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**DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CLARK**

WALTER AERTS and JOHN SHEEHY, On  
Behalf of Themselves and All Others Similarly  
Situated, and LARRY ALLEN, Derivatively, on  
Behalf of CHINA XD PLASTIC COMPANY  
LIMITED,

Plaintiff,

v.

JIE HAN, TAYLOR ZHANG, LINYUAN  
ZHAI, HUIYI CHEN, GUANBAO HUANG,  
FAITH DAWN LIMITED, FAITH HORIZON  
INC., FAITH ABUNDANT LIMITED, and XD  
ENGINEERING PLASTICS COMPANY  
LIMITED,

Defendants,

and,

CHINA XD PLASTICS COMPANY LIMITED,  
Nominal Defendant.

Case No. A-20-819986-B  
Dept. XXII

**NOTICE OF PROPOSED SETTLEMENT**

**TO: ALL RECORD SHAREHOLDERS AND THE BENEFICIAL OWNERS WHO HELD THE COMMON STOCK OF CHINA XD PLASTICS COMPANY LIMITED (“CHINA XD” OR THE “COMPANY”) AS OF JANUARY 22, 2020 AND THROUGH THE PRESENT (“CHINA XD SHAREHOLDERS”)**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT AND DISMISSAL OF THE ABOVE-CAPTIONED ACTION (THE “ACTION”) BY ENTRY OF THE JUDGMENT BY THE COURT AND CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS. YOUR RIGHTS MAY BE AFFECTED BY THESE LEGAL PROCEEDINGS. IF THE COURT APPROVES THE SETTLEMENT, YOU WILL BE FOREVER BARRED FROM CONTESTING THE APPROVAL OF THE PROPOSED SETTLEMENT AND FROM PURSUING THE RELEASED CLAIMS.**

**IF YOU HOLD CHINA XD COMMON STOCK FOR THE BENEFIT OF ANOTHER, PLEASE PROMPTLY TRANSMIT THIS DOCUMENT TO SUCH BENEFICIAL OWNER.**

**THE RECITATION OF THE BACKGROUND AND CIRCUMSTANCES OF THE SETTLEMENT CONTAINED HEREIN DOES NOT CONSTITUTE THE FINDINGS OF THE COURT. IT IS BASED ON REPRESENTATIONS MADE TO THE COURT BY COUNSEL FOR THE PARTIES.**

Notice is hereby provided to you of the proposed settlement (the “Settlement”) of the above-referenced lawsuit. This Notice is provided by Order of the District Court of Clark County, Nevada (the “Court”). It is not an expression of any opinion by the Court. It is to notify you of the terms of the proposed Settlement, and your rights related thereto.

**I. WHY THE COMPANY HAS ISSUED THIS NOTICE**

Your rights may be affected by the Settlement of the following actions:

- *Aerts v. Han, et al*, Case No. A-20-819986-B (Nev. Dist. Ct. – Clark Cty.)

Plaintiffs in this action (“Action”), Walter Aerts, John Sheehy, and Larry Allen (on behalf of themselves and derivatively on behalf of China XD) (collectively “Plaintiffs”) and nominal defendant China XD have agreed upon terms to settle the Action and have signed a written Stipulation and Agreement of Settlement dated January 31, 2023 (“Stipulation”) setting forth those settlement terms. Collectively, the individual defendants in this case (Jie Han, Taylor Zhang, Linyuan Zhai, Huiyi Chen, and Guanbao Huang) (“Individual Defendants”), nominal defendant (China XD), Faith Dawn Limited, Faith Horizon Inc., Faith Abundant Limited, and XD Engineering Plastics Company Limited are referred to as “Defendants.”

On April 5, 2023, at 8:30 a.m., in Courtroom 15D, at 200 Lewis Ave., Las Vegas, Nevada 89011, the Court will hold a hearing (the “Settlement Hearing”) in the Action. The purpose of the Settlement Hearing is to determine, pursuant to Nevada Rule of Civil Procedure 23.1: (i) whether the terms of the Settlement are fair, reasonable, and adequate and should be approved; (ii) whether a final judgment should be entered; (iii) the amount of attorneys’ fees and expenses to be awarded; and (iv) such other matters as may be necessary or proper under the circumstances.

**II. SUMMARY OF THE ACTION**

**A. Description of the Action and Settlement**

Plaintiffs, on behalf of China XD, brought the Action purportedly to remedy alleged breaches of fiduciary duty against current and former directors and officers of China XD.

