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ZULUAGA, individually and on behalf of all
others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JORGE HERNANDEZ ZULUAGA, an
individual,

Plaintiff,

vs.

SOLARIS TRADING CORPORATION., a
California Corporation; and DOES 1-20,
inclusive;

Defendants.

CASE NO. 20STCV48213

**DECLARATION OF DANIEL J.
BASS IN SUPPORT OF
PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Filed Concurrently With Motion For
Preliminary Approval and [Proposed]
Order]*

Date: February 14, 2023

Time: 11:30 a.m.

Department: 12

Complaint Filed: 11/16/2020

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1. I am an attorney licensed and admitted to practice before all courts of the State of California. I am an attorney for the law firm of Makarem & Associates APLC, the counsel of record for the Plaintiff in this case. I make this declaration in support of Plaintiff's Motion For Preliminary Approval of a Class Action Settlement. I have personal knowledge of the facts herein, and if called as a witness I could and would competently testify to them under oath.

2. **Defendant and Plaintiff** - Defendant Solaris Trading Corporation (“Defendant” or “Solaris”) employed Plaintiff Jorge Hernandez Zuluaga (“Plaintiff”) as mechanic and repaired cars for Defendant at one of its locations in Canoga Park, California. Plaintiff and settlement class members were predominantly mechanics in similar positions.

4. **Plaintiff's Allegations** - Plaintiff initially filed his complaint on December 17, 2020. Plaintiff maintain causes of action on behalf of himself and a putative class for: (1) Failure to Pay Overtime Wages, (2) Failure to Provide Meal Periods, (3) Failure to Provide Rest Periods, (4) Failure to Pay Minimum Wage, (5) Failure to Furnish Accurate Wage Statements, (6) Failure to Pay all Wages Earned; (7) Failure to Pay Earned Wages Upon Termination, and (8) Unfair Competition in Violation of Business and Professions Code Section 17200.

5. As part of the Parties' Settlement, Parties have stipulated to Plaintiff's submission of a proposed First Amended Complaint alleging the same causes of action against Solaris as well as an additional cause of action for penalties pursuant to the Private Attorneys' General Act of 2004 ("PAGA"). Parties have stipulated to Plaintiff requesting that that the proposed First Amended

1 Complaint become the operative complaint in the Action (the “Operative Complaint.”)

2 6. **Defendant’s Response** – Defendant contends that it at all times complied with
3 California law. Defendant asserts that it properly paid employees for all time worked. Defendant
4 further contends that it provided Plaintiff and other putative class members with compliant meal
5 and rest periods, and that to the extent any employee did not take a compliant meal or rest period,
6 the reason for the non-compliant meal or rest period would be an individualized issue that would
7 preclude class certification.

8 7. **Investigation** - Before filing the lawsuit, Class Counsel investigated and researched
9 the facts and circumstances underlying the pertinent issues and the laws applicable thereto. This
10 required thorough discussions between Class Counsel and the Plaintiff, as well as preliminary
11 research into the various legal issues and employment practices involved in the case. After
12 conducting their initial investigation, Class Counsel determined that Plaintiff claims were well-
13 suited for class action adjudication owing to what appeared to be a common set of policies and
14 procedures that impacted Plaintiff and other putative class members in a similar fashion.

15 8. After filing the lawsuit, Class Counsel conducted an extensive investigation of the
16 facts and claims giving rise to the action, including:

- 17 (1) reviewing and analyzing time and payroll records and Defendant’s written
18 policies and procedures;
19 (2) researching the applicable law and evaluating potential defenses;
20 (3) evaluating the damages based on countervailing interpretations of law;
21 (4) reviewing other documentation provided by Defendant.

22 9. Defendant, for its part, vigorously contested liability, the amount of claimed
23 damages, and the propriety of class certification. After Class Counsel analyzed the relevant
24 documentary and testamentary evidence, Class Counsel determined that this case was appropriate
25 for resolution via settlement.

26 10. **Mediation** - On May 13, 2022, the Parties participated in an all-day mediation
27 presided over by Michael Young with Judicate West which led to this Agreement to settle the
28 Action. Over the next months the parties negotiated the details of the long form settlement
agreement which was fully executed on January 12, 2023 and for which the Parties now seek
preliminary approval.

1 **TERMS OF THE SETTLEMENT**

2 11. Attached hereto as Exhibit “1” is a true and correct copy of the Class Action and
3 PAGA Settlement Agreement (“Settlement Agreement”). Attached hereto as Exhibit “2” is a true
4 and correct copy of a Redlined Class Action and PAGA Settlement Agreement showing the
5 differences between the Settlement Agreement and Form LASC CIV 296.

6 12. **Settlement Class** - The “Class” or “Settlement Class” means all current and former
7 non-exempt or hourly employees of Defendant that worked in California at any time during the
8 Class Period. “Class Period” means the period from December 17, 2016 to the date of Preliminary
9 Approval or until the number of total workweeks reaches 7,500, whichever is earlier. Based on its
10 records, Solaris estimates that (1) there are 64 Class Members and 7,080 Total Workweeks during
11 the Class period as of September 13, 2022 and (2) there were 40 Aggrieved Employees who worked
12 2,995 Pay Periods during the PAGA Period.

13 13. **Gross Settlement Amount** – Under the terms of the proposed agreement, the parties
14 have agreed that all claims brought on behalf of the Class shall be fully and finally resolved for a
15 “Gross Settlement Amount” of Three Hundred and Fifty Thousand U.S. Dollars (\$350,000). The
16 Gross Settlement Amount is non-reversionary and no portion of the Settlement Amount will be
17 returned to Defendant.

18 14. **Attorney’s Fees/Costs:** The settlement calls for up to 35% of the Gross Settlement
19 Amount or \$ 122,500.00 plus up to \$18,000 in actual costs and expenses. The fee request is in line
20 with fee awards commonly granted across this state as well as the fee percentage commonly
21 contracted for by attorneys within this state

22 15. **Class Representative Award:** \$5,000 to the named Plaintiff for his service as a
23 class representative. The payment is for the service rendered in furtherance of class members
24 claims, for the risk undertaken for payment of costs in the event such litigation was unsuccessful,
25 for any stigma the plaintiff may suffer going forward due to the public information available via
26 the Internet for having filed a class action against an employer, and for his agreement to provide a
27 full release of his claims as compared to the limited release required of class members.

28 16. Here, the class representative was not simply a bystander in the prosecution of this

1 action. From the time that this case was filed, the representative whenever needed, actively
2 provided information and evidence. Further, the class representative was always available to
3 consult with, and regularly did consult with counsel, both in person and via telephone. The class
4 representative was also actively involved in discussions regarding the resolution of this matter and
5 approved the settlement terms on behalf of himself and the class members.

6 17. **Settlement Administration Costs:** The proposed settlement administrator is CPT
7 Group, Inc. (“CPT”). CPT is an experienced class notice administration company, and has acted as
8 claims administrator in numerous wage and hour cases throughout the country. CPT has presented
9 an estimate to counsel reflecting that its charges to administer the proposed settlement are currently
10 estimated at \$7,500.

