

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT

Malik Newell v. Bland A/C & Heating, Inc.
Kern County Superior Court
Case Number BVC-21-100326

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action with respect to all claims brought in a representative capacity pursuant to the Private Attorneys General Act ("PAGA") (Labor Code § 2698 *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement ("Agreement").

This Agreement is made by and between Defendant Bland A/C & Heating, Inc. ("Defendant"), Plaintiff Malik Newell ("Plaintiff"), on behalf of himself, Aggrieved Employees (defined below), on behalf of the State of California, and the law firms defined below as "Plaintiff's Counsel" and "Defense Counsel." (Defendant, Plaintiff and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the "Parties.") This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that all representative claims brought pursuant to PAGA in Kern County Superior Court case number BVC-21-100326 (the "Litigation" or "Action") shall be, and hereby are, ended, settled, resolved, and concluded by agreement of Defendant to pay the sum of Eighty-Five Thousand Dollars and Zero Cents (\$85,000.00) (hereinafter referred to as the "Gross Settlement Amount") for settlement of the PAGA claims and penalties sought in the Litigation, which shall be inclusive of Plaintiff's Counsel attorneys' fees and costs in connection with this Agreement and a general release payment to Plaintiff Newell. The Parties further agree that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) "Aggrieved Employees" means all current and former non-exempt employees employed by Bland A/C & Heating, Inc. in California as solar panel installers and paid on a piece rate basis at any time during the Settlement Period (February 11, 2020 through November 30, 2021). Defendant has represented that there are no more than 31 Aggrieved Employees during the Settlement Period.

- (b) "Complaint" means the Complaint filed by Plaintiff on or about February 16, 2021, and the First Amended Complaint filed on April 30, 2021 which asserts claims under PAGA predicated on underlying violations of Labor Code §§ 201, 203, 226(a), 226.7, 558, and 1102.5.
- (c) "Court" means the Superior Court for the State of California, County of Kern.
- (d) "Defense Counsel" or "Counsel for Defendant" is:
- Ian B. Wieland, Esq.
Lisa M. Horton, Esq.
SAGASER, WATKINS & WIELAND PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704
- (e) "Effective Date" means the date the Court approves the settlement of the PAGA penalties as described in this Agreement and dismisses the Action with prejudice.
- (f) "Plaintiff's Counsel" is:
- Karl Gerber, Esq.
EMPLOYMENT LAWYERS GROUP
13418 Ventura Blvd.,
Sherman Oaks, California 91423
- (g) "Settlement Period" means the time period from February 11, 2020 through November 30, 2021.

Article II.

Background.

Section 2.01 Background.

- (a) On February 16, 2021, Plaintiff Newell filed a complaint in the Superior Court of the State of California for the County of Kern styled, *Malik Newell v. Bland A/C & Heating, Inc.*, Case No. BVC-21-100326. The Complaint alleged eleven individual causes of action on behalf of Plaintiff based on alleged violations of Labor Code §§ 201, 203, 226, 226.7, 558, and 1102.5, premised on Defendant's alleged failure to pay all minimum, overtime and double time wages, provide all meal and rest periods, or premium compensation in lieu thereof, timely pay wages due at separation of employment, issue complete and accurate wage statements, wrongful termination in violation of public policy and emotional distress.
- (b) On April 30, 2021, Plaintiff Newell filed his First Amended Complaint. The complaint was amended to add a single representative cause of action on behalf of Plaintiff, the State of California and other Aggrieved Employees pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) based on alleged violations of Labor Code §§

201, 203, 226, 226.7, 558, and 1102.5, premised on Defendant's alleged failure to pay all minimum, overtime and double time wages, provide all meal and rest periods, or premium compensation in lieu thereof, timely pay wages due at separation of employment, and issue complete and accurate wage statements.

- (c) The Parties have exchanged formal and informal written and oral discovery. The Parties reached this Agreement only after such discovery and investigation was performed, following a mediation with Marc J. Feder on September 8, 2022.
- (d) This Agreement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA claims and dismissing the Action with prejudice.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Cooperation.

