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CALVIN HANSEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CALVIN HANSEN, an individual,

Plaintiff,

vs.

GENERAL ELECTRIC INTERNATIONAL,
INC., a Delaware Corporation; ABB INC., a
Delaware Corporation; LEIF BACKLUND, an
individual; and DOES 1 through 50, inclusive,

Defendants.

Case No. BC713269

Hon. Anthony Mohr
Dept: 96

**JOINT STIPULATION OF
SETTLEMENT AND RELEASE**

1 **I. INTRODUCTION**

2 1. This Joint Stipulation of Class Action Settlement and Release (hereinafter
3 “Settlement Agreement”) is made and entered into by and between the following parties: Plaintiff
4 Calvin Hansen (“Plaintiff”), individually and on behalf of other members of the general public
5 similarly situated, Defendants General Electric International, Inc. (“GEII”) and ABB Inc.
6 (“ABB”) (together, “Defendants”) (collectively, the “Parties”), and their respective counsel of
7 record. This Settlement Agreement is subject to the terms and conditions set forth below and to
8 the approval of the Court. This Settlement Agreement supersedes any and all prior memoranda of
9 understanding and accurately sets forth the Parties’ class action settlement to resolve all claims as
10 detailed below.

11 **II. DEFINITIONS**

12 2. “Action” means the lawsuit entitled *Calvin Hansen v. General Electric*
13 *International, Inc., et al.*, Case No. BC713269, pending in the Los Angeles County Superior
14 Court.

15 3. “Claims Period” shall mean the period of sixty (60) days following the mailing of
16 the Settlement Documents by the Settlement Administrator. If the 60th day falls on a Sunday or
17 holiday, the Claims Period shall end on the next business day that is not a Sunday or holiday.

18 4. “Class Counsel” or “Plaintiff’s Counsel” means Heather Davis, Esq., Amir
19 Nayebdadash, Esq., Cody Payne, Esq., and Kim Nguyen, Esq. of Protection Law Group LLP of
20 El Segundo, California.

21 5. “Class Member” means all GEII and/or ABB non-exempt, non-union, hourly
22 California employees who worked in GE Power (including business divisions formerly known as
23 Energy Connections and Energy Management) at any time between September 11, 2014, and the
24 Date of Preliminary Approval of this Settlement.

25 6. “Class Notice” or “Notice of Settlement” shall mean the document attached hereto
26 as Exhibit A.

27 7. “Class Period” means the period between September 11, 2014, and the Date of
28 Preliminary Approval of this settlement, inclusive.

1 8. “Class Representative” means Plaintiff Calvin Hansen, who has been designated
2 by Plaintiff’s Counsel as the Class Representative for settlement purposes.

3 9. “Complaint” means the Second Amended Complaint in this Action.

4 10. “Court” means the Los Angeles County Superior Court.

5 11. “Date of Preliminary Approval” means the date the Court approves this Stipulation
6 of Settlement, and the exhibits thereto, and enters an Order providing for notice to the Class, an
7 opportunity to opt-out of the Class, an opportunity to submit timely objections to the settlement, a
8 procedure for submitting claims, and setting a hearing for Final Approval of the Settlement,
9 including approval of attorneys’ fees and costs.

10 12. “Deficient Request for Exclusion” means a Request for Exclusion that is not
11 signed by the Class Member submitting the Request for Exclusion or cannot be verified by the
12 Settlement Administrator as being an authentic submission by the Class Member.

13 13. “Deficient Opt-Out” means a Class Member that has submitted a Deficient
14 Request for Exclusion and has failed to cure its deficiencies within the time required by this
15 Settlement Agreement.

16 14. “Defendants” means General Electric International, Inc. (“GEII”) and ABB Inc.
17 (“ABB”).

18 15. “Defendants’ Counsel” means Morgan, Lewis & Bockius LLP.

19 16. “Fairness Hearing” means the hearing to be scheduled by the Court after granting
20 preliminary approval of the Settlement.

21 17. “Final Approval” means the date on which the Court enters the Final Approval
22 Order.

