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FILED
 ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT
 By  Deputy

Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ALAMEDA
 UNLIMITED JURISDICTION

MARTIN FLETSCHER, On Behalf of Himself
 and All Others Similarly Situated,
 Plaintiff,
 v.
 OVERLAND SOLUTIONS, INC.,
 Defendant.

Case No. RG17852058

CLASS ACTION

**[PROPOSED] ORDER GRANTING
 PLAINTIFF'S UNOPPOSED MOTION FOR
 PRELIMINARY APPROVAL OF CLASS
 SETTLEMENT**

ASSIGNED FOR ALL PURPOSES TO THE
 HON. IOANA PETROU, DEPT. 17

Hearing Date: November 13, 2018
 Time: 9:00 a.m.
 Reservation Number: R-1985386
 Date Action Filed: March 8, 2017
 Trial Date: Not set

1 On November 13, 2018, a hearing was held in Department 17 of the Alameda County Superior
2 Court, Judge Ioana Petrou presiding, to consider Plaintiff's Motion for Preliminary Approval of Class
3 Settlement.

4 The Parties to this action have entered into an Amended Joint Stipulation of Class Settlement
5 and Release, dated October 9, 2018 ("Settlement Agreement," "Settlement," or "Agreement") which,
6 if approved, would resolve the class and PAGA claims in the action.

7 THE COURT NOW FINDS AND ORDERS AS FOLLOWS:

- 8 1. Plaintiff's Motion for Preliminary Approval of Class Settlement is hereby GRANTED.
9 2. All terms contained and not otherwise defined herein shall have the same meaning set
10 forth in the Settlement Agreement. The Settlement Agreement can be obtained on DomainWeb or at
11 www.sanfordheisler.com. On DomainWeb, the Settlement Agreement can be found attached as
12 Exhibit A to the Declaration of Danielle Fuschetti in Support of Plaintiff's Unopposed Motion for
13 Preliminary Approval of Class Settlement.

14 **Preliminary Approval of Settlement Agreement**

15 3. The Court has reviewed the terms of the Settlement Agreement and the papers
16 submitted by Class Counsel in support of the Motion for Preliminary Approval of Class Settlement.
17 Upon review and consideration of all motion papers on file, the Settlement Agreement and all exhibits
18 thereto, including the proposed form of Class Notice, and the argument of counsel, the Court finds
19 that there is sufficient basis for: (i) granting preliminary approval of the Settlement; (ii) provisionally
20 certifying the Class for settlement purposes; (iii) appointing Plaintiff Martin Fletscher as Class
21 Representative and appointing Sanford Heisler Sharp, LLP and Valerian Law as Class Counsel; (iv)
22 approving the method and manner of providing notice to the Class as set forth in the Settlement
23 Agreement; and (v) setting a schedule for the Final Approval Hearing and other remaining procedures.

24 4. Plaintiff's Complaint alleges causes of action under the California Labor Code and
25 Business & Professions Code § 17200 *et seq.* for certain wage and hour violations arising from
26 Defendant Overland Solutions, Inc.'s ("OSI") classification of insurance inspectors as independent
27 contractors. Plaintiff alleges that Defendant misclassified Class Member inspectors and is liable for
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1 failing to pay minimum wages for all hours worked by Class Members, failing to reimburse inspectors
2 for business expenses, failing to furnish accurate, itemized wage statements, and failing to pay all
3 wages upon termination of providing services for OSI. Based on those allegations, Plaintiff seeks
4 damages, statutory penalties and restitution, as well as civil penalties under the Private Attorney
5 General Act, Cal. Labor Code § 2698 *et seq.* Defendant denies all of Plaintiff's allegations.

6 5. Plaintiff has provided credible evidence that for both sides the potential risks and
7 expenses of continued litigation is substantial and involves considerable risk of unfavorable outcomes.
8 In light of anticipated expense and risk, the Parties engaged Mediator Tripper Ortman to mediate all
9 claims. Based on all the evidence available to the Court, the Court concludes that: (i) the Settlement
10 is the result of extensive, arm's-length negotiations among the Parties after Class Counsel investigated
11 the Class Claims and became familiar with the strengths and weaknesses of the Class Claims; (ii) the
12 settlement process was not collusive; and (iii) the Settlement Agreement has no obvious defects and
13 appears to be within the range of a fair and reasonable settlement of the Class Claims, such that notice
14 to the Class is appropriate.

