitoring Period according to the following schedule:
- i. **Progress Report 1:** The first report will be due 14 months after the Effective Date and will cover the period from the Effective Date through 12 months after the Effective Date.
 - ii. **Progress Report 2:** The second report will be due 26 months from the Effective Date and will cover the period from 13 months through 24 months after the Effective Date.

Contractor will submit reports to Investigator (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C) ol.gov and Assistant District Director Charles Robinson dol.gov.

Contractor and OFCCP have a common interest in the accuracy and sufficiency of the information being provided in the reports pursuant to this Agreement. To the extent any of the reports Contractor provides in accordance with this agreement are customarily kept private or closely held, and Contractor believes should remain confidential in the event of a FOIA request, Contractor will provide such reports to OFCCP marked as “Confidential.” In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents, to the extent permissible under the law.

- b. **Reporting on Financial Remedy.** Within the prescribed timeframes, Contractor will submit all documents and information referenced in Section IV of the Agreement, including but not limited to names of Class Members who were paid, and for each such Class Member, the number and the amount of the check and the date the check cleared the bank. Contractor will provide OFCCP with copies of all canceled checks upon request.
- i. In each progress report, Contractor will provide OFCCP with copies of bank records showing the current balance of the settlement fund account and a list of transactions.
- c. **Reports on Job Offers:** In each progress report, Contractor will report on all job offers and hires made pursuant to the Agreement until all of the job opportunities for the reviewed establishment are filled or the list of Class Members expressing interest in the positions is exhausted. This includes:
- ii. A list of all Class Members who expressed an interest in employment by name, race, gender, and date of interest.

- iii. Documentation of all job offers made to Class Members, including the name, race, and gender of individuals offered jobs, the date of the Information Verification & Employment Interest Form, the date of the offer, the date the offer was accepted or rejected, the start date, and the starting pay rate.
 - iv. A list of Class Members who expressed interest in job offers who did not successfully complete the hiring process, including the name, race, and gender of these individuals, the date of their application, if any, and the reason Contractor determined they did not successfully complete the application process along with all relevant documentation (e.g., failure to complete the application process, failure to submit and/or satisfy pre-employment screening, such as drug screening, and documentation that the Class Member declined a job offer). This includes individuals who did not receive job offers because all available positions were filled.
 - v. A list and supporting documentation of Class Members who were hired and terminated during the life of this Agreement, including the reason for the termination.
 - vi. Documentation of the number of available positions remaining to be filled and the number of Class Members still on the list.
 - vii. If Contractor has not filled all of the positions specified in this Agreement by the Progress Report date, documentation of the reason this action is not complete and the good faith efforts being taken and planned for the next reporting period to complete it.
 - viii. If Contractor fails to meet its hiring obligations under this Agreement by the close of the Monitoring Period, OFCCP reserves its rights under Section II, Paragraphs 10 and 11 of this Agreement to extend the monitoring period or to pursue enforcement remedies.
- d. **Reports on Modifications to Personnel Practices.** In each Progress Report Contractor will report on all modifications of personnel practices at its Rome, GA establishment made through the date of that Progress Report pursuant to the Agreement and provide documentation of its compliance with the remedy provisions of this Agreement. If any of the relevant documents, such as job postings or policies, have not been modified since being provided during a prior reporting period, a statement to that effect is sufficient. The reports must include:
- i. Documentation of the implementation of and modifications to the Revised Hiring Process at the Rome, GA establishment as described in Section VI, Paragraph 2.