23 18. “Final Approval Order” means the Court’s order approving the Settlement after the
24 Fairness Hearing.

25 19. “Judgment” means the judgment to be rendered by the Court pursuant to this
26 Stipulation.

27 20. “Late Request for Exclusion” means a Request for Exclusion that is submitted to
28 the Settlement Administrator after the end of the Claims Period.

21. “Late Opt-Out” means a Class Member that has submitted a Late Request for Exclusion.

22. “LWDA” means the California Labor and Workforce Development Agency.

23. “LWDA PAGA Penalty Amount” is the 75% share of the \$80,000 (or \$60,000) allocated from the Maximum Settlement Amount for PAGA penalties that will be paid to the LWDA.

24. “Maximum Settlement Amount” is the sum of Seven Hundred and Eighty Thousand U.S. Dollars (\$780,000), which represents the maximum amount payable in this Settlement by Defendants, and includes all attorneys’ fees, litigation costs, claims administration fees, and incentive payment to the Class Representative. The Maximum Settlement Amount does not include the employer’s share of payroll taxes, which Defendants are responsible for through an additional contribution to the Qualified Settlement Fund.

25. “Named Plaintiff” means Plaintiff Calvin Hansen.

26. “Net Settlement Amount” is the portion of the Maximum Settlement Amount eligible for distribution to Settlement Class Members. It equals the Maximum Settlement amount less Class Counsel’s attorneys’ fees and actual litigation costs as ordered to be paid by this Court, Settlement Administration Expenses, the Reserve Fund, the LWDA PAGA Penalty Amount, the PAGA Group Payment, and Service Enhancement to the Class Representative.

27. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code §§ 2698 *et seq.*

28. “PAGA Group” means all GEII and/or ABB non-exempt, non-union, hourly California employees who worked in GE Power (including business divisions formerly known as Energy Connections and Energy Management) at any time between July 5, 2017 and the Date of Preliminary Approval of this settlement.

29. “PAGA Group Payment” is the 25% share of the \$80,000 (or \$20,000) allocated from the Maximum Settlement Amount for PAGA penalties that will be paid to members of the PAGA Group.

30. “Parties” means collectively Plaintiff and Defendants herein.

1 31. “Qualified Settlement Fund” means the Qualified Settlement Fund (“QSF”)
2 created under Internal Revenue Code Section 468B, to be overseen by the Settlement
3 Administrator.

4 32. “Releasees” means GEII and/or ABB Inc., their predecessors, successors and
5 assigns, their current and former direct and indirect parents, affiliates, subsidiaries, divisions, and
6 related business entities, and their current and former officers, directors, shareholders, employees
7 (including but not limited to Leif Backlund), agents, representatives and employee benefit
8 programs (including the trustees, administrators, fiduciaries and insurers of such programs).

9 33. “Request for Exclusion” means a signed request from a Class Member to be
10 excluded from the non-PAGA portions of this Settlement.

11 34. “Reserve Fund” means the portion of the Maximum Settlement Amount reserved
12 for payment of disputed, untimely, and self-identified claims as determined by Defendants, after
13 disbursement of the Net Settlement Amount.

14 35. “Service Enhancement” means the incentive payments in an amount not to exceed
15 \$15,000 total to the Class Representative.

16 36. “Settlement Administration Expenses” are those expenses incurred by the
17 Settlement Administrator in effectuating the Settlement, not to exceed \$15,000.

18 37. “Settlement Administrator” means Phoenix Settlement Administrators .
19 (“Phoenix”).

20 38. “Settlement Class Member” means any Class Member who does not opt out of the
21 settlement or who opts out but subsequently rescinds the opt-out in a timely manner.

22 39. “Settlement Documents” means the Class Notice (Exhibit A) attached hereto.