Plaintiffs alleged that on January 22, 2020, China XD carried out a transaction (“January 2020 Transaction”), in which an unnamed investor acquired nearly 40% of the equity interest of the Company’s two wholly owned PRC<sup>1</sup> subsidiaries [*i.e.*, its primary operating businesses]. Plaintiffs contend the Company did not disclose the January 2020 transaction until June 29, 2020, and in the intervening time, the Individual Defendants entered into an agreement and plan of merger (“Merger Agreement”) with affiliates of Defendant Han, in which he would take China XD private (“Proposed Transaction”). Plaintiffs alleged that the January 2020 Transaction was carried out at an undervalued price, driving down the value of the Company in advance of a self-interested merger.

On August 21, 2020, Plaintiffs filed the Verified Class Action and Derivative Complaint for Breach of Fiduciary Duties and Aiding and Abetting (“Complaint”), bringing direct claims for breach of fiduciary duties and aiding and abetting in connection with the Proposed Transaction and the Derivative Claim challenging the January 20 Transaction (together, “Action”). On May 8, 2021, however, China XD

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<sup>1</sup> “PRC” is People’s Republic of China.

terminated the Merger Agreement on the basis of alleged breaches of the agreement by Defendant Han and his affiliates. While the termination of the Merger Agreement rendered Plaintiffs' direct claims in connection with the Proposed Transaction moot, Plaintiffs continued to litigate the Derivative Claim for breaches of fiduciary duty in connection with the January 20 Transaction.

## **B. The Settlement Negotiations**

In December 2021, the Settling Parties first engaged in negotiations concerning Plaintiffs' proposal that China XD's Board of Directors enact a set of durable corporate governance reforms. On January 28, 2022, the Settling Parties participated in a settlement conference with Judge Timothy Williams. However, the Settling Parties were unable to reach agreement at that time. In June 2022, the Settling Parties re-engaged in settlement negotiations, until they reached an agreement in principle to settle the Derivative Claim and, therefore, the Action, on October 3, 2022.

## **III. TERMS OF THE PROPOSED DERIVATIVE SETTLEMENT**

The principal terms, conditions, and other matters that are part of the Settlement, which are subject to approval by the Court, are summarized below. This summary should be read in conjunction with, and is qualified in its entirety by reference to, the text of the Stipulation, which has been filed with the Court.

In connection with the Settlement of the Action, within thirty (30) business days after final approval of the Settlement, China XD will adopt such resolutions and amend appropriate committee charters to the extent applicable to ensure adherence to the Corporate Governance Reforms set forth below ("Reforms"). The Reforms will be maintained for a minimum of five (5) years from the Effective Date of the Stipulation unless a change is needed in order for the Board to comply with its fiduciary duties, or in order to comply with significant changes in institutional investor or proxy advisory guidelines, or in the event that China XD becomes a privately held company.

### **1. Expansion of the Board**

The Board shall expand to nine (9) members, with no more than three (3) directors being members of the Company's management team.

### **2. Independence of the Audit, Compensation, and Nomination Committees**

The membership of the Audit, Compensation, and Nominating committees shall consist entirely of directors who have been identified as independent directors ("Independent Directors").

### **3. Acceptance of Service of Process in Nevada by Independent Directors**

The Company's Independent Directors consent to accept service of process in Nevada, through the Company's registered agent, for legal proceedings that concern actions taken within their capacity as China XD directors, without waiver of any defenses, objections, or arguments in this matter or any other matters, except as to sufficiency of service of process.

### **4. Special Committee Requirement for Dilutive Transactions**

China XD will adopt a policy that provides that if the Board determines to establish a special committee for the evaluation of a potential transaction that would materially dilute the holdings/vote of the minority stockholders, membership shall be restricted to directors who (i) have been identified as independent directors, (ii) do not have a material interest in or affiliation with the potential transaction partner, (iii) do not have an immediate family member who has a material interest in or affiliation with the potential transaction partner, (iv) do not have an interest in, are not a party to, and do not have a contract or other transaction relevant to, the specific matter being presented to the Company's Board; and (v) are not deemed under Item 404(a) of Regulation S-K of the rules of the U.S. Securities and Exchange Commission to be a "related person" with respect to any proposed transaction before the Board. Members

of the special committee shall be selected solely by the Company's Nominating and Governance Committee. Any special committee will be empowered to hire its own advisors, to negotiate the terms of the transaction, to consider alternative transaction structures and financing methodologies, and to provide its recommendation with respect to the proposed transaction to the Board. The special committee will also have the power to decline to refer the transaction to the full Board for approval.