15 6. Accordingly, the Settlement Agreement is preliminarily approved as fair, reasonable
16 and adequate.

17 **Provisional Certification of the Class**

18 7. The Court makes the following findings for settlement purposes only, subject to final
19 approval at the Final Approval Hearing:

- 20 a. The members of the Class are ascertainable and are so numerous as to make joinder
21 impracticable;
- 22 b. There are questions of law and fact common to the Class, and such questions
23 predominate over any questions affecting only individual Class Members;
- 24 c. Plaintiff suffered from the same alleged course of conduct as the Class Members,
25 and their claims are typical of the Class;
- 26 d. Plaintiff and Class Counsel can protect and have fairly and adequately protected
27 the interests of Class Members; and
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1 e. A class action is superior to all other available methods for fairly and efficiently
2 resolving the Class Claims.

3 8. Accordingly, for purposes of settlement only, pursuant to California Code of Civil
4 Procedure Section 382 and California Rules of Court, Rule 3.769(d), and/or other laws as applicable,
5 the Court provisionally certifies a Class defined as:

6 All individuals classified by OSI as independent contractors who performed
7 insurance inspections or surveys as part of OSI's Survey Division in the state of
8 California at any point from March 8, 2013 to July 25, 2018.

9 **Appointment of Class Representative and Class Counsel**

10 9. The Court appoints Martin Fletscher as the Class Representative.

11 10. The Court appoints Michael D. Palmer and Danielle Fuschetti of Sanford Heisler
12 Sharp, LLP and Xinying Valerian of Valerian Law as Class Counsel.

13 **Approval of Class Notice and Notice Plan**

14 11. The Court approves as to form and content the Class Notice (Exhibit A to the
15 Settlement and attached hereto as **Exhibit 1**) and approves the method and manner of providing notice
16 to the Class Members as set forth in the Settlement Agreement.

17 12. Pursuant to California Rules of Court, Rules 3.766(d) & 3.769(f), the Class Notice
18 clearly and accurately describes (i) the case; (ii) the terms of Settlement; (iii) the process by which a
19 Class Member may seek exclusion (opt-out) out of the Settlement and the deadline to do so; (iv) the
20 method and deadline to submit written objection; (v) the process to appear at the Final Approval
21 Hearing to state objections; and (vi) that a Class Member may retain separate counsel to appear on the
22 Class Member's behalf. Further, the Class Notice clearly explains that Class Members who do not
23 opt-out will be bound by the Settlement Agreement, including the release of claims, upon final
24 approval by the Court of the Agreement.

25 13. The Court finds that the proposed plan for distributing the Class Notice satisfies the
26 notice requirement of California Rules of Court, Rules 3.766 & 3.769(f) and all other legal and due
27 process requirements. The Court further finds that the mailing and distribution of the Class Notice
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1 substantially in the manner and form set forth in the Settlement constitutes the best notice practicable
2 under the circumstances, and constitutes valid, due and sufficient notice to all persons in the Class.

3 14. The Court appoints RG/2 Claims Administration LLC as the Settlement Administrator,
4 pursuant to the terms of the Settlement Agreement.

5 15. The Parties and Settlement Administrator are directed to carry out and comply with the
6 terms of the Settlement Agreement with respect to the establishment of a qualified settlement fund
7 (QSF) and the administration and distribution of the Class Notice.

8 16. Within fifteen (15) calendar days of this Order, OSI shall provide the Settlement
9 Administrator a list of all Class Members, including the following information for each Class Member:
10 (1) full name; (2) last-known address; (3) social security number; and (4) the gross compensation (pre-
11 tax) paid to the Class Member from March 8, 2013 through July 25, 2018 for work done as a classified
12 independent contractor performing insurance inspections or surveys as part of the OSI Survey Division
13 in the state of California.