23 40. “Settlement Effective Date” means thirty (30) calendar days after entry of the
24 Court’s Final Approval Order. If an appeal or motion to intervene is filed, then “Settlement
25 Effective Date” means the date of final resolution of any appeal from the Final Approval Order
26 where the resolution affirms the Final Approval Order. The Settlement Effective Date cannot
27 occur, and Defendants will not be obligated to fund this Settlement, unless and until there is no
28 possibility of an appeal or further appeal (by anyone who has the right to, or claims to have the

1 ability to, take an appeal) that could potentially prevent this Settlement Agreement from
2 becoming final and binding. The Parties intend that the Final Approval Order will effectuate the
3 releases and extinguish all released claims, including but not limited to PAGA claims, for the
4 periods covered by this Settlement on the Settlement Effective Date. The Court will retain
5 jurisdiction to enforce the Settlement after the Settlement Effective Date.

6 41. "Settlement Payment" is the allocation from the Net Settlement Amount paid to
7 Settlement Class Members and does not include the PAGA Group Payment to members of the
8 PAGA Group.

9 42. "Stipulation of Settlement" and "Settlement Agreement" shall mean this Joint
10 Stipulation of Settlement and Release.

11 **III. LITIGATION BACKGROUND**

12 43. On July 5, 2018, Plaintiff filed an online notice with the LWDA alleging Labor
13 Code violations by GEII. The allegations in the notice included: failure to pay Plaintiff and other
14 allegedly aggrieved employees for work performed off-the-clock before and after their scheduled
15 shifts; failure to provide legally required meal and rest breaks; failure to timely pay all wages
16 owed upon termination of employment; and issuance of inaccurate wage statements to employees.

17 44. On July 9, 2018, Plaintiff filed a lawsuit in Los Angeles County Superior Court
18 against GEII and Leif Backlund, alleging individual claims relating to the termination of
19 Plaintiff's employment.

20 45. After receiving no response from the LWDA during the required period, Plaintiff
21 filed a First Amended Complaint ("FAC") on September 11, 2018, adding individual Labor Code
22 claims, a derivative claim under the Unfair Competition Law ("UCL"), and a representative claim
23 seeking civil penalties under the PAGA.

24 46. Pursuant to this Settlement Agreement, Plaintiff filed the Second Amended
25 Complaint adding the class action claims for the Labor Code violations that Plaintiff asserted as
26 to himself and that were the predicate for Plaintiff's representative action under PAGA. Plaintiff
27 also added a collective action claim under the Fair Labor Standards Act ("FLSA"), and added
28 ABB Inc. as a named co-defendant.

1 47. Defendants deny Plaintiff's claims, and assert that, during all relevant times, Class
2 Members were properly paid for all hours worked, received all overtime wages to which they
3 were entitled, and were provided with compliant meal and rest breaks in accordance with
4 California and federal law. Defendants also assert that, at all times, Class Members received
5 wage statements that were compliant with the Labor Code, were timely paid all wages as required
6 under the Labor Code, and that Class Members who ended their employment with Defendants
7 during the Class Period were properly compensated for all wages due as required by California
8 law. Consequently, Defendants do not believe that any liability to Plaintiff or Class Members
9 exists, or that Plaintiff or Class Members are entitled to any recovery. In addition, Defendants
10 contend that Plaintiff's claims are not suitable for class, collective, or representative treatment.

11 48. After exchanging written discovery, the Parties agreed to attempt to resolve this
12 action through private mediation. On February 4, 2019, the Court granted the Parties' stipulation
13 to stay the action pending mediation, originally scheduled to take place on May 22, 2019. The
14 stipulated stay was extended through September 24, 2019, after the Parties were required to find a
15 new mediator and reschedule the mediation date.

16 49. On September 17, 2019, the Parties participated in a full-day mediation with
17 Deborah Crandall Saxe. While the Parties did not reach a resolution at the mediation, they
18 continued to utilize the mediator and discuss the terms of a possible settlement in the following
19 weeks, and were able to reach a resolution.

20 50. It is the desire of the Parties to fully, finally, and forever settle, compromise, and
21 discharge all disputes and claims against the Releasees arising from or related to the Action.

22 51. It is the intention of the Parties that this Settlement Agreement shall constitute a
23 full and complete settlement and release of the claims averred in the Action. This release
24 includes in its effect a release of all Releasees.