The Parties will cooperate in obtaining, through a stipulation and order, or an unopposed motion, if required, an Order from the Court approving the payment of the Gross Settlement Amount as described in this Agreement at the earliest possible date. Concurrently with the submission of this Agreement to the Court, Plaintiff shall submit it to the LWDA as required by PAGA. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of the Gross Settlement Amount as described in this Agreement.

The Court's approval of the payment of the Gross Settlement Amount as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA promptly upon entry, as required by PAGA. The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Settlement and shall otherwise use their respective best efforts to obtain Court approval and implement this Settlement. If the Court does not grant the stipulation and order or Motion for Final Approval, the Parties agree to meet and confer in good faith to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to seek guidance from the Court to resolve the dispute.

Section 3.02 Settlement Payment Procedures.

(a) Payment of Gross Settlement Amount and Notice to Aggrieved Employees.

- (1) Defendant agrees to pay a total amount of Eighty-Five Thousand Dollars (\$85,000.00) to settle this matter. This amount, *i.e.*, the Gross Settlement Amount, shall cover, resolve, and fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, the State of California, and Plaintiff's Counsel, including all amounts allocated to attorneys'

fees and costs, in settlement of all claims asserted in the Complaint by Plaintiff, on behalf of himself and the Aggrieved Employees. The Parties agree that there are no circumstances that would require Defendant to pay any amount greater than the Gross Settlement Amount in connection with this Agreement. In the event that this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur as permitted herein, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the Gross Settlement Amount, any amounts paid by Defendant pursuant to this Agreement shall be refunded to Defendant in full, and the Parties' respective positions shall be restored to their positions prior to mediation. Further, in that event, nothing in this Agreement, the negotiations leading to this settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

- (2) The "Net Settlement Amount" shall be calculated by deducting from the Gross Settlement Amount up to 40% of the Gross Settlement Amount (projected to be \$34,000) for the payment of Plaintiff's Counsel's fees, up to \$9,000 for the payment of Plaintiff's Counsel's costs, \$3,000 to Plaintiff in exchange for his general release of all claims against Defendant, and up to \$2,500 to compensate the parties' chosen Settlement Administrator, Phoenix Class Action Administration Solutions. The Net Settlement Amount will be comprised of approximately \$36,500. Seventy-five percent (75%) of the Net Settlement Amount, or approximately \$27,375 shall be distributed to the State of California Labor and Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%) of the Net Settlement Amount, or approximately \$9,125 shall be distributed to the Aggrieved Employees.
- (3) The twenty-five percent (25%) of the Net Settlement Amount to be distributed to the Aggrieved Employees will be divided by the total number of pay periods worked by all of them in California during the Settlement Period to yield the Pay Period Value. Each Aggrieved Employee will be paid an amount equal to their individual number of pay periods worked in California during the Settlement Period multiplied by the Pay Period Value.
- (4) Defendant shall pay the Gross Settlement Amount via wire, bank transfer or certified funds to the Settlement Administrator no more than ten (10) calendar days after the Effective Date.
- (5) Defendant shall provide all necessary information to the Settlement Administrator such as names, last known address and number of pay periods each aggrieved employee worked during the Settlement period no more than ten (10) calendar days after the Effective Date.
- (6) No later than fifteen (15) calendar days after the Gross Settlement Amount has been paid, the Settlement Administrator shall transmit the Notice of PAGA Settlement (attached hereto as Exhibit "A"), together with settlement checks containing their individual settlement amounts, with no claims process required, to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each recipient with

directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices.

- (7) For each settlement check and Notice of PAGA Settlement that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database and/or skip tracing in order to re-mail the settlement check and Notice of PAGA Settlement. The value of checks uncashed more than 90 days after issuance shall be paid to the Office of the California State Controller – Unclaimed Property Fund, to be held in the name of the respective Aggrieved Employees.
- (8) 100% of the Gross Settlement Amount is considered penalties and will not be subject to local, state or federal tax withholdings. All recipients of payments under this Agreement will have their payments reported on an IRS Form 1099. The Settlement Administrator shall issue IRS Form 1099s or other appropriate tax forms (if required) to the Aggrieved Employees.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as an admission by Defendant of any violations of Plaintiff's or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract. Defendant further denies that, for any purpose other than settling these matters, that this action is appropriate for representative treatment.

Section 4.02 Non-Evidentiary Use.