- ii. Documentation of the training on the Revised Hiring Process, OFCCP's recordkeeping obligations, and equal employment opportunity obligations described in Section VI, Paragraph 3. The documentation must include the name and job title of each employee attending the training, an outline of the topics discussed during the training, and the date of the training.
 - e. Within the prescribed timeframes, Contractor will submit all documents and information referenced in Sections IV-VI.
 - f. In each Progress Report, the total number of applicants and hires and the breakdown by race, sex, and ethnic group for all Production Technician positions during the reporting period.
 - g. In each Progress Report, the results of Contractor's analysis for Production Technician positions as to whether its total selection process has adverse impact, as defined by 41 CFR 60-3.4D, based on sex, race, and ethnicity. For the purposes of the analysis, Contractor will not include hires made of Class Members pursuant to this Agreement.
 - h. In each Progress Report, for each instance where the total selection process has an adverse impact based on sex, race, or ethnicity, as defined by 41 CFR 60-3.4D, the results of Contractor's evaluation of the individual components of the selection process for adverse impact. Contractor will submit an explanation of all actions taken upon determining that any component of the selection process has an adverse impact, including, but not limited to submitting its validation study of each such component in accordance with the Uniform Guidelines on Employee Selection Procedures, if applicable, or explaining any change Contractor implemented in its selection procedures that do not result in adverse impact. For purposes of the analysis, Contractor must not include hires made of Class Members pursuant to this Agreement in that analysis.
 - i. In each Progress Report, documentation indicating the actions taken by Contractor upon determining that any component of the selection process has an adverse impact based on sex, race, or ethnicity for applicants to Production Technician positions.
3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Contractor's final progress report as set forth in Section II, Paragraph 10 above. If OFCCP fails to notify Contractor in writing within sixty (60) days of the date of the final progress report that Contractor has not fulfilled all its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Contractor within the allotted time

that it has not fulfilled all its obligations, this Agreement is automatically extended until the date that OFCCP determines Contractor has met all of its obligations under the Agreement.

IX. SIGNATURES

The person signing this Agreement on behalf of Ball Container LLC personally warrants that he or she is fully authorized to do so, that Ball Container LLC has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Ball Container LLC.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Ball Container LLC.

(b) (6), (b) (7)(C)

Hannah Lim-Johnson
President & Secretary
Ball Container LLC

(b) (6), (b) (7)(C)

Diana Sen
Acting Regional Director
Southeast Region

DATE: 9/27/24

(b) (6), (b) (7)(C)

Sybil Shy-Demmons
District Director
Atlanta District Office
Southeast Region

DATE: 09/30/2024

(b) (6), (b) (7)(C)

Charles Robinson
Assistant District Director
Atlanta District Office
Southeast Region

DATE: 09/30/2024

(b) (6), (b) (7)(C)

Investigator
Atlanta District Office
Southeast Region

DATE: 09/30/2024

Attachments:

- A. List of Affected Applicants
- B. Timeline
- C. Notice Documents
 - 1. Notice to Affected Applicants
 - 2. Information Verification & Employment Interest Form
 - 3. Release of Claims Form

ATTACHMENT A: LIST OF AFFECTED APPLICANTS

Number	First Name	Last Name
1	(b) (6), (b) (7)(C)	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		

Number	First Name	Last Name
40	(b) (6), (b) (7)(C)	
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		
51		
52		
53		
54		
55		
56		
57		
58		
59		
60		
61		
62		
63		
64		
65		
66		
67		
68		
69		
70		
71		
72		
73		
74		
75		
76		
77		
78		

Number	First Name	Last Name
165	(b) (6), (b) (7)(C)	
166		
167		
168		
169		
170		
171		
172		
173		
174		
175		
176		
177		
178		

Number	First Name	Last Name
179	(b) (6), (b) (7)(C)	
180		
181		
182		
183		
184		
185		
186		
187		
188		
189		
190		
191		
192		