25 **IV. JURISDICTION AND VENUE**

26 52. This Court has jurisdiction over the Parties and the subject matter of this Action.
27 This Court will have continuing jurisdiction over the terms and conditions of this Settlement
28 Agreement, until all payments and obligations provided for herein have been fully executed.

1 **V. TERMS OF SETTLEMENT**

2 53. NOW, THEREFORE, in consideration of the mutual covenants, promises, and
3 undertakings set forth herein, the Parties agree, subject to the Court's approval, as follows:

4 a. **Non-Admission.** Nothing in this Settlement shall be construed to be or
5 deemed an admission by Defendants of any liability, culpability,
6 negligence, or wrongdoing toward the Class Representative, the Class
7 Members, or any other person, and Defendants specifically disclaim any
8 liability, culpability, negligence, or wrongdoing toward the Class
9 Representative, the Class Members, or any other person, or that class or
10 collective certification is appropriate. Each of the Parties have entered into
11 this Stipulation of Settlement with the intention to avoid further disputes
12 and litigation with the attendant inconvenience, expenses, and
13 contingencies. This Settlement and any related court documents or orders
14 between the Parties may not be cited or otherwise admitted as evidence of
15 liability or that class or collective certification is appropriate or that a
16 representative action could ever be manageably tried before a court. There
17 has been no final determination by any Court as to the merits of the claims
18 asserted by Plaintiff against Defendants or as to whether a class should be
19 certified, other than for settlement purposes only. Furthermore, nothing in
20 this Settlement shall be considered any form of waiver of any alternative
21 dispute resolution provisions, including but not limited to those provisions
22 in General Electric's Solutions policy, or any other applicable alternative
23 dispute resolution policy.

24 b. **Certification.** The Parties stipulate, for settlement purposes only, to the
25 certification of the Class described in Paragraph II.5 above as to all claims
26 asserted in the Second Amended Complaint pursuant to state law and to
27 conditional certification of the FLSA claim. If for any reason the Court
28 does not approve this Stipulation, fails to enter the Final Approval Order,

1 or fails to enter the Judgment or Final Judgment, or if this Settlement
2 Agreement and Stipulation is lawfully terminated for any other reason,
3 Defendants shall retain the absolute right to dispute the propriety of class
4 or conditional certification and/or the ability of this action to proceed as a
5 representative action on all applicable grounds.

6 c. The Parties further stipulate that, for settlement purposes only, Plaintiff's
7 Counsel may be appointed Class Counsel and that Named Plaintiff may be
8 appointed as Class Representative. Defendants' stipulation to this
9 settlement class shall in no way be considered any form of waiver of any
10 form of alternative dispute resolution. Defendants' stipulation to this
11 settlement class shall not be construed as an admission or acknowledgment
12 of any kind that any class should be certified or given class action
13 treatment. The Settlement Class may be provisionally certified as a class
14 action for the purposes of the monetary relief provided in this Settlement
15 Agreement. Plaintiff's Counsel, Protection Law Group LLP, may be
16 preliminarily and conditionally appointed as Class Counsel.

17 d. **Non-Approval By The Court.** In the event that this Settlement
18 Agreement is not approved by the Court, fails to become effective, or is
19 reversed, withdrawn or modified by the Court:
20 i. The Settlement Agreement shall have no force or effect, other than
21 the confidentiality and non-disclosure provisions in Section XIV
22 and the non-admission provisions in Paragraph V.53.a;
23 ii. The Settlement Agreement shall not be admissible in any judicial,
24 administrative or arbitral proceeding for any purpose or with
25 respect to any issue, substantive or procedural;
26 iii. The preliminary and conditional certification of the class shall
27 become null and void, and the fact of certification shall not be cited
28 to or admissible in any judicial, administrative or arbitral

proceeding for any purpose or with respect to any issue, substantive or procedural; and

iv. None of the Parties to this Settlement Agreement will be deemed to have waived any claims, objections, defenses or arguments with respect to the issue of class or collective certification or the merits of Plaintiff's claims.