14 17. The Settlement Administrator will run the list of all Class Members through the United
15 States Postal Service's National Change of Address database ("NCOA") before mailing the Class
16 Notice.

17 18. Within forty (40) calendar days of this Order, the Settlement Administrator shall mail
18 the Class Notice to the Class Members via United States first class mail, postage prepaid.

19 19. Returned Notices: If an envelope from the mailing of the Class Notice is returned with
20 a forwarding address, the Settlement Administrator will re-mail the Class Notice to the new address
21 within three (3) business days. In the event that a Class Notice is returned to the Settlement
22 Administrator by the United States Postal Service because the address of the recipient is no longer
23 valid, the Settlement Administrator shall perform an appropriate, customary and lawful database
24 search in an effort to ascertain the current address of the particular Class Member in question (a "skip
25 trace") and, if such an address is ascertained, the Settlement Administrator will re-send the Class
26 Notice within three (3) business days of receiving the newly ascertained address. A Class Member or
27 Class Counsel may also contact the Settlement Administrator to provide updated address information.
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1 The Settlement Administrator shall resend the Notice to any Class Member who contacts the
2 Settlement Administrator or Class Counsel and requests that a Notice be re-sent. If despite the
3 Settlement Administrator's reasonable efforts, no updated address is obtained, the Class Notice shall
4 be sent again to the Class Member's last known address.

5 **Exclusion Requests and Objections**

6 20. Class Members may exclude themselves (or "opt-out") of the Settlement Agreement
7 by mailing to the Settlement Administrator a signed, written request for exclusion (an "Exclusion
8 Request"), post-marked not more than sixty (60) calendar days after the date on which the Notices
9 were mailed (the "Opt-out Deadline").

10 21. To be valid, an Exclusion Request must clearly identify the Class Member's name and
11 address and be personally signed by the Class Member who seeks to opt-out. Further, the Exclusion
12 Request must also clearly express the Class Member's intent to be excluded from the settlement in
13 this Lawsuit.

14 22. Exclusion Requests that are not signed, do not clearly identify the Class Member's
15 name, address, and/or intent to be excluded from the settlement in this Lawsuit, or that are not
16 submitted on a timely basis shall be deemed null, void, and ineffective, and the Settlement
17 Administrator shall send the Settlement Class Member who submits such a null, void, and ineffective
18 Exclusion Request a written explanation of the insufficiencies. Any Class Member who submits a null,
19 void, and ineffective Exclusion Request may cure the insufficiencies, provided he or she submits a
20 valid Exclusion Request by the Opt-out Deadline.

21 23. Upon receipt of an Exclusion Request, the Settlement Administrator will stamp a
22 received date on the original Exclusion Request, retain the original envelope, and shall serve copies
23 of both the Exclusion Request and the envelope it came in on Class Counsel and Defendant's Counsel
24 no later than three (3) business days after receipt thereof.

25 24. A Class Member who submits a valid and timely Exclusion Request shall be permitted
26 to rescind the opt-out by submitting a signed statement withdrawing the Exclusion Request to Class
27 Counsel—who shall provide a copy to Defendant's Counsel—so as to be actually received not later
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1 than five (5) business days prior to the Court's Final Approval Hearing or as otherwise ordered by the
2 Court.

3 25. Class Members who submit valid and timely Exclusion Requests, which they do not
4 rescind, will not (i) be eligible to receive any Class Settlement Payment or other benefit under this
5 Settlement Agreement, (ii) otherwise participate under the Settlement Agreement, or (iii) be bound by
6 the terms of the Settlement Agreement or the final judgment on this Settlement.

7 26. Subject to final approval of the Settlement by the Court, unless a Class Member submits
8 a valid and timely Exclusion Request, he or she will be bound by the terms of the Settlement, including
9 the release of claims.