ATTACHMENT B: TIMELINE

Due Date	# of Days from Effective Date	Action Required
10/30/2024	30	Contractor will mail and email Notice Documents to Affected Applicants.
11/06/2024	37	Contractor will provide OFCCP with documentation regarding the settlement fund account. Specifically, Contractor notifies OFCCP within seven (7) days of establishing the account, including the name and address of the FDIC insured banking institution, the account number for the settlement fund, the date of deposit, the deposit amount, and bank records showing the deposit amount.
-	-	On a bi-weekly basis, Contractor will notify OFCCP of all letters returned as undeliverable.
11/29/2024	60	Contractor provides Revised Hiring Process to OFCCP.
12/14/2024	75	Within 45 days from the first mailing of the Notice Documents, Contractor will provide OFCCP with MS Excel file containing information about undeliverable letters, nonresponsive Affected Applicants, and the names of Affected Applicants who failed to return the Information Verification & Employment Interest Form or the Release of Claims Form or failed to sign one or both of these forms.
12/24/2024	85	Parties will meet and confer to assess the results of the first mailing to ensure that the second mailing maximizes the potential response rate.
12/29/2024	90	OFCCP will provide updated contact information to Contractor within 15 days of OFCCP's receipt of the list of nonresponsive Affected Applicants.
01/03/2025	95	Contractor sends second mailing of Notice Documents via both mail and email to nonresponsive Affected Applicants.
01/28/2025	120	Contractor provides documentation of training on the Revised Hiring Process, OFCCP's recordkeeping obligations,

Due Date	# of Days from Effective Date	Action Required
		and EEO and nondiscrimination policies related to recruitment and hiring.
02/17/2025	140	Response Deadline: Affected Applicants must respond within 140 days from the Effective Date to participate in the settlement.
03/04/2025	155	Contractor will provide OFCCP with the list of Affected Applicants who timely responded to the Notice Documents in accordance with the Agreement, along with copies of the Information Verification & Employment Interest and Release of Claims Forms.
03/19/2025	170	OFCCP will approve the Final List of Class Members and distribution amounts.
04/18/2025	200	Contractor will disburse the settlement fund within 30 days from OFCCP's approval of the Final List of Class Members.
05/03/2025	215	Contractor will provide OFCCP with bank verification of payments made to Class Members.
06/17/2025	260	Contractor will provide a list of all Class Members whose checks were returned undeliverable or remain uncashed.
08/16/2025	320	First check deadline: Class Members must cash checks within 120 days after the initial date the check was mailed. Any uncashed checks are void.
09/15/2025	350	With respect to any uncashed checks, Contractor will deposit the monies within 30 days with the state agency responsible for unclaimed funds of the last known address for the Class Member. Contractor will notify each Class Member whose check is sent to the state agency in charge of unclaimed property.
11/30/2025	-	The first Progress Report is due to OFCCP.

Due Date	# of Days from Effective Date	Action Required
11/30/2026	-	The second Progress Report is due to OFCCP.

ATTACHMENT C.1

NOTICE TO AFFECTED APPLICANTS

You may be eligible to get money and a job because of a legal settlement between Ball Container, LLC and the U.S. Department of Labor

We are writing to provide information about a legal settlement between the U.S. Department of Labor and Ball Container, LLC (“Contractor”) that may benefit you. This settlement involves claims of alleged discrimination in hiring, and our records show that you may be one of the applicants covered by the settlement. If you take the steps described in this Notice by **[DATE]**, you may be eligible for a payment of back wages and an opportunity for a job with Contractor.

ARE YOU AFFECTED?

Black applicants who applied and were not hired for Production Technician positions at Contractor’s 110 Ball Drive NE, Rome, GA location during the period February 1, 2020 to January 31, 2021, are covered by this settlement.

WHAT IS THIS SETTLEMENT ABOUT?

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) conducted a review of Contractor’s hiring practices during the period February 1, 2020 to January 31, 2021. OFCCP is the government agency responsible for enforcing the equal employment opportunity and affirmative action requirements that apply to federal contractors. During its compliance review, OFCCP found that Contractor disproportionately hired fewer Black applicants than similarly qualified White applicants for Production Technician positions. Contractor has denied any violation of E.O. 11246 and there has not been any adjudicated finding that Contractor violated any laws. OFCCP and Contractor entered into an Agreement to resolve the matter without resorting to further legal proceedings.