#### **5. Incentive Compensation Clawback Policy**

The Compensation Committee has or will adopt an incentive compensation clawback policy, enabling the Company to clawback all or a portion of incentive compensation in the event an executive's action(s) causes the Company to restate its financial statements, to the extent that such executive's incentive compensation was based on the misstated financials.

#### **6. Executive Compensation Change**

China XD's executive compensation plan will be revised to provide that any future grant of equity-based compensation made by the Board or a committee thereof to the Company's executive officers or directors will provide that any unvested performance-based equity compensation will not automatically vest upon a change of control. Instead, vesting of such awards may be accelerated in connection with or following a change of control only upon a termination of employment or service, as applicable. Any such accelerated vesting will not presume maximum achievement of any applicable performance goals, but instead will be based on one or more of the following: 1. the target level of the award, 2. a pro rata portion of the award based on the recipient's time of service, or 3. the actual level of achievement of the applicable goal as of the date of the change of control or the date of termination.

#### **7. "Say on Pay" Advisory Vote**

China XD will implement a "majority of minority" vote of shareholders for the annual "say on pay" advisory vote.

The Stipulation provides for the entry of the Judgment dismissing the Action with prejudice and, as explained in more detail in the Stipulation, barring and releasing certain known or unknown claims that have been or could have been brought in any court by the Plaintiffs, individually or on behalf of China XD, China XD, or any of China XD's shareholders on behalf of China XD, against the Defendants relating to any of the claims or matters that were or could have been alleged or asserted in the pleadings or papers filed in the Action. The Stipulation further provides that the entry of the Judgment will bar and release any known or unknown claims that have been or could have been brought in any court by the Defendants and China XD against Plaintiffs or Plaintiffs' Counsel related to any of the claims or matters that were or could have been alleged or asserted in any of the pleadings or papers filed in the Action or based upon or arising out of the institution, prosecution, assertion, settlement, or resolution of the Action.

### **IV. PLAINTIFFS' COUNSEL'S ATTORNEYS' FEES AND EXPENSES**

After negotiating the principal terms of the Settlement, counsel for the Settling Parties separately negotiated the attorneys' fees and expenses that Plaintiffs' Counsel would apply to the Court for the Individual Defendants to pay or cause to be paid based on the material benefits conferred upon the Company by the Reforms.

In consideration of the substantial benefits conferred upon the Company as a direct result of the Settlement and the efforts of Plaintiffs and Plaintiffs' Counsel, Plaintiffs' Counsel may apply to the Court for an award of fees, costs, and expenses not to exceed \$75,000 (the "Fee and Expense Award"), subject to Court approval.

## **V. REASONS FOR THE SETTLEMENT**

Counsel for the Parties believe that the Settlement is in the best interests of China XD and its minority shareholders.

### **A. Why Did Plaintiffs Agree to Settle?**

Plaintiffs believe that the derivative claim asserted in the Complaint has merit. Without conceding the merit of any of Defendants' defenses or the lack of merit of any of Plaintiffs' own allegations, and in light of the benefits of the Settlement, as well as to avoid the potentially protracted time, expense, and uncertainty associated with continued litigation, including potential trials and appeals, Plaintiffs have concluded that it is desirable that the Action be fully and finally settled and satisfied in the manner, and upon the terms and conditions, set forth in this Stipulation. Plaintiffs and Plaintiffs' Counsel recognize the significant risk, expense, and length of continued proceedings necessary to litigate the Action through trials and possible appeals. Plaintiffs' Counsel has also taken into account the uncertain outcome and the risk of litigation.

Based on Plaintiffs' Counsel's review and analysis of the relevant facts, allegations, defenses, and controlling legal principles, Plaintiffs and Plaintiffs' Counsel believe that the Settlement set forth in this Stipulation is fair, reasonable and adequate; confers substantial benefits upon China XD and its minority stockholders; and would serve the best interests of China XD and its stockholders.

### **B. Why Did the Defendants Agree to Settle?**

Defendants have denied and continue to deny any and all claims of wrongdoing and liability in the Action, and deny that any Defendant has breached a fiduciary duty to the Company or shareholders. Defendants' entry into the Stipulation is not an admission by Defendants as to any merit to any of the claims asserted in the Action or lack of defenses. Defendants have agreed to the Settlement and the dismissal of the Action with prejudice, under the terms and conditions set forth in this Stipulation, in order to (i) avoid further expense, inconvenience and distraction associated with continued litigation of Plaintiffs' claims, and (ii) put to rest with finality all claims arising out of the Action.