11 18. **Net Settlement Amount and Payout to Class Members:** The Net Settlement
12 Amount will be approximately \$185,500.00, plus the \$2,500.00 separately distributed to Aggrieved
13 Employees based on their PAGA Period Pay Periods. Each Participating Class Member shall be
14 eligible to receive an Individual Class Payment, which is calculated by (a) dividing the Net
15 Settlement Amount by the total number of Workweeks worked by all Participating Class Members
16 during the Class Period and (b) multiplying the result by each Participating Class Member’s
17 Workweeks.

18 19. Assuming this Court makes no modification, the estimated 64 Class Members shall
19 recover an estimated average recovery of approximately \$2,898.44 and the estimated 40 Aggrieved
20 Employees will receive, on average, an additional \$62.50.

21 20. **Release By Class Members:** All Participating Class Members, on behalf of
22 themselves and their respective former and present representatives, agents, attorneys, heirs,
23 administrators, successors, and assigns, release Released Parties from all claims that were alleged,
24 or reasonably could have been alleged, based on the Class Period facts stated in the Operative
25 Complaint and ascertained in the course of the Action including the following claims: (a) failure to
26 pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-
27 compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant
28 rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure

1 to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e)
2 failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair
3 business practices; and (h) all other claims that could have been premised on the facts, claims,
4 causes of action, or legal theories described above pursuant to the California Industrial Welfare
5 Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to
6 Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194,
7 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc.
8 § 1021.5, and Cal. Civ. Code § 3287(a). Except as set forth in Section 6.3 of the Settlement
9 Agreement, Participating Class Members do not release any other claims, including claims for
10 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
11 unemployment insurance, disability, social security, workers' compensation, or claims based on
12 facts occurring outside the Class Period.

13 21. All Participating and Non-Participating Class Members who are Aggrieved
14 Employees are deemed to release, on behalf of themselves and their respective former and present
15 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
16 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
17 alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice and
18 ascertained in the course of the Action including the following claims: (a) failure to pay overtime
19 wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal
20 periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or
21 provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide
22 accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay
23 all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business
24 practices; and (h) all other claims that could have been premised on the facts, claims, causes of
25 action, or legal theories described above pursuant to the California Industrial Welfare Commission
26 (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code
27 §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1,
28 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and

1 Cal. Civ. Code § 3287(a).

2 22. **Released Claims with respect to Plaintiff Only** - Plaintiff and his respective
3 former and present spouses, representatives, agents, attorneys, heirs, administrators, successors,
4 and assigns generally, release and discharge Released Parties from all claims, transactions, or
5 occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that
6 were, or reasonably could have been, alleged, based on the facts contained, in the Operative
7 Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on
8 facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the
9 Action and released under Section 6.2 of the Settlement Agreement ("Plaintiff's Release.")
10 Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any
11 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
12 workers' compensation benefits that arose at any time, based on occurrences outside the Class
13 Period, or except for Plaintiff's now resolved, individual case styled *Jorge Hernandez Zuluaga v.*
14 *Solaris Trading Corporation* (LASC Case No. 20STCV43759 [the "Individual Action"]) and
15 causes of action that were pled in the Individual Action or which could have been pled in the
16 complaints in the Individual Action based on the factual allegations therein. Plaintiff acknowledges
17 that Plaintiff may discover facts or law different from, or in addition to, the facts or law that
18 Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be
19 and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's
20 discovery of them. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes
21 the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code.

22 23. **"Notice Procedure** - The Parties have agreed on the form of notice to be mailed to
23 the Class ("Class Notice," attached as Exhibit "A" to Exhibit "1" of this declaration).

24 **1. Settlement Notice Timeline**

Timeframe	Event
Not later than 30 days after the Court grants Preliminary Approval of the Settlement	Solaris will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. "Class Data" means Class Member identifying information in

	Solaris' possession including the Class Member's name, last-known mailing address, Social Security number, telephone number, and number of Class Period Workweeks and PAGA Pay Periods
Within three (3) business days after receipt of the Class Data	Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
In no event later than 14 days after receiving the Class Data	Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation.
45 days after mailing Class Notice	Response Deadline: Last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

2. Details Regarding Dissemination of Notice

24. The Notice of Settlement, in materially the form attached to the Bass Declaration as Exhibit "A" to Exhibit "1" and as approved by the Court, shall be sent by the Claims Administrator to the Settlement Class Members, by first class mail to those addresses provided by Defendant, within approximately forty-seven (47) calendar days following Preliminary Approval of the Settlement.

25. If any Class Notice mailed to a Settlement Class Member is returned as having been undelivered by the U.S. Postal Service, the Settlement Administrator shall perform a skip trace search and seek an address correction.

26. **The Claims, Opt-Out and Objection Process** - To participate in the settlement, a Class Member need not take any action. All members of the settlement class shall receive a settlement check unless he or she opts out of the settlement. The Notice Packet will state that

1 Settlement Class Members who wish to object to the Settlement or opt out of the settlement will
2 need to file the correct papers by the Response Deadline. The details of the Opt-Out and Objection
3 process are contained in the settlement agreement and will be contained in the settlement notice.

4 27. Class Members who wish to exclude themselves (opt out of) the Class Settlement
5 must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not
6 later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for
7 Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class
8 Member or his/her representative that reasonably communicates the Class Member's election to be
9 excluded from the Settlement and includes the Class Member's name, address and email address
10 or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or
11 postmarked by the Response Deadline.

12 28. The Administrator will establish and maintain and use an internet website to post
13 information of interest to Class Members including the date, time and location for the Final
14 Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the
15 Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class
16 Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative
17 Service Payment, the Final Approval, and the Judgment. The Administrator will also maintain and
18 monitor an email address and a toll-free telephone number to receive Class Member calls, faxes,
19 and emails.

20 **THE STRENGTH OF PLAINTIFF'S CASE AND COMPLEXITIES OF FURTHER**
21 **LITIGATION**

22 29. Plaintiff believes that the Settlement Class claims in this action are legally
23 meritorious and present a reasonable probability of a favorable determination on behalf of the class.
24 At the same time, there is undeniably significant litigation risk avoided by the proposed Settlement,
25 both at class certification proceedings, at trial, and in the appellate courts.

26 30. Liability remains highly contested by Defendant, who denies that it engaged in any
27 violations of the law, and it further denies any liability or engagement in wrongdoing of any kind
28 associated with the claims alleged in the Action by the Named Plaintiff or any Class Member.

1 Defendant contends that at all times it complied with all wage-and-hour laws in connection with
2 the employment and/or retention of services of Plaintiff and the Class Members.

3 31. Plaintiff's counsel understood and appreciated the defenses and position of
4 Defendant but believed that Plaintiff would ultimately succeed in the action. In light of the strongly
5 divergent views, the parties, with the assistance of the mediator, were able to negotiate a fair
6 settlement, considering the costs and risks of continued litigation. The negotiations were at all
7 times conducted professionally and at arm's length and have produced a result that the Parties
8 believe to be in their respective best interests.

9 32. The Parties have also considered the uncertainty and risk of the outcome of further
10 litigation, and the difficulties and delays inherent in such litigation. Plaintiff is also aware of the
11 burdens of proof necessary to establish liability for the claims asserted in the action, the defenses
12 thereto, and the difficulties in establishing damages. In evaluating the settlement, the Court will
13 seek a reasonable estimate of the nature and amount of recovery that each class member could have
14 obtained if the Plaintiff had prevailed in the litigation. Numerous decisions summarize a trial court's
15 task when considering whether to approve the settlement of a putative class action.