WHAT DOES THIS MEAN FOR YOU?

Because you applied for the Production Technician position during the period February 1, 2020 to January 31, 2021, and were not hired, this settlement may provide you with some specific benefits:

You may be eligible to receive a payment of at least \$1,609.38 (before taxes). This payment represents your share of back wages and interest Contractor is paying to settle the alleged violations found by OFCCP during the compliance evaluation. The final amount you will receive will be reduced by deductions for items such as income tax withholding and Social Security

contributions. Under the terms of this Agreement, it may take up to seven months from the date of this letter before you receive your distribution.

In addition to the monetary distribution, Contractor will be making job offers for Production Technician positions to a limited number of individuals receiving this notification. It is not certain that you will receive a job offer. If you are still interested in employment with Contractor, please check the box on the enclosed Information Verification & Employment Interest Form that says “Yes, I am interested in employment with Contractor in a Production Technician position.” Those receiving this Notice will be considered for Production Technician positions in the order that Contractor receives the Information Verification & Employment Interest Forms expressing an interest in employment. All individuals hired pursuant to this Agreement will be provided with retroactive seniority for purposes of benefits.

To get these benefits, you will need to release (give up) certain legal claims and sign the enclosed Information Verification & Employment Interest and Release of Claims Forms.

WHAT IS YOUR NEXT STEP?

You should read this Notice, the Information Verification & Employment Interest and Release of Claims forms, and any other information you received from the U.S. Department of Labor or the Settlement Administrator.

Please do not ignore these documents or throw them away. Otherwise, you could miss an opportunity to receive money and a potential job with Contractor.

To be eligible for a payment and job, you must complete, sign, and return both the following enclosed documents, (1) Verification & Employment Interest Form and (2) Release of Claims Form by [DATE] to:

Settlement Administrator
OFCCP – Ball Container, LLC
(NAME)
(TITLE)
(ADDRESS)
(PHONE NUMBER)
(EMAIL ADDRESS)

The documents must be received by [insert actual date].

You may receive some or all of these benefits only if these forms confirm that you are one of the individuals covered by the settlement. After correct completion and submission of these documents, a final decision will be made about your eligibility.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE SETTLEMENT ADMINISTRATOR BY [insert date by which class members must respond],

OR IF YOUR DOCUMENTS DO NOT VERIFY YOUR ELIGIBILITY, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.

HOW CAN YOU GET MORE INFORMATION?

If you have any questions, you may contact [NAME] at Ball Container at [PHONE NUMBER] or [EMAIL ADDRESS], or OFCCP Compliance Officer [NAME] at [PHONE NUMBER] or [EMAIL ADDRESS]. You can obtain additional information regarding this settlement on the official U.S. Department of Labor website at <https://www.dol.gov/agencies/ofccp/classmembers>.

Enclosures

Information Verification & Employment Interest Form
Release of Claims Form

ATTACHMENT C.2

Information Verification & Employment Interest Form ("Verification & Interest Form") – Affected Applicants

You must complete this form to be eligible for the monetary payment and/or employment opportunities under the terms of the conciliation agreement ("agreement") between Ball Container and the U.S. Department of Labor's Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.

DEADLINE TO RESPOND IS [DATE]

If you complete this Verification & Interest Form, you may be eligible for a monetary payment from the settlement and you can express interest in a job offer. You may receive a monetary payment even if you do not express interest in a job.

To receive any money that you are eligible for, a potential job offer, or both you must complete, sign, and return **both** this Verification & Interest Form **and** the enclosed Release of Claims Form. You may use the enclosed postage-paid return envelope to return the Verification & Interest Form and the Release of Claims Form. You may also submit these forms via email to the Settlement Administrator at the email address listed below. It is acceptable to submit PDF files or pictures of the fully completed and signed forms via email. The forms should be mailed or emailed by **[DATE]** to the address below.