This Agreement is admissible for purposes of obtaining court approval of the settlement and is intended to be binding on the parties. It is also admissible in the event that either Party is required to file a motion to enforce any of the terms of the Agreement. Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be offered or used as evidence by any of the Parties or their respective counsel in the Litigation or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. This Agreement also may be used by Defendant to establish in any subsequent matter that PAGA penalties have already been settled with, paid to and fully released by Plaintiff or any Aggrieved Employee, except that neither Plaintiff nor any Aggrieved Employee may use this Agreement or the terms contained herein to contend that the

amounts paid or terms of this Agreement establish a right to damages in any amount in any non-settled claim. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any Aggrieved Employees.

Section 4.03 Nullification.

Invalidation of any material provision of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims.

Section 5.01 Limited Release By Aggrieved Employees.

Upon the Effective Date and subject to Defendant's full payment of the Gross Settlement Amount, Plaintiff, on behalf of himself, his heirs, executors, and assigns, the Aggrieved Employees, and the State of California, fully releases and discharges Defendant, and each of its present and former affiliates, parent companies, subsidiaries, divisions, successors, predecessors, and assigns, and each of its respective past and present shareholders, officers, partners, directors, current and former employees, agents, attorneys, insurers, successors, assigns, representatives, accountants, and all persons acting under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims, rights, demands, liabilities, and causes of action of every nature and description for the PAGA penalties asserted in the Complaint for alleged violations of California Labor Code Sections 204, 210, 215, 216, 226.3, 226.4, and 226.6 ("Released Claims") that accrued during the Settlement Period. Liability for PAGA penalties under those statutes as asserted in the Complaint are released under this Agreement.

Section 5.02 General Release By Plaintiff Newell.

Upon the Effective Date and subject to Defendant's full payment of all sums required by this Agreement, Plaintiff Newell shall be deemed to have fully, finally, and forever released the Released Parties from any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, whether known or unknown, and whether anticipated or unanticipated, including unknown claims covered by Civil Code Section 1542, arising through the date of his signature hereon, for any type of relief, including, without limitation, claims for wages, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief. These claims include, but are not limited to, the Released Claims, as well as any other claims under any provision of the California Labor Code or any applicable California Industrial Welfare

Commission Wage Orders, and claims under local, state, or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, California Government Code §§ 12940 *et seq.*; the Unruh Civil Rights Act, California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines. With respect to these Released Claims as described in this Section, Plaintiff Newell shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Plaintiff Newell shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had pursuant to California Labor Code Section 206.5, which provides as follows:

No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made.

Article VI.

Miscellaneous Provisions.

Section 6.01 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 6.02 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel who executed this Agreement and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.03 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The

representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.04 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.05 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Litigation.

Section 6.06 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.07 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 6.08 Attorneys' Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover or seek to recover any amounts for fees, costs, or disbursements from the Released Parties or the Gross Settlement Amount except as expressly provided herein. Defendant shall bear its own attorney's fees and costs, and neither Plaintiff's Counsel, Aggrieved Employees or the Plaintiff shall be responsible for Defendant's attorney's fees and costs. If any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorneys' fees and costs incurred to enforce this Agreement.

Section 6.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, but excluding any dispute related to non-payment of the Gross Settlement Amount (which is addressed in Section 6.12 herein), the Parties agree to submit any such dispute(s) first to mediation and/or continued negotiations before mediator Marc J. Feder and then, if unsuccessful, to the Kern County Superior Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover his/her/its/their reasonable attorneys' fees and costs.

Section 6.10 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.11 Court's Retention of Jurisdiction.

The Court shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6 and otherwise as permitted by law, to enforce this Settlement.

Section 6.12 Default; Notice; Cure; Acceleration; Time is of the Essence.

If the Gross Settlement Amount is not received on the date due, Defendant shall be in default of its obligations under this Settlement. Plaintiff shall e-mail notice of the default to Defendant at ian@sw2law.com. Defendant will then have seven (7) calendar days from the date notice is e-mailed to cure the default. If the default remains uncured for ten (10) calendar days, then all sums remaining unpaid under this Settlement shall be accelerated and become all due and payable and begin to accrue interest at the legal rate. Plaintiff may thereafter move the Court, pursuant to Code of Civil Procedure 664.6, for entry of a judgment against Defendant in accordance with this Agreement, which shall reflect this acceleration, the accrual of interest, plus actual attorneys' fees and costs incurred to enforce the judgment and this Settlement. Time is of the essence with respect to all provisions of this Agreement.