e. **Settlement Payments.** Defendants agrees to pay a Maximum Settlement Amount of Seven Hundred and Eighty Thousand U.S. Dollars (\$780,000), inclusive of all Settlement Payments, fees and costs identified in this Settlement Agreement, including Service Enhancements to the Class Representative, Settlement Administration Expenses, attorneys' fees and out-of-pocket litigation expenses, the Reserve Fund, and PAGA penalties (both the LWDA PAGA Penalty Amount and the PAGA penalties paid to members of the PAGA Group). The Maximum Settlement Amount does not cover the employer-side payroll taxes, which Defendants will be solely responsible for. The Parties agree, subject to Court approval, to the following allocations to be paid from the Maximum Settlement Amount:

i. From the Maximum Settlement Amount, provided there is no breach of this Settlement Agreement by Named Plaintiff or his counsel, Class Counsel may seek from the Court a maximum of \$273,000 (35%) of the Maximum Settlement Amount in attorneys' fees in addition to actual litigation costs of up to \$15,000.00, for serving as Class Counsel, which Defendants will not oppose.

ii. From the Maximum Settlement Amount, provided there is no breach of this Settlement Agreement by Named Plaintiff or his counsel, Named Plaintiff may seek from the Court a Service Enhancement not to exceed \$15,000 for serving as Class Representative, which Defendants will not oppose.

- 1 iii. From the Maximum Settlement Amount, a payment of \$60,000 to
2 the California Labor and Workforce Development Agency (the
3 LWDA PAGA Penalty Amount), representing the LWDA's 75%
4 share of the settlement attributable to PAGA penalties. In
5 connection with settlement approval, the LWDA shall be notified of
6 the existence of the settlement. Should the LWDA object to the
7 amount of this payment, the Parties agree to work in good faith to
8 negotiate another agreeable amount.
- 9 iv. From the Maximum Settlement Amount, a payment of \$20,000 to
10 be allocated among members of the PAGA Group based on the
11 number of weeks each member of the PAGA Group worked that
12 qualify them for membership in the PAGA Group.
- 13 v. From the Maximum Settlement Amount, Settlement Administration
14 Expenses in a reasonable amount, not to exceed \$15,000.
- 15 vi. From the Maximum Settlement Amount, a Reserve Fund of \$3,000
16 will be reserved for disputed, untimely, and self-identified claims.
17 Any unused amounts of the Reserve Fund will be re-distributed
18 pro-rata to Settlement Class Members.
- 19 vii. If the Court approves a lesser amount of attorney's fees, litigation
20 costs, or Service Enhancements than those sought by Named
21 Plaintiff or his counsel, any amounts not approved will be
22 reallocated to Settlement Class Members, and the amounts awarded
23 will not affect approval of the settlement.
- 24 viii. The Settlement Administrator will administer the notice,
25 challenges, and opt outs, informing Class Members of their rights in
26 regard to the proposed settlement as specified below; will disburse
27 monies from the Settlement Fund as and when authorized in this
28 Settlement Agreement and by order of the Court; and will inform

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the Parties and the Court of its fulfillment of the duties imposed by this Settlement Agreement. Settlement Administrator Expenses shall be paid from the Maximum Settlement Amount.

ix. The Net Settlement Amount is the balance of the Maximum Settlement Amount including interest accruing to it, after subtracting the Reserve Fund and after payments have been made for attorneys’ fees and litigation expenses including interest earned on those amounts, Settlement Administration Expenses, Class Representative’s Service Enhancement, and PAGA penalties (both the LWDA PAGA Penalty Amount and the PAGA Group Payment). Settlement Payments shall be allocated to the Settlement Class Members for allegedly unpaid wages, overtime, premium wages, the Settlement Class Members’ share of payroll taxes, and related fees, interest, and penalties. The Net Settlement Amount shall be used to pay all Settlement Payment amounts due to Settlement Class Members based on their weeks worked as Class Members. Any unclaimed amounts shall be redistributed pro rata to the Settlement Class Members.