Settlement Administrator
OFCCP – Ball Container, LLC

(NAME)

(TITLE)

(ADDRESS)

(PHONE NUMBER)

(EMAIL ADDRESS)

If you do not submit a properly completed and signed Verification & Interest Form and Release of Claims Form on or before **[DATE]**, then your claim will not be on time, and **you will not receive any money from this settlement and you cannot be considered for a job offer.**

Enclosed is a stamped, pre-addressed envelope you can use to return the Verification & Interest Form and Release of Claims Form.

This Verification & Interest Form will only be used for the following purposes:

To confirm important information, we need in order to make sure you are eligible to receive money under this settlement and process your payment, and

To allow you to express interest in the jobs being offered as a result of the settlement.

Step 1: Please provide the following contact information to process your payment. Please print legibly.

First Name: _____

Last Name: _____

Any other names you have used: _____

Home Phone: _____

Cell Phone: _____

Email: _____

Address: _____

Please provide your Social Security Number or Individual Tax Identification Number (to be used for tax purposes only): _____

Your Social Security Number/Individual Tax Identification Number is required in order to process your payment for tax purposes. Your Social Security Number/Individual Tax Identification Number will not be used for any other purpose.

Notify us at the address below if your contact information changes prior to receiving a settlement payment and potential job offer or contact us if you have any questions about this Verification & Employment Interest Form, the Notice, or the settlement.

Settlement Administrator
OFCCP – Ball Container, LLC

(NAME)

(TITLE)

(ADDRESS)

(PHONE NUMBER)

(EMAIL ADDRESS)

Step 2: Inform us if you are interested in a position. Please indicate below whether you are currently interested in employment in a Production Technician position with Contractor. If you complete, sign, and return this Verification & Employment Interest Form and the Release of Claims Form, you remain eligible for the monetary payment whether or not you are interested in employment at this time.

- Yes, I am interested in employment with Contractor in a Production Technician position.
- No, I am not currently interested in employment with Contractor in a Production Technician position.
- I am currently employed by Contractor.

Step 3: Sign and return along with the Release of Claims Form.

IF YOU FAIL TO COMPLETE AND RETURN THIS VERIFICATION & EMPLOYMENT INTEREST FORM AND THE RELEASE OF CLAIMS FORM TO THE ADDRESS BELOW BY [DATE**], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.**

Settlement Administrator
OFCCP – Ball Container, LLC

(NAME)

(TITLE)

(ADDRESS)

(PHONE NUMBER)

(EMAIL ADDRESS)

I certify the above is true and correct.

Signature: _____

Printed Name: _____

Date: _____

ATTACHMENT C.3

RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246, AS
AMENDED (“Release of Claims Form”)

PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY AND A POTENTIAL JOB OFFER FROM THE SETTLEMENT

This Release of Claims (“Release”) under Executive Order 11246, as amended, is a legal document. This document states that in return for Ball Container, LLC (“Ball”) paying you money, you agree that you will not file any lawsuit against Ball for allegedly violating Executive Order 11246, as amended, in connection with its selection procedures for applicants for Production Technician positions. It also says that Ball does not admit it violated any laws. This Release says that you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$1,609.38 (less deductions required by law) by Ball to me, which I agree is acceptable, I agree to the following:

I.

I hereby waive, release and forever discharge Ball, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have had which relate to my non-selection for employment in the Production Technician position on the basis of my race at any time through the Effective Date of this Release. By signing this agreement, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246, as amended, relating to my non-selection with Ball through the Effective Date of this Release.

II.

I understand that Ball denies that it treated me unlawfully or unfairly in any way and that Ball entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on February 12, 2021. I further agree that the payment of the aforesaid sum by Ball to me is not to be construed as an admission of any liability by Ball.

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

IV.

I understand that if I do not sign this Release and return it to the contact listed on the enclosed Notice to Affected Applicants, by the deadline listed on the Notice, I will not be entitled to receive any payment (less deductions required by law) from Ball.

I have signed this document of my own free will.

Signature: _____

Printed Name: _____

Date: _____