16 33. Here, in preparation for mediation, Plaintiff calculated Defendant's liability to Class
17 Members to be in excess of the settlement amount. Plaintiff's valuation assumed that Plaintiff: (1)
18 prevailed in certifying the case; (2) prevailed in establishing liability on the merits; and (3) was
19 awarded the full amount of all discretionary penalties.

20 34. The realistic range of outcomes for this litigation took into account the present state
21 of the law regarding meal and rest break claims and the other claims brought in the Action,
22 Defendant's defenses for each claim, and the likelihood of prevailing on a class certification motion
23 as well as trial and any appeals. Moreover, Plaintiff had to consider the significant difficulties in
24 adding class claims against Defendant and thus factor in how much they could realistically consider
25 for settlement. Where both sides face significant uncertainty, the attendant risks favor settlement.
26 *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011,1026.

27 35. ***Kullar v. Footlocker Analysis*** - To allow this Court to make an informed
28 assessment pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 18 Cal.App.4th 116, Plaintiff's

1 Counsel provides the following assessment of the case and settlement. Plaintiff's Counsel believes
2 the settlement is a very good one for the class members. In this case, Plaintiff sought unpaid wages
3 and statutory penalties as well as the equitable remedies of declaratory relief, disgorgement,
4 accounting, and restitution.

5 36. Plaintiff estimated Defendant's total non-penalty exposure at \$1,272,630.00. As
6 such, the settlement represents over approximately 27.5% of Defendant's non-penalty exposure
7 based on Plaintiff's analysis. This in a reasonable recovery, particularly given the number of class
8 members at issue and the size of Defendant's operations.

9 37. As explained further below, Plaintiff details the issues that necessitated deductions
10 from the maximum potential value of this case to arrive at the reasonable Maximum Settlement
11 Amount derived in this action: Here there are approximately 64 Class Members who collectively
12 worked a total of 7,080 Workweeks during the Class period as of September 13, 2022, and 40
13 Aggrieved Employees who worked a total 2,995 of PAGA Pay Periods.

14 38. **Rest Periods**

15 Plaintiff calculated Defendant's maximum liability to be 5 violations per employee per
16 week at the average hourly rate of \$14.38 per violation or \$71.90 per week. As such, with 7,080
17 workweeks through September 13, 2022, Plaintiff estimated that Defendant's exposure could be as
18 high as \$ 509,052.00. Plaintiff did not discount this number or the calculations that follow in order
19 to arrive at the settlement; rather, Plaintiff discounted the number in order to reach a settlement that
20 understood the risks of continued litigation and difficulties in showing a 100% violation rate for
21 rest breaks during employee shifts.

22 39. **Meal Periods**

23 Plaintiff again calculated Defendant's maximum liability to be 5 violations per employee
24 per week at the average hourly rate of \$14.38 per violation or \$71.90 per week. As such, with
25 7,080 workweeks through September 13, 2022, Plaintiff estimated that Defendant's exposure could
26 be as high as \$ 509,052.00. Plaintiff did not discount this number or the calculations that follow in
27 order to arrive at the settlement; rather, Plaintiff discounted the number in order to reach a
28 settlement that understood the risks of continued litigation and difficulties in showing a 100%

violation rate for meal breaks during employee shifts.

40. Unpaid Off-the-Clock

Based on Plaintiff's experiences and personal observations at work, Plaintiff estimated that approximately 0.5 hours (30 minutes) of work was performed off-the-clock by employees on a daily basis, resulting in an approximately \$7.19 underpayment per shift. Thus, Plaintiff calculated Defendant's potential exposure as $\$7.19 \times 5 \text{ shifts per workweek} \times 7,080 \text{ Workweeks} = \$254,526.00$ in underpayments for off-the-clock work.

Penalties

41. Although the Class arguably could have seen a payout of approximately \$474,080.93 for waiting time penalties (for 48 terminated employees during a three-year statutory period) and wage statement penalties (for 26 employees for a one-year period), Plaintiff's Counsel had to weigh the likelihood of recovery against probable defenses and the wide discretion Courts have exercised in awarding Labor code penalties. Along these lines, Plaintiff considered that Defendant would argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Cal. Lab. Code § 203 and would further argue that Plaintiff could not show that Class Members suffered an "injury" as a result of wage statement violations, as required by Cal. Lab. Code § 226. Further, Plaintiff arguably could not recover any waiting time penalties for meal and rest claims. Moreover, Plaintiff would not recover any derivative penalties if he failed to prove the underlying claims.

42. Plaintiff, in agreeing to the settlement had to take into account the difficulties in certifying a class and maintaining any such certification. What's more, Plaintiff had to take into account the uncertainties, including business uncertainties facing Defendant and similar employers during the ongoing COVID 19 pandemic. Each of these concerns weighed into Plaintiff's analysis to eventually agree to a settlement that is less than Defendant's total projected liability even if Plaintiff eventually won every aspect of this case including potential appeal. A settlement now guarantees that class members will 1) obtain a recovery and 2) that they will get the recovery in a time period that is shorter than one if the case went through a full trial and appeal process.

43. The settlement amount was a negotiated compromise, factoring in the risks related

1 to certification, liability, and damages. Taking into account all of the circumstances of the action
2 and the significant factual and legal defenses raised by Defendant against certification, liability,
3 and damages, Class Counsel believe that the settlement is fair and reasonable. Each Class
4 Member's individual share of the settlement amount is tailored to the number of shifts worked by
5 each Class Member during the class period so the distribution is weighted in favor of those Class
6 Members who were potentially most affected by the alleged violations. Moreover, because the
7 class consists of several employees, it was unlikely that the potential monetary claims of individual
8 Class Members would have proved viable without the class-action mechanism.

9 **SERVICE ENHANCEMENT PAYMENT**

10 44. Plaintiff has taken the extraordinary step of challenging his former employer's
11 actions by bringing this case. Plaintiff did so in the belief that he, and the members of the Settlement
12 Class, were, in fact, entitled to the relief sought in this case. Until this case was filed, no one was
13 pursuing the claims raised in this matter. Plaintiff's actions have resulted in a recovery for the
14 members of the Settlement Class, and the service enhancement he seeks is reasonable.

15 45. Plaintiff fully participated in this action throughout the pendency of the litigation.
16 He was kept well informed of the nature and extent of settlement discussions and approved the
17 same. As such, the service enhancement sought for Plaintiff is reasonable and represents a small
18 percentage of the Net Settlement Amount. Absent the actions taken by Plaintiff, none of the Class
19 Members would have reaped the rewards of this action.

20 **EXPERIENCE AND VIEWS OF COUNSEL**

21 46. My firm has litigated numerous complex business matters, including employment
22 cases. We have settled multiple cases for seven-figures and several more for six-figure amounts.
23 We have obtained seven-figure judgments in complex litigation matters. This is a seven-attorney
24 law firm in West Los Angeles. The firm practices in the area of employment litigation and complex
25 business litigation. My colleague, Ronald W. Makarem, was named a Top 20 Attorney under the
26 Age of 40, in California, by the Daily Journal in 2007, and a California SuperLawyer from 2010 to
27 the present.