10 27. To submit a written objection to the Settlement, a Class Member must postmark a valid
11 "Notice of Objection" to the Settlement Administrator no more than sixty (60) calendar days after the
12 date on which the Notices were mailed. For the Notice of Objection to be valid, it must include: (1)
13 the objector's full name, signature, address, and telephone number; (2) a written statement detailing
14 the basis for the objection; (3) copies of any papers, briefs, or other documents upon which the
15 objection is based; and (4) a statement whether the objector intends to appear at the Final Approval
16 Hearing. Any Class Member who has submitted a valid, timely and unrescinded Exclusion Request
17 may not submit a Notice of Objection.

18 28. Regardless of whether they have submitted a Notice of Objection, Class Members may
19 appear at the Final Approval Hearing in order to make an oral objection to the Settlement. Any Class
20 Member who has submitted a valid, timely and unrescinded Exclusion Request may not make an oral
21 objection to the Settlement.

22 29. Any lawyer representing a Class Member for the purpose of objecting to the Settlement
23 Agreement must file a Notice of Appearance with the Court and must serve copies by mail to the
24 Parties' Counsel.

25 30. Upon receipt of any Notice of Objection, the Settlement Administrator will stamp a
26 received date on the written objection, retain the original envelope, and shall serve copies of both the
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1 Notice of Objection and the envelope it came in on Class Counsel and Defendant's Counsel no later
2 than three (3) business days after receipt thereof.

3 **Procedures for the Final Approval of the Settlement**

4 31. No later than seven (7) calendar days after the Opt-out Deadline, the Settlement
5 Administrator shall provide to the Parties' Counsel a declaration detailing the completed Class Notice
6 process performed in accordance with the Settlement Agreement and this Order, certifying due
7 diligence, and detailing the Settlement Administrator's costs of administration ("Settlement
8 Administrator's Certification"). The Settlement Administrator shall also attach copies of any
9 unrescinded Exclusion Requests and unrescinded Objections received as exhibits to the Settlement
10 Administrator's Certification. Class Counsel shall file the Settlement Administrator's declaration with
11 the Court at least seven (7) calendar days before the Final Approval Hearing.

12 32. On or before _____, Class Counsel shall move the Court, by one or more
13 motions, for a Final Approval Order:

- 14 (i) Granting final approval of ~~the Settlement~~ [↑] 5 court days before the Final Approval Hearing judging the terms thereof to be
15 fair, reasonable and adequate poses; n of its terms and provisions;
16 (ii) Granting final certification poses;
17 (iii) Awarding the Class Representative Approval Hearing
18 (iv) Awarding Class Counsel attorneys' fees and reasonable expenses incurred in this
19 Lawsuit;
20 (v) Awarding the Settlement Administrator its fees and costs;
21 (vi) Ordering that all Class Members who have not opted out are bound by the Settlement
22 Agreement, including its release provisions; and
23 (vii) Setting a compliance hearing approximately 60 days after the completion of the
24 distribution process for Class Counsel and the Settlement Administrator to submit a
25 summary accounting how the Settlement funds have been distributed to Class Members
26 and the status of any unresolved issues.

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33. The Court hereby schedules a hearing ("the Final Approval Hearing") for March 12, 2019, at 9 ^{R-2021210} a.m. to determine (i) whether the Settlement Agreement is fair, reasonable and adequate and should be granted final approval; (ii) whether the Class should be granted final certification for settlement purposes; (iii) whether to approve the Service Award requested for the Class Representative; (iv) the amount of attorneys' fees and expenses to be paid to Class Counsel; and (v) the amount of fees and costs to be paid to the Settlement Administrator.

34. No later than five (5) business days before the Final Approval Hearing, Class Counsel may file supplemental submissions in further support of the motion(s) for final approval of the Settlement, final certification of the Class, Class Counsel's attorneys' fees and expenses, the requested Service Awards, and the Settlement Administrator's fees and expenses, and/or to respond to any Objections.

35. The Court reserves the right to adjourn or reschedule the date of the Final Approval Hearing without further notice to Class Members.

IT IS SO ORDERED.

DATED: 11/13/18


Honorable Ioana Petrou
Judge of the Superior Court