Section 6.13 Authority.

Each Party to this Agreement expressly represents and warrants to have the authority necessary to execute this Agreement. Each person signing this Agreement on behalf of a corporation represents that he or she has the authority to agree to the terms hereof and execute this Agreement on behalf of said entity in accordance with the bylaws of such entity and that his or her signature will bind the entity to the terms of this Agreement.

Section 6.14 Limitation on Public Statements About Settlement.

Defendant and Plaintiff agree to limit public comment on this Settlement, the Action, and the claims to stating that the matter has been resolved to the satisfaction of both Plaintiff and Defendant, except as necessary to give notice to the Aggrieved Employees, seek

approval from the Court, or is legally required to comply with ethical obligations. Plaintiff and Defendant agree not to effectuate, cause or permit any press release, posting, or other comment on this Settlement or its terms to be made. Nothing in this provision shall prevent Defendant or Plaintiff from making any required disclosures.

Section 6.15 No Solicitation.

The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Aggrieved Employees to object to or appeal the Court's order approving the Settlement and dismissing the Action with prejudice.

Section 6.16 No Tax Advice.

The Parties understand that nothing contained in this Settlement or this Agreement shall constitute legal or tax advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

Section 6.17 Fair Settlement.

The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

Section 6.18 Use and Return of Documents and Data.

All originals, copies, and summaries of documents and data provided to Plaintiff's Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Upon demand, and only following the Effective Date and Defendant's full payment of all sums required hereunder, Plaintiff's Counsel will return or destroy and confirm in writing to Defendant the destruction of all such documents and data.

Section 6.19 Stay of Litigation.

The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that they shall cooperate in any effort necessary to ensure that the litigation is stayed. The Parties further agree that, upon the signing of this Agreement, pursuant to CCP section 583.330, the date to bring the case to trial under CCP section 583.310 is extended for the entire period of this settlement process,

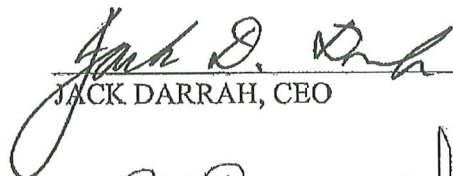
commencing on the date of the mediation with Marc J. Feder on September 8, 2022 until the earlier of the Effective Date or the date this Agreement is no longer of any force or effect.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

APPROVED AND ACCEPTED.

Dated: 10/4/, 2022

BLAND A/C & HEATING, INC.



JACK DARRAH, CEO

Dated: September 27 2022

By 

MALIK NEWELL

APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY

Dated: September 18, 2022

EMPLOYMENT LAWYERS GROUP


By _____
Karl Gerber, Esq.
Attorney for Plaintiff

Dated: September ---, 2022 October 10, 2022 SAGASER, WATKINS & WIELAND PC


By _____
Ian B. Wieland, Esq.
Lisa M. Horton, Esq.
Attorneys for Defendant

EXHIBIT A

016107.00002 - 415140.1

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

MALIK NEWELL, on behalf of himself
and all "aggrieved employees" pursuant to
Labor Code § 2698 *et seq.*,

Plaintiff,

v.

BLAND A/C & HEATING, INC. a
California corporation, and DOES 1
through 100, inclusive,

Defendants.

Case No. BVC-21-100326

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIM
(CAL. LABOR CODE § 2698 *ET SEQ.*)**

You have been identified as a non-exempt California employee of Bland A/C & Heating, Inc. ("Defendant") paid on a piece rate basis, who was employed between February 11, 2020 and November 30, 2021 ("Aggrieved Employee").

On February 16, 2021, Plaintiff Malik Newell (the "Plaintiff") commenced a lawsuit in Kern County Superior Court, case number BVC-21-100326 (the "Lawsuit") to recover civil penalties. The Complaint alleges that Defendant failed to pay all minimum, overtime and double time wages, provide all meal and rest periods, or premium compensation in lieu thereof, timely pay wages due at separation of employment, and issue complete and accurate wage statements. For these alleged violations, Plaintiff seeks penalties pursuant to the California Labor Code's Private Attorneys General Act of 2004, codified at Labor Code § 2698 *et seq.* ("PAGA").