28 47. I and the other attorneys at Makarem & Associates have engaged in all aspects of

1 class action litigation, including having interviewed potential class action representatives to
2 determine the potential merits of their allegations, conducted pre-litigation investigation, including
3 interview, research and analysis, drafted class action complaints, drafted class action discovery and
4 responses thereto, conducted and defended depositions, drafted, opposed and orally argued
5 numerous class action law and motion pleadings (including oppositions to removal, oppositions to
6 demurrer, oppositions to motions to strike, motions to compel, oppositions to motions to compel,
7 class certification motions, oppositions to motions to decertify, and preliminary and final approval
8 motions), conducted class member interviews, legal research, settlement negotiations and meetings
9 with defense counsel, statistical analysis of potential damages, and attended numerous mediation
10 sessions for purposes of negotiating class action settlements.

11 48. Makarem & Associates presently has in excess of 30 wage and hour class actions
12 pending in various stages of the litigation process, from pre-litigation investigation to final-
13 approval pending.

14 49. Makarem & Associates is well qualified because of our experience, knowledge, and
15 resources to act as counsel and represent Plaintiff and the putative class in this action. A substantial
16 percentage of our practice is devoted to litigating wage, hour, and working-conditions violations,
17 and the bulk of these cases are class actions.

18 50. This experience is helpful in assessing the reasonableness of settlements such as the
19 one at issue here, and from this experience Class Counsel concluded that this lawsuit could not
20 have been settled on better terms than provided under the present settlement agreement.

21 51. In sum, Class Counsel is experienced in employment class action litigation, and is
22 adequate to represent the putative class in the instant action.

23 52. According to the Settlement Agreement for any Class Member whose Individual
24 Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void
25 date, the Administrator shall transmit the funds represented by such checks to a Court-approved
26 nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd.
27 (b) (“Cy Pres Recipient”). In this matter the Parties request the Court approve the Justice Gap Fund
28 as the Cy Pres Recipient. The Parties, as well as my firm and Defense Counsel have all represented

1 in the Settlement Agreement that they have no interest or relationship, financial or otherwise, with
2 the intended Cy Pres Recipient, Justice Gap Fund.

3 **REQUEST FOR ATTORNEYS' FEES**

4 53. The settlement calls for the payment of up to 35% of the Maximum Settlement
5 Amount or \$ 122,500.00 for attorneys' fees. This request is fair, reasonable, and adequate to
6 compensate Class Counsel for the substantial work they have put into this case and, moreover, the
7 risk they assumed by taking it in the first place. The attorneys' fees award is intended to reimburse
8 Class Counsel for all uncompensated work that they have already done and for all the work they
9 will continue to do in carrying out and overseeing the notification to class members, communicating
10 with class members regarding their claims, and assisting in the administration of the settlement if
11 it is preliminarily approved.

12 54. My firm took this case on a contingent-fee basis against a business represented by a
13 reputable defense firm. Plaintiff signed a contingency-fee agreement stating that Class Counsel
14 could receive a fee of up to 40% of the overall recovery. When we take contingent cases, we must
15 pay careful attention to the economics involved or one bad case can destroy years of work.
16 Accordingly, when we take contingency cases, we anticipate that we shall, if successful, receive a
17 fee that exceeds our normal hourly rate; otherwise, the risk is often too great to bear. Even when
18 we work long hours, the number of hours in a day is limited. Because of this, when we take on one
19 particular matter, we are unable to take on other matters. When Class Counsel became involved in
20 this case, we realized the time commitment that it would entail and we were forced to turn down
21 matters that we otherwise should have been able to handle. In sum, this case claimed a significant
22 portion of Class Counsel's time and attention throughout its pendency.

23 55. In this case, my firm has incurred substantial attorney's fees conducting pre-filing
24 investigation, analyzing the claims, conducting legal research, reviewing records and speaking with
25 class members, negotiating the class settlement, preparing the long-form settlement agreement,
26 preparing this motion for preliminary approval, and otherwise litigating the case.

27 56. The requested fee is reasonable for the services provided to class members and for
28 the benefits they are to receive. Indeed, courts frequently approve multipliers under the lodestar

1 theory, *see Bihun v. AT&T Information System* (1993) 13 Cal.App.4th 976, 997, meaning Class
2 Counsel's fees are still justified even when the requested fee exceeds the lodestar calculation. Class
3 Counsel will more fully brief the Court on its lodestar in the motion for final approval.

4 I declare under penalty of perjury of the laws of United States of America in the state of
5 California that the foregoing is true and correct. Executed on January 13, 2023 in Los Angeles,
6 California.

7 
8 Daniel J. Bass

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Jorge Hernandez Zuluaga (“Plaintiff”) and Defendant Solaris Trading Corporation (“Solaris” or “Defendant”). The Agreement refers to Plaintiff and Defendant Solaris Trading Corporation collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Solaris captioned *Jorge Hernandez Zuluaga v. Solaris Trading Corporation* initiated on December 17, 2020 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means CPT Group Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Solaris in California and classified as nonexempt during the PAGA Period.
- 1.5. “Class” means all current and former non-exempt or hourly employees of Defendant that worked in California at any time during the Class Period.
- 1.6. “Class Counsel” means Makarem & Associates, APLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Solaris’ possession including the Class Member’s name, last-known mailing address, Social Security number, telephone number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and

search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from December 17, 2016 to the date of Preliminary Approval or until the number of total workweeks reaches 7,500, whichever is earlier.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Solaris” and “Defendant” means named Defendant Solaris Trading Corporation.
- 1.17. “Defense Counsel” means Fisher & Phillips LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (ii) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (iii) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$350,000.00 which is the total amount Solaris agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross

Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Solaris for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from December 17, 2019 to the date of Preliminary Approval or until the number of total workweeks reaches 7,500, whichever is earlier.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. "PAGA Notice" means Plaintiff's letter to Solaris and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims.

- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Jorge Hernandez Zuluaga, the named plaintiff in the Action.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.41. "Released Parties" means: Solaris and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for Solaris for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On December 17, 2020, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Solaris for 1) Failure to Pay Overtime Wages; 2) Failure to Provide Meal Periods; 3) Failure to Provide Rest Periods; 4) Failure to Pay Minimum Wage; 5) Failure to Furnish Accurate Wage Statements; 6) Failure to Pay All Wages Earned; 7) Failure to Pay Earned Wages Upon Termination; and 8) Unfair Competition in Violation of Business & Professions Code Section 17200. Plaintiff will submit a proposed First Amended Complaint alleging the same causes of action against Solaris as well as an additional cause of action for penalties pursuant to the Private

Attorneys' General Act of 2004 ("PAGA") by no later than the motion for preliminary approval of this settlement. Parties stipulate to Plaintiff requesting that that the proposed First Amended Complaint become the operative complaint in the Action (the "Operative Complaint."). Solaris denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Solaris and the LWDA by sending the PAGA Notice.
- 2.3. On May 13, 2022, the Parties participated in an all-day mediation presided over by Michael Young with Judicate West which led to this Agreement to settle the Action
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, Solaris's written policies, Plaintiff's personnel file, and a sampling of Class Members' time and payroll records. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Solaris promises to pay \$350,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Solaris has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Solaris.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$5,000 in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Solaris will not oppose Plaintiff's request for a Class

Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35 %, which is currently estimated to be \$122,500.00 and a Class Counsel Litigation Expenses Payment of not more than \$18,000.00. Solaris will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Solaris harmless, and indemnifies Solaris, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$9,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$9,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 33.34% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 66.66% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume

full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$2,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Solaris estimates there are 64 Class Members who collectively worked a total of 7,080 Workweeks, and 40 of Aggrieved Employees who worked a total 2,995 of PAGA Pay Periods.

Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Solaris will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Solaris has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Solaris must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.2. Funding of Gross Settlement Amount. Solaris shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Solaris' share of payroll taxes by transmitting the funds to the Administrator no later than September 1, 2023, with the potential exception of the Administrator's fees which may be paid sooner if required by the Administrator.
- 4.3. Payments from the Gross Settlement Amount. Within 14 days after Solaris funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.3.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.3.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.3.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient"). Parties intend to submit Justice Gap Fund or similar non-profit selected by the Parties and approved by the

Court as the Cy Pres Recipient. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

4.3.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Solaris to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. RELEASES OF CLAIMS. Effective on the date when Solaris fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2, below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, based on occurrences outside the Class Period, or except for Plaintiff's currently-pending individual case styled *Jorge Hernandez Zuluaga v. Solaris Trading Corporation* (LASC Case No. 20STCV43759 [the "Individual Action"]) and causes of action that were pled in the Individual Action or which could have been pled in the complaints in the Individual Action based on the factual allegations therein. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

6.2 Release by Participating Class Members Who Are Not Aggrieved Employees:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a). Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All

Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a).

7. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies

with the Court's current checklist for Preliminary Approvals.

- 7.1 Solaris' Declaration in Support of Preliminary Approval. Within 20 days of the full execution of this Agreement, Solaris will prepare and deliver to Class Counsel a signed Declaration from Solaris and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Solaris shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 7.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach; defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed Cy Pres; and the nature and extent of any financial relationship with Plaintiff, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator and/or the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class

Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected CPT Group Class Action Administrators ("CPT") to serve as the Administrator and verified that, as a condition of appointment, CPT agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail

the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Solaris or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

- 8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.
- 8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- 8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.
- 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.8.5 Administrator’s Declaration. Not later than 14 days before the date by

which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

- 8.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. **CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE]** Based on its records, Solaris estimates that, as of the date of this Settlement Agreement, (1) there are 64 Class Members and 7,080 Total Workweeks during the Class period as of September 13, 2022 and (2) there were 40 Aggrieved Employees who worked 2,995 Pay Periods during the PAGA Period.
10. **SOLARIS'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5 Class Members, Solaris may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Solaris withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Solaris will remain responsible for paying all Settlement Administration Expenses incurred to that point. Solaris must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
11. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. **ADDITIONAL PROVISIONS.**

13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Solaris that any of the allegations in the Operative Complaint have merit or that Solaris has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Solaris' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Solaris reserves the right to contest certification of any class for any reason(s), and Solaris reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Solaris' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Solaris and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Solaris and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Solaris, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Solaris, nor Defense Counsel is providing any 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.
- 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party

on the basis that the Party was the drafter or participated in the drafting.

- 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Solaris in connection with the mediation, other settlement negotiations, or in connection with the Settlement, 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 of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Solaris unless, prior to the Court's discharge of the Administrator's obligation, Solaris makes a written request to Class Counsel for the return, rather than the destructions, of Class Data
- 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

MAKAREM & ASSOCIATES, APLC

Ronald W. Makarem, Esq.

Marcus Jackson, Esq.

Daniel J. Bass, Esq.

11601 Wilshire Boulevard, Suite 2440

Los Angeles, California 90025-1760

Phone: (310) 312-0299

Fax: (310) 312-0296

Email: clerks@law-rm.com

To Solaris Trading Corporation:

FISHER & PHILLIPS LLP

Todd B. Scherwin, Esq.
Nazanin Afshar, Esq.
444 South Flower Street, Suite 1500
Los Angeles, California 90071
Phone: (213) 330-4450
Fax: (213) 330-4451
Email: tscherwin@fisherphillips.com
nafshar@fisherphillips.com

13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.19 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 upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: _____

Jorge Hernandez Zuluaga

Dated: _____

Solaris Trading Corporation

By: Stefan Bostanian
Title: President

APPROVED AS TO FORM:

Dated: _____

Makarem & Associates, APLC

Ron Makarem
Daniel J. Bass
Attorneys for Plaintiff

To Solaris Trading Corporation:

FISHER & PHILLIPS LLP

Todd B. Scherwin, Esq.
Nazanin Afshar, Esq.
444 South Flower Street, Suite 1500
Los Angeles, California 90071
Phone: (213) 330-4450
Fax: (213) 330-4451
Email: tscherwin@fisherphillips.com
nafshar@fisherphillips.com

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Dated: 12-29-22



Jorge Hernandez Zuluaga

Dated: 1-11-2023



Solaris Trading Corporation
By: Stefan Bostan
Title: President

APPROVED AS TO FORM:

Dated: 12/30/2022

Makarem & Associates, APLC



Ron Makarem
Daniel J. Bass
Attorneys for Plaintiff

Dated: Jan. 12, 2023

Fisher & Phillips LLP

Nazanin Afshar

Todd B. Scherwin

Nazanin Afshar

Attorneys for Defendants

Exhibit A
**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND
HEARING DATE FOR FINAL COURT APPROVAL**

Jorge Hernandez Zuluaga v. Solaris Trading Corporation, Case No. 20STCV48213

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit ("Action") against Solaris Trading Corporation ("Solaris" herein) for alleged wage and hour violations. The Action was filed by a former Solaris employee Jorge Hernandez Zuluaga ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of non-exempt hourly employees ("Class Members") who worked for Solaris during the Class Period (December 17, 2016 to _____); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt hourly employees who worked for Solaris during the PAGA Period (_____ to _____) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Solaris to fund Individual Class Payments, and (2) a PAGA Settlement requiring Solaris to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Solaris' records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Solaris' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Solaris' records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Solaris to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Solaris.

If you worked for Solaris during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Solaris.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Solaris, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Solaris will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Solaris that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Solaris must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Solaris' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Solaris employee. The Action accuses Solaris of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses, and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Ron Makarem, Marcus Jackson, and Daniel Bass of Makarem & Associates, APLC ("Class Counsel.")