x. The Settlement Administrator shall, after Final Approval of the Settlement Agreement by the Court and after the Settlement Effective Date, pay each Settlement Class Member a pro rata portion of the Net Settlement Amount based on the number of weeks he or she worked as a Class Member. That pro rata portion shall be determined by dividing the total number of weeks worked as a Class Member by all members of the Class into the amount of the Net Settlement Amount to arrive at an amount per week; then, for each eligible Class Member, multiplying that amount times the number of weeks the Settlement Administrator determines that such

1 individual was working as a Class Member. The Settlement
2 Administrator will also conduct a similar pro rata calculation for
3 each member of the PAGA Group to determine their share of the
4 PAGA Group Payment and pay those amounts in a separate check
5 to all members of the PAGA Group, including any individuals who
6 opt out of becoming Settlement Class Members.

7 xi. The number of eligible weeks worked by Class Members shall be
8 determined by the Settlement Administrator based on employment
9 records to be provided by Defendants as specified below as well as
10 any documents and evidence provided by the Class Member and/or
11 Class Counsel. Class Members shall have the right to challenge the
12 number of weeks worked reflected in Defendants' records. For
13 such disputed claims, Defendants' records will be presumed
14 accurate. If a Class Member disputes those records, he or she has
15 the burden to establish otherwise. Payments on disputed claims
16 will be made at Defendants' discretion following a conference with
17 Class Counsel and, to the extent possible, resolved prior to
18 finalizing the amounts distributable to Class Members.

19 xii. Class Members entitled to recover under this Settlement Agreement
20 will include only those individuals who are identified in
21 Defendants' records as having worked as Class Members in
22 California during the covered period, or those additional individuals
23 who can provide to the Settlement Administrator evidence that they
24 worked in that capacity notwithstanding the absence of Defendants'
25 records confirming such employment.

26 xiii. The Settlement Administrator shall issue Settlement Payment
27 checks to Settlement Class Members under this Settlement
28 Agreement, as well as a Service Enhancement to the Class

1 Representative and attorneys' fees and expenses awarded to Class
2 Counsel, the LWDA PAGA Penalty Amount, and the PAGA Group
3 Payment by sending such payments by mail or other reliable means
4 to the respective recipients as specified below.

5 f. **Objections.** Only Settlement Class Members who do not opt-out may
6 object to the Settlement. Class Members who opt-out of the Settlement are
7 not eligible to object. All objections must be sent no later than sixty (60)
8 days after the mailing of the Settlement Documents, and such deadline
9 applies notwithstanding any argument regarding non-receipt of the notice.
10 Anyone who fails to send timely written objections in this manner shall be
11 deemed to have waived any objections and shall be foreclosed from filing
12 any appeal from any Final Approval Order issued by the Court. The
13 Parties may file a response to any objections submitted by objecting Class
14 Members at or prior to the Fairness Hearing. Class Members shall be
15 permitted to withdraw their objections in writing by submitting a
16 withdrawal statement to the Settlement Administrator not later than one (1)
17 business day prior to the Fairness Hearing, or as otherwise ordered by the
18 Court.

19 g. **Opt Outs.** Class Members who wish to "opt out" of and be excluded from
20 the non-PAGA portion of this settlement must submit a written Request for
21 Exclusion from the Settlement bearing a post-mark from a date within the
22 Claims Period. Class Members are still bound by the release of PAGA
23 claims even if they submit a valid Request for Exclusion and will receive a
24 check with his or her PAGA Group Payment allocation from the \$20,000 in
25 PAGA penalties if he or she is a member of the PAGA Group. The
26 Request for Exclusion must include: (a) the Class Member's name; (b) a
27 statement that the Class Member desires to exclude himself or herself from
28 the case; and (c) the last four digits of the Class Member's social security

1 number. If a Class Member submits a Deficient Opt-Out, the Settlement
2 Administrator shall notify the Class Member of the deficiency within five
3 (5) business days of receipt. The Class Member shall have until the end of
4 the Claims Period or five (5) business days after the close of the Claims
5 Period if the notice of deficiency is sent by the Settlement Administrator
6 within (5) business days of the end of the Claims Period to cure said
7 deficiencies, at which point his or her Request for Exclusion will be
8 rejected if not received. Class Members submitting untimely or Deficient
9 Opt-Outs shall be bound by the Settlement and its releases and will be
10 considered Settlement Class Members for settlement distribution purposes.
11 Class Members shall be permitted to rescind their Request for Exclusion in
12 writing by submitting a rescission statement to the Settlement
13 Administrator not later than one (1) business day prior to the Fairness
14 Hearing, or as otherwise ordered by the Court. The Settlement
15 Administrator shall not accept Late Requests for Exclusion without the
16 written authorization of Defendants.