Defendant denies Plaintiff's allegations and disputes all of Plaintiff's claims. The Lawsuit was litigated and following an investigation and a mediation before a third-party mediator, the Parties reached a settlement which takes into account the uncertainties and risks of proceeding with litigation.

The Court approved the settlement on _____ and has determined that the settlement is fair and reasonable. The payment which accompanies this notice is made to you pursuant to the terms of the Settlement.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon the Effective Date, Plaintiff, on behalf of himself, his heirs, executors, and assigns, the Aggrieved Employees, and the State of California, fully releases and discharges Defendant, and each of its present and former affiliates, parent companies, subsidiaries, divisions, successors, predecessors, and assigns, and each of its respective past and present shareholders, officers, partners, directors, current and former employees, agents, attorneys, insurers, successors, assigns, representatives, accountants, and all persons acting under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims, rights, demands, liabilities, and causes of action of every nature and description for the PAGA penalties asserted in the Complaint for alleged violations of California Labor Code Sections 204, 210, 215, 216, 226.3, 226.4, and 226.6 ("Released Claims") that accrued during the Settlement Period (from February 11, 2020 through November 30, 2021).

If you have any questions, please contact _____ [the third-party administrator] at (____) _____ - _____ [phone number for the third-party administrator].

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INTERSTATE FIRE & CASUALTY COMPANY

COMMERCIAL GENERAL LIABILITY POLICY

ADDITIONAL INSURED ENDORSEMENT

INCLUDING PRIMARY COVERAGE AND WAIVER OF SUBROGATION

The section of the policy entitled **III. - WHO IS AN INSURED** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in a legally enforceable written contract or agreement entered into before your work commenced, that such person or organization be added as an additional insured on your policy. The coverage afforded by this endorsement is only (1) with respect to liability in connection with the original Named Insured's ongoing operations performed for said Additional Insured during the term of this policy, and (2) only if the Additional Insured performs all obligations required under this policy.

The coverage afforded to an Additional Insured is limited to a claim made for a Covered Loss not covered by other insurance available to an Additional Insured, and is limited by the provisions of the Insuring Agreement, Exclusions, Conditions set forth in the policy and all endorsements thereto.

No coverage is afforded under the "products-completed operations hazard" for an Additional Insured pursuant to this endorsement. The coverage afforded to an Additional Insured under this endorsement ends as of the date of completion, abandonment, or termination of the work of the Named Insured at any jobsite, project, or structure. There is no coverage hereunder for any Additional Insured in connection with any claim or suit involving any claim for damage that takes place or is alleged to take place following completion of the Named Insured's work.

The "work" of the Named Insured will be deemed completed as of the date all work, including materials, parts or equipment furnished in connection with such work, on the project or any structure therein (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed, or when that portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization, including another contractor or subcontractor engaged in performing operations as part of the same project, whichever is earlier.

The coverage provided for the Additional Insured is only to the extent that the additional insured is held liable for the negligence or strict liability of the Named Insured, and is only to the extent of and in the proportion Additional Insured is held liable for the negligence or strict liability/conduct/acts of the Named Insured. No coverage is provided for liability based upon the acts, errors or omissions of the Additional Insured.

If expressly required by a written and legally enforceable contract entered into by the Named Insured prior to commencement of work by the Named Insured for the Additional Insured, then the insurance afforded by the policy to the Additional Insured shall be primary insurance, and any insurance or self-insurance maintained by the above Additional Insured shall be excess of the insurance afforded to the Named Insured and shall not contribute to it.

If expressly required by a written and legally enforceable contract entered into by the Named Insured prior to commencement of work by the Named Insured for the Additional Insured, then we waive any right of subrogation we may have against an entity that is an Additional Insured per the terms of this endorsement because of payments we make for injury or damage arising out of "your work" performed under such written and legally enforceable contract with that Additional Insured.

Except as set forth above, all of the terms, conditions and exclusions of the policy apply and remain in effect.

Policy No.: SISAZGL0007756

Date: 11/25/2021

Time: 12:01 a.m.