Solaris strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Solaris or Plaintiff is correct on the merits. In the meantime, Plaintiff and Solaris hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Solaris have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Solaris does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Solaris has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Solaris Will Pay \$350,000.00 as the Gross Settlement Amount (Gross Settlement). Solaris has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Solaris will fund the Gross Settlement on or before September 1, 2023. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$ 122,500.00 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$18,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$9,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross

Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Solaris are asking the Court to approve an allocation of 33.34% of each Individual Class Payment to taxable wages (“Wage Portion”) and 66.66% to penalties and interest (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Solaris will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Solaris have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”).
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Solaris.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Solaris based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Solaris have agreed that, in either case, the Settlement will be void: Solaris will not pay any money and Class Members will not release any claims against Solaris.
8. Administrator. The Court has appointed a neutral company, CPT Group Class Action Administration (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Solaris has fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Solaris or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a). Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or

claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Solaris has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Solaris, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Solaris or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice, and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA

Period, as recorded in Solaris' records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Solaris' calculation of Workweeks and/or Pay Periods based on Solaris' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Solaris' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Jorge Hernandez Zuluaga v. Solaris Trading Corporation*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Solaris are asking the Court to approve. At least 16 court days before the _____ Final Approval Hearing, Class

Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses, and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) or the Court's website _____ (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses, and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the "*Jorge Hernandez Zuluaga v. Solaris Trading Corporation*" Action and include your name, current address telephone number, and approximate dates of employment for Solaris and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) _____ in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Solaris and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity)'s website at _____ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to

(<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 20STCV48213. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

Class Counsel:

MAKAREM & ASSOCIATES, APLC

Ronald W. Makarem, Esq. (State Bar No. 180442)

Marcus Jackson, Esq.

Daniel J. Bass, Esq.

11601 Wilshire Boulevard, Suite 2440

Los Angeles, California 90025-1760

Phone: (310) 312-0299

Fax: (310) 312-0296

Email: clerks@law-rm.com

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money as those funds will be reissued to a non-profit organization.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT 2

~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE¹

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Jorge Hernandez Zuluaga (“Plaintiff”) and defendant ~~XYZ~~

(“XYZ”). Defendant Solaris Trading Corporation (“Solaris” or “Defendant”). The Agreement refers to Plaintiff and ~~XYZ Defendant Solaris Trading Corporation~~ collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against ~~XYZ Solaris~~ captioned Jorge Hernandez Zuluaga v. Solaris Trading Corporation initiated on December 17, 2020 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means CPT Group Class Action Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means ~~fe.g., a person employed by XYZ Solaris in California and classified as a who worked for XYZ nonexempt~~ during the PAGA Period~~;~~.
- 1.5. “Class” means ~~define class e.g., all persons employed by XYZ current and former non-exempt or hourly employees of Defendant that worked in California and classified as who worked for XYZ at any time during the~~ Class Period~~;~~.
- 1.6. “Class Counsel” means Makarem & Associates, APLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in ~~XYZ’s Solaris’~~

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possession including the Class Member's name, last-known mailing address, Social Security number, telephone number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

~~1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be~~
1.11. mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from _____ to _____, December 17, 2016 to the date of Preliminary Approval or until the number of total workweeks reaches 7,500, whichever is earlier.

1.13. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "~~XYZ~~Solaris" and "Defendant" means named Defendant, Solaris Trading Corporation.

1.17. "Defense Counsel" means _____ Fisher & Phillips LLP.

1.18. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: ~~(a)~~ if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; ~~(b)~~ if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (iii) if a timely appeal from the Judgment is filed, the day after the appellate court affirms

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the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. “Gross Settlement Amount” means \$350,000.00 which is the total amount XYZ Solaris agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator’s Expenses.

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1.22.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for ~~XYZ Solaris~~ for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from ~~December 17, 2019~~ to ~~the date of Preliminary Approval~~ or until the number of total workweeks reaches 7,500, whichever is earlier.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.33. "PAGA Notice" means Plaintiff's ~~letter to XYZ Solaris and the LWDA~~ and Plaintiff's ~~letter to XYZ and the LWDA~~ providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (~~\$2,500.00~~) and the 75% to LWDA (~~\$7,500.00~~) in settlement of PAGA claims.

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- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Jorge Hernandez Zuluaga, the named plaintiff in the Action.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.41. "Released Parties" means: XYZSolaris and each of its former and present directors, officers, shareholders, owners, ~~[members]~~, attorneys, insurers, predecessors, successors, assigns ~~+~~, subsidiaries ~~+~~, and affiliates ~~+~~.
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means ~~[e.g., 60]~~45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week during which a Class Member worked for XYZSolaris for at least one day, during the Class Period.^{iv}

2. RECITALS.

- 2.1. On December 17, 2020, Plaintiff commenced this Action by filing a Complaint alleging causes of action against XYZSolaris for (The Complaint is the operative complaint) 1) Failure to Pay Overtime Wages; 2) Failure to Provide Meal Periods; 3) Failure to Provide Rest Periods; 4) Failure to Pay Minimum Wage; 5) Failure to Furnish Accurate Wage Statements; 6) Failure to Pay All Wages Earned; 7) Failure to Pay Earned Wages Upon Termination; and 8) Unfair Competition

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in the Action (the “Operative Complaint.”) [On _____
_____, Violation of Business & Professions Code Section 17200, Plaintiff filed will
submit a [e.g., proposed First Amended Complaint] alleging the same causes of action
against XYZ Solaris as well as an additional cause of action for _____.
The [e.g., penalties pursuant to the Private Attorneys’ General Act of 2004 (“PAGA”) by
no later than the motion for preliminary approval of this settlement. Parties stipulate to
Plaintiff requesting that that the proposed First Amended] Complaint is become the
operative complaint in the Action (the “Operative Complaint.”) XYZ. Solaris denies the
allegations in the Operative Complaint, denies any failure to comply with the laws
identified in in the Operative Complaint and denies any and all liability for the causes of
action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written
notice to XYZ Solaris and the LWDA by sending the PAGA Notice.

2.3. On _____ (type in additional dates), [May 13,
2022], the Parties

2.3. participated in an all-day mediation presided over by _____ Michael
Young with Judicate West which led to this Agreement to settle the Action (describe
alternative means of negotiation).

(describe alternative means of negotiation)

2.4. Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff obtained, through

2.4. ☐ formal ☐ informal discovery, (documents, testimony Solaris’s written
policies, Plaintiff’s personnel file, and information obtained) a sampling of Class
Members’ time and payroll records. Plaintiff’s investigation was sufficient to satisfy
the criteria for court approval set forth in Dunk v. Foot Locker Retail, Inc. (1996)
48 Cal.App.4th 1794, 1801 and Kullar v. Foot Locker Retail, Inc. (2008) 168
Cal.App.4th 116, 129-130 (“Dunk/Kullar”).

2.5. The Court ☐ has ☐ has not granted class certification.

(insert details as needed)

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware
of any other pending matter or action asserting claims that will be extinguished or
affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
XYZ Solaris promises to pay \$ _____ 350,000.00 and no more as the Gross
Settlement Amount and to separately pay any and all employer payroll taxes owed on
the Wage Portions of the Individual Class Payments. XYZ Solaris has no obligation
to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in

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Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZSolaris.

- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$ 5,000 in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). XYZSolaris will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35 %, which is currently estimated to be \$ 122,500.00 and a Class Counsel Litigation Expenses Payment of not more than \$ 18,000.00. Solaris will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds XYZSolaris harmless, and indemnifies XYZSolaris from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$ 9,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$ 9,000.00, the Administrator will retain the

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remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. % 33.34% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The % 66.66% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for ~~e.g.,~~ interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$ 10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$ 7,500.00) allocated to the LWDA PAGA Payment and 25% (\$ 2,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$ 2,500.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, XYZ Solaris estimates there are 64

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Class Members who collectively worked a total of 7,080 Workweeks, and 40 of Aggrieved Employees who worked a total 2,995 of PAGA Pay Periods.