- 17 h. **Class Member Released Claims.** Upon Final Approval, each Class
18 Member who has not opted out of the Settlement and Class Representative
19 shall be deemed to have fully, finally, and forever released Releasees from
20 all Settlement Class Released Claims as set forth in Section IX.
- 21 i. **Entry of Judgment.** At the Fairness Hearing, the Parties will request that
22 the Court, among other things: (a) certify the Settlement Class for
23 purposes of settlement only; (b) enter a Final Approval Order in
24 accordance with the terms of this Settlement Agreement; (c) approve the
25 settlement as fair, adequate, reasonable, and binding on all Settlement
26 Class Members; and (d) enter an order permanently enjoining all
27 Settlement Class Members from pursuing and/or seeking to reopen claims
28 that have been released by this Settlement Agreement.

1 **VI. SETTLEMENT ADMINISTRATION**

2 54. The Parties have agreed to the appointment of SSI to perform the duties of
3 Settlement Administrator.

4 55. No later than 40 days after the Court preliminarily approves the Settlement,
5 Defendants shall pay by wire transfer or otherwise transmit to the Depository Bank the sum of
6 \$780,000, in an account titled in the name of "GEII/ABB Wage and Hour Settlement Fund." The
7 account will be organized and existing under the laws of the State of California, intended by the
8 Parties to be a "Qualified Settlement Fund" as described in Section 468B of the Internal Revenue
9 Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.* The monies so transferred,
10 together with any interest subsequently earned thereon, shall constitute the Settlement Fund. The
11 \$780,000 transferred into the Settlement Fund by Defendants shall constitute the total Settlement
12 cash outlay by Defendants in connection with: (1) the resolution of this matter; (2) this Settlement
13 Agreement; and (3) the dismissal of this Action. This sum is inclusive of payment for the
14 Maximum Settlement Amount (and all payments to be made from the Maximum Settlement
15 Amount as described herein) and the employees' portion of applicable payroll taxes. Defendants
16 shall, upon notice from the Settlement Administrator, remit any additional required employer
17 payroll tax payments not covered by the QSF to the Settlement Administrator.

18 56. The Settlement Administrator shall serve as Trustee of the Settlement Fund and
19 shall act as a fiduciary with respect to the handling, management and distribution of the
20 Settlement Fund, including with regard to payment of valid claims and reporting and paying taxes
21 on such awards. The Settlement Administrator shall act in a manner necessary to qualify the
22 Settlement Fund as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue
23 Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, *et seq.*, and to maintain that
24 qualification.

25 57. The Settlement Administrator shall be responsible for and the Settlement Fund
26 shall cover: (a) calculating each Class Member's potential recovery of the Net Settlement
27 Amount; (b) preparing and mailing to all Class Members the Settlement Documents with
28 estimated Settlement Payment amounts and (if applicable) a PAGA Group Payment amount, and

1 instructions on how to opt out of or object to the Settlement, and will take appropriate steps to
2 trace, update and locate any individual Class Members whose address or contact information as
3 provided to the Settlement Administrator is inaccurate or outdated; (c) receiving and serving on
4 Class Counsel and Defendants' Counsel, and the Court, Requests for Exclusion and any
5 withdrawal and rescission statements; (d) providing to Class Counsel and Defendants' Counsel a
6 weekly report of activity; (e) establishing a toll free telephone line and responding to inquiries
7 and requests for information or assistance from Class Members; (f) determining and paying the
8 final amounts due to be paid to Settlement Class Members after adjustment for funds due to Class
9 Members who opt out of the settlement; (g) reporting to Class Counsel, Defendants' Counsel, and
10 the Court regarding the completion of the tasks identified in this paragraph; and (h) carrying out
11 other related tasks including the proper maintenance of the QSF and reporting required for that
12 account, in accordance with the terms of this Settlement Agreement.