## **VI. SETTLEMENT HEARING**

On April 5, 2023, at 8:30 a.m., the Court will hold the Settlement Hearing in RJC Courtroom 15D, 200 Lewis Ave., Las Vegas, Nevada 89011. At the Settlement Hearing, the Court will consider, pursuant to Nevada Rule of Civil Procedure 23.1, whether the terms of the Settlement are fair, reasonable, and adequate and thus should be finally approved, the amount of an appropriate Fee and Expense Amount, and whether the Action should be dismissed with prejudice by entry of the Judgment pursuant to the Stipulation.

## **VII. RIGHT TO ATTEND SETTLEMENT HEARING**

Any China XD shareholder may, but is not required to, appear in person at the Settlement Hearing. If you want to be heard at the Settlement Hearing, then you must first comply with the procedures for objecting, which are set forth below. The Court has the right to change the hearing dates or times without further notice. Thus, if you are planning to attend the Settlement Hearing, you should confirm the date and time before going to the Court. ***CHINA XD SHAREHOLDERS WHO HAVE NO OBJECTION TO THE SETTLEMENT DO NOT NEED TO APPEAR AT THE SETTLEMENT HEARING OR TAKE ANY OTHER ACTION.***

**VIII. RIGHT TO OBJECT TO THE SETTLEMENT AND PROCEDURES FOR DOING SO**

You have the right to object to any aspect of the Settlement. You must object in writing, and you may request to be heard at the Settlement Hearing. If you choose to object, then you must follow these procedures.

**A. You Must Make Detailed Objections in Writing**

Any objections must be presented in writing and must contain the following information:

1. Your name, legal address, and telephone number;
2. The number of shares of China XD stock you currently hold, together with third-party documentary evidence, such as the most recent account statement, showing such share ownership; and proof of having held China XD common stock as of January 22, 2020 and through the present; and
3. A detailed statement of your objections to any matter before the Court and all grounds therefore, including any supporting documents to be considered by the Court.

**B. You Must Timely File Written Objections with the Court and Deliver to Counsel for Plaintiffs and the Defendants**

YOUR WRITTEN OBJECTIONS MUST IDENTIFY THE CASE NUMBER AND MUST BE ON FILE WITH THE CLERK OF THE COURT NO LATER THAN MARCH 22, 2023. The Court Clerk's address is:

CLERK OF COURT  
Eighth Judicial District, Clark County  
200 Lewis Ave  
Las Vegas, Nevada 89011

YOU ALSO MUST DELIVER COPIES OF THE MATERIALS TO COUNSEL FOR PLAINTIFFS AND CHINA XD SO THEY ARE RECEIVED NO LATER THAN MARCH 22, 2023. Counsel's addresses are:

**Counsel for Plaintiff:**

Patrick R. Leverty  
**LEVERTY & ASSOCIATES LAW CHTD**  
832 Willow Street  
Reno, Nevada 89502

**Counsel for China XD:**

Darren J. Lemieux  
**LEWIS ROCA ROTHGERBER CHRISTIE LLP**  
3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169

Unless the Court orders otherwise, your objection will not be considered unless it is timely filed with the Court and delivered to the above-referenced counsel.

Any Person or entity who fails to object or otherwise request to be heard in the manner prescribed above will be deemed to have waived the right to object to any aspect of the Settlement or otherwise

request to be heard (including the right to appeal) and will be forever barred from raising such objection or request to be heard in this or any other action or proceeding.

**IX. HOW TO OBTAIN ADDITIONAL INFORMATION**

This Notice summarizes the Stipulation. It is not a complete statement of the events of the Action or the Stipulation.

PLEASE DO NOT CALL, WRITE, OR OTHERWISE DIRECT QUESTIONS TO EITHER THE COURT OR THE CLERK'S OFFICE.

DATED: FEBRUARY 1, 2023

BY ORDER OF THE  
DISTRICT COURT OF  
CLARK COUNTY, NEVADA

China XD Derivative Settlement  
c/o Strategic Claims Services  
600 N. Jackson Street, Suite 205  
Media, PA 19063

**IMPORTANT LEGAL NOTICE – PLEASE FORWARD**