4.2. Class Data. Not later than ~~15~~ 30 days after the Court grants Preliminary Approval of the Settlement, XYZSolaris will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. XYZSolaris has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which XYZSolaris must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3.4.2. Funding of Gross Settlement Amount. XYZSolaris shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay XYZ'sSolaris' share of payroll taxes by transmitting the funds to the Administrator no later than ~~14~~ days after September 1, 2023, with the Effective Date potential exception of the Administrator's fees which may be paid sooner if required by the Administrator.

4.4.4.3. Payments from the Gross Settlement Amount. Within ~~14~~ days after XYZSolaris funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1.4.3.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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4.4.2.4.3.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are ~~returned~~returned undelivered without USPS forwarding address. Within ~~{7}~~ days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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4.4.3.4.3.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).~~ ~~to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b), ("Cy Pres Recipient")~~. Parties intend to submit Justice Gap Fund or similar non-profit selected by the Parties and approved by the Court as the Cy Pres Recipient. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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4.4.4.4.3.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate XYZSolaris to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

6. RELEASES OF CLAIMS. Effective on the date when XYZSolaris fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences ~~that occurred during the Class Period~~, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, ~~for ascertained during the Action and released under 6.2, below~~. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, ~~or based on occurrences outside the Class Period based on occurrences outside the Class Period, or except for Plaintiff's currently-pending individual case styled Jorge~~

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Hernandez Zuluaga v. Solaris Trading Corporation (LASC Case No. 20STCV43759 [the "Individual Action"]) and causes of action that were pled in the Individual Action or which could have been pled in the complaints in the Individual Action based on the factual allegations therein. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

- 6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

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6.2 **Release by Participating Class Members Who Are Not Aggrieved Employees:**

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(i)~~ all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint ~~[and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.”]~~ and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a). Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

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6.3 **Release by Non-Participating Class Members Who Are Aggrieved Employees:** All

Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint~~[,] [and] the PAGA Notice [and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.”]~~, the PAGA Notice and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 *et seq.*, Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a).

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7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

7.1. XYZ'Solaris' Declaration in Support of Preliminary Approval. Within – 20 days of the full execution of this Agreement, XYZSolaris will prepare and deliver to Class Counsel a signed Declaration from XYZSolaris and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and XYZSolaris shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2. — Plaintiff's Responsibilities. Uplift will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach; defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members ~~and/or the proposed Cy Pres~~; and the nature and extent of any financial relationship with Plaintiff, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator and/or the proposed Cy Pres; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~30~~ days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible

for delivering the Court’s Preliminary Approval to the Administrator.

- 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

8. SETTLEMENT ADMINISTRATION.

- 8.1 Selection of Administrator. The Parties have jointly selected _____ CPT Group Class Action Administrators (“CPT”) to serve as the Administrator and verified that, as a condition of appointment, _____ CPT agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

- 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

- 8.4 Notice to Class Members.

- 8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, if applicable, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall

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update Class Member addresses using the National Change of Address database.

8.4.3 Not later than ~~3~~ business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional ~~14~~ days beyond the ~~60~~ days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, ~~XYZ~~Solaris or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~14~~ days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than ~~60~~ days after the Administrator mails the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall

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be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have ~~{60}~~⁴⁵ days after the Administrator mails the Class Notice (plus an additional ~~{14}~~ days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class

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Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than ~~60~~45 days after the Administrator's mailing of the Class Notice (plus an additional ~~14~~ days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. ~~Not later than 15 days after the expiration of the deadline for submitting~~ Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this

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Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Administrator's Declaration. Not later than {14} days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

8.8.6 Final Report by Settlement Administrator. Within {10} days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least {15} days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. **CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE]** Based on its records, XYZSolaris estimates that, as of the date of this Settlement Agreement, (1) there are 64 Class Members and 7,080 Total Workweeks during the Class period as of September 13, 2022 and (2) there were 40 Aggrieved Employees who worked 2,995 Pay Periods during the PAGA Period: 1/1/2018 to 12/31/2022.

10. **XYZ'SSOLARIS'S RIGHT TO WITHDRAW**. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds % of the total of all 5 Class Members, XYZSolaris may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if XYZSolaris withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, XYZSolaris will remain responsible for paying all Settlement Administration Expenses incurred to that point. XYZSolaris must notify Class Counsel and the Court of its election to withdraw not later than {seven} days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. **MOTION FOR FINAL APPROVAL**. Not later than {16} court days before the

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calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel ~~not later than [seven] days~~ prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later ~~that [than] five~~ court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of

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release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. **ADDITIONAL PROVISIONS.**

13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZSolaris that any of the allegations in the Operative Complaint have merit or that XYZSolaris has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ'sSolaris' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, XYZSolaris reserves the right to contest certification of any class for any reasons, reason(s), and XYZSolaris reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest XYZ'sSolaris' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, XYZSolaris and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate, and/or publicize, or cause or permit another person to disclose, disseminate, or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, XYZSolaris and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class

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Counsel's ethical obligations owed to Class Members.

13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and ~~XYZ~~Solaris, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity ~~and any~~ portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.8 No Tax Advice. Neither Plaintiff, Class Counsel, ~~XYZ~~Solaris, nor Defense Counsel ~~are~~is providing any 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.

13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and

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preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

- 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by XYZSolaris in connection with the mediation, other settlement negotiations, or in connection with the Settlement, 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 of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from XYZSolaris unless, prior to the Court's discharge of the Administrator's obligation, XYZSolaris makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

- 13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

- 13.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

To XYZ:

MAKAREM & ASSOCIATES, APLC

Ronald W. Makarem, Esq.

Marcus Jackson, Esq.

Daniel J. Bass, Esq.

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11601 Wilshire Boulevard, Suite 2440
Los Angeles, California 90025-1760
Phone: (310) 312-0299
Fax: (310) 312-0296
Email: clerks@law-rm.com

To Solaris Trading Corporation:

FISHER & PHILLIPS LLP
Todd B. Scherwin, Esq.
Nazanin Afshar, Esq.
444 South Flower Street, Suite 1500
Los Angeles, California 90071
Phone: (213) 330-4450
Fax: (213) 330-4451
Email: tscherwin@fisherphillips.com
nafshar@fisherphillips.com

13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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13.19 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 upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

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For
Dated:

Jorge Hernandez Zuluaga

Dated: Solaris Trading Corporation

By: Stefan Bostanian
Title: President

APPROVED AS TO FORM:

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Dated: _____ Makarem & Associates, APLC

Ron Makarem

Daniel J. Bass

Attorneys for Plaintiff _____ For XYZ

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Counsel For Plaintiff

Counsel For XYZ

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Dated: Fisher & Phillips LLP

Todd B. Scherwin

Nazanin Afshar

Attorneys for Defendants

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Exhibit A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(case name and number)

Jorge Hernandez Zuluaga v. Solaris Trading Corporation, Case No. 20STCV48213

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***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit ("Action") against _____ (abbreviate name; "XYZ" is used Solaris Trading Corporation ("Solaris" herein as a placeholder) for alleged wage and hour violations. The Action was filed by a ~~not~~ former XYZ Solaris employee _____ Jorge Hernandez Zuluaga ("Plaintiff") and seeks payment of (1) back wages [and other relief] for a class of ~~fe.g., non-exempt~~ hourly employees ("Class Members") who worked for XYZ Solaris during the Class Period (~~December 17, 2016~~ to _____); and (2) penalties under the California Private Attorney General Act ("PAGA") for all ~~fe.g., non-exempt~~ hourly employees who worked for XYZ Solaris during the PAGA Period (_____ to _____) ("Aggrieved Employees").

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The proposed Settlement has two main parts: (1) a Class Settlement requiring XYZ Solaris to fund Individual Class Payments, and (2) a PAGA Settlement requiring XYZ Solaris to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on XYZ's Solaris' records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$_ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to XYZ's Solaris' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on XYZ's Solaris' records showing that **you worked** _____ **workweeks** during the Class Period and **you worked** _____ **workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires XYZ Solaris to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against XYZ Solaris.

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If you worked for [XYZSolaris](#) during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against XYZSolaris.

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(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against XYZSolaris, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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XYZSolaris will not retaliate against you for any actions you take with respect to the proposed Settlement.

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SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against <u>XYZSolaris</u> that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. <u>XYZSolaris</u> must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

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You Can Participate in the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to <u>XYZ's Solaris'</u> records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.
Written Challenges Must be Submitted by _____	

1. WHAT IS THE ACTION ABOUT?

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Plaintiff is a ~~an~~ former XYZ Solaris employee. The Action accuses XYZ Solaris of violating California labor laws by failing to pay ~~for~~ overtime wages, minimum wages, wages due upon termination and reimbursable expenses, and failing to provide ~~for~~ meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Ron Makarem, Marcus Jackson, and Daniel Bass of Makarem & Associates, APLC ("Class Counsel.")

XYZ

Solaris strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

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So far, the Court has made no determination whether XYZ Solaris or Plaintiff is correct on the merits. In the meantime, Plaintiff and XYZ Solaris hired ~~an~~ an experienced, neutral mediator ~~an~~ a retired judge

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~~an~~ (describe alternative means of negotiation) in an effort to resolve the Action by negotiating an ~~to~~ end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and XYZ Solaris have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, XYZ Solaris does not admit any violations or concede the merit of any claims.

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Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) XYZSolaris has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. XYZSolaris Will Pay \$350,000.00 as the Gross Settlement Amount (Gross Settlement). XYZSolaris has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, XYZSolaris will fund the Gross Settlement ~~not more than [14] days after the Judgment entered by the Court become final~~ on or before September 1, 2023. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$122,500.00 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$18,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$9,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in

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amounts approved by the Court, the Administrator will distribute the rest of the Gross

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Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and XYZSolaris are asking the Court to approve an allocation of % 33.34% of each Individual Class Payment to taxable wages (“Wage Portion”) and % 66.66% to penalties and interest, etc. (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Option 1: (XYZSolaris will separately pay employer payroll taxes it owes on the Wage
4. Portion.) The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.
~~Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.~~

Although Plaintiff and XYZSolaris have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies

~~will be deposited with the California Controller’s Unclaimed Property Fund in your name.~~

5. ~~will~~ irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”).

~~If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.~~

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against XYZSolaris.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA

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claims against ~~XYZ~~Solaris based on the PAGA Period facts alleged in the Action.

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7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs Plaintiff and XYZSolaris have agreed that, in either case, the Settlement will be void: XYZSolaris will not pay any money and Class Members will not release any claims against XYZSolaris.

8. Administrator. The Court has appointed a neutral company, —— CPT Group Class Action Administration (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and XYZSolaris has fully funded the Gross Settlement, Option 1: (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against XYZSolaris or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.”] and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 et seq., Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a). Except as set forth in Section 6.3 of the

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Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and XYZSolaris has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against XYZSolaris, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against XYZSolaris or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[,] ~~and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., (a) any and all claims involving any alleged failure to pay minimum wage; etc.], the PAGA Notice, and ascertained in the course of the Action including the following claims: (a) failure to pay overtime wages; (b) failure to provide compliant meal periods, or provide pay for non-compliant meal periods at the correct rate(s) of pay; (c) failure to authorize and permit compliant rest periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (d) failure to provide accurate, itemized wage statements and/or otherwise maintain accurate records; (e) failure to pay all wages; (f) failure to timely pay wages upon separation of employment; (g) unfair business practices; and (h) all other claims that could have been premised on the facts, claims, causes of action, or legal theories described above pursuant to the California Industrial Welfare Commission (IWC) Wage Order(s) and/or California Labor Code, including but not limited to Labor Code §§200-203, 204, 218, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, 1197, 1197.1, 2698-2699, and 2699.5, Cal. Bus. & Prof. Code § 17200 et seq., Cal. Code Civ. Proc. § 1021.5, and Cal. Civ. Code § 3287(a).~~

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$ 2,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in ~~XYZ's~~Solaris' records, are stated in the first page of this Notice. You have until to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The

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Administrator will accept XYZ'sSolaris' calculation of Workweeks and/or Pay Periods based on XYZ'sSolaris' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and XYZ'sSolaris' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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1. **Participating Class Members.** The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. **Non-Participating Class Members.** The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as _____

_____, Jorge Hernandez Zuluaga v. Solaris Trading Corporation, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and ~~XYZ~~Solaris are asking the Court to approve. At least 16 court days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses, and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) or the Court's website _____ (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses, and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you

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identify the “*Jorge Hernandez Zuluaga v. Solaris Trading Corporation*” Action and include your name, current address,

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telephone number, and approximate dates of employment for [XYZ] Solaris and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

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You can, but don't have to, attend the Final Approval Hearing on _____ at _____ (time) in Department 7412 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

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The Agreement sets forth everything XYZ Solaris and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity)'s website at _____ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 20STCV48213. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel: -Name of Attorney:-

MAKAREM & ASSOCIATES, APLC

Ronald W. Makarem, Esq. (State Bar No. 180442)

Marcus Jackson, Esq.

Daniel J. Bass, Esq.

11601 Wilshire Boulevard, Suite 2440

Los Angeles, California 90025-1760

Phone: (310) 312-0299

Fax: (310) 312-0296

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Email-Address: Name of Firm: Mailing Address: Telephone: clerks@law-rm.com

Settlement Administrator:
Name of Company:

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Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money as those funds will be reissued to a non-profit organization.

☐ you should consult the Unclaimed Property Fund _____ for instructions on how to retrieve the funds

☐ you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

ⁱThis Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex-litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.

ⁱⁱWhether the “date of preliminary approval” yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties’ *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount “represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation.” (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94–95, internal quotation marks omitted.)

ⁱⁱⁱSee endnote ii above.

^{iv}The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.

^vThe Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.

^{vi}Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g., a settlement that is solely a Labor Code Section 226(a) claim.)

^{vii}Insert negotiated terms, if any, addressing the possibility that XYZ’s estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an “escalator” clause memorializing XYZ’s promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ’s estimates.

^{viii}Releases in Notice should track the releases in the Settlement Agreement.

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