13 58. All disputes relating to the Settlement Administrator's ability and need to perform
14 its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over
15 the terms and conditions of this Settlement Agreement, until all payments and obligations
16 contemplated by the Settlement Agreement have been fully executed.

17 59. When and if the Court grants Final Approval of the Settlement, and the Settlement
18 Effective Date as defined herein has passed, the Settlement Administrator shall prepare a final list
19 of all Settlement Class Members. The Settlement Administrator shall provide this list to
20 Defendants within 5 days after the Settlement Effective Date. For each Settlement Class Member
21 on this list, the Settlement Administrator will re-calculate the amounts due to each Settlement
22 Class Member and issue checks payable to said Settlement Class Members.

23 60. Except for the Service Enhancement described above to be paid to the Class
24 Representative, all Settlement Payments to Settlement Class Members shall be allocated as
25 follows: 1/3 of each Settlement Payment as unpaid wages and 2/3 of each Settlement Payment as
26 interest and penalties. All PAGA Group Payments will be allocated entirely to penalties.
27 Defendants are responsible for paying the employer tax contributions as required by law. The
28 Class Representatives and Settlement Class Members must pay their own portion of payroll and

1 all applicable income taxes on the 1/3 of Settlement Payment that is unpaid wages, and such
2 amounts will be withheld from Settlement Payments. The Class Representatives and Settlement
3 Class Members shall be exclusively liable for any and all tax liability, if any, other than for the
4 employer tax contributions. The Settlement Administrator shall be responsible for the timely
5 reporting and remitting of the Employer Payroll Tax Payment to the appropriate taxing authorities
6 and shall indemnify Defendants for any penalty arising out of an incorrect calculation and/or
7 interest with respect to late payment of the same. All Parties represent that they have not
8 received, and shall not rely on, advice or representations from other Parties or their agents or
9 attorneys regarding the tax treatment of payments under federal, state, or local law.

10 61. The Service Enhancement to the Class Representative shall be treated as
11 compensation for non-wage related claims, injuries, and reimbursement, and shall be reported on
12 an IRS 1099 without withholdings.

13 62. All portions of Settlement Payments to Named Plaintiff and/or Settlement Class
14 Members that are allocated as unpaid wages under this Settlement Agreement shall be considered
15 compensation for disputed hours worked as Class Members during the period of employment
16 with Defendants. To the extent any Settlement Payment results in any overpayment of
17 unemployment benefits to the Named Plaintiff and/or any Settlement Class Member, the amount
18 of any such overpayment shall be the responsibility of the individual Named Plaintiff and/or
19 Settlement Class Member.

20 63. After all payments have been disbursed from the QSF, the Settlement
21 Administrator shall dissolve the QSF and file a return (SF-1120) with the IRS.

22 **VII. NOTICE TO THE SETTLEMENT CLASS MEMBERS**

23 64. Within forty (40) days after the Date of Preliminary Approval by the Court,
24 Defendants shall provide to the Settlement Administrator information in electronic format
25 regarding all Class Members, including name(s), last known residence addresses, Social Security
26 numbers, and dates worked as Class Members during the Class Period.

27 65. Class data shall only be used by the Settlement Administrator for the purpose of
28 calculating settlement shares and finding and notifying Class Members of the settlement. Class

1 data for Class Members shall not be disclosed to the Named Plaintiff, Class Counsel, or any other
2 Class Members without the written consent of Defendants and will be subject to the Settlement
3 Administrator's confidentiality agreement.

4 66. Prior to mailing the Settlement Documents, the Settlement Administrator will
5 update the addresses for the Class Members using the National Change of Address database and
6 other available resources deemed suitable by the Settlement Administrator. Any returned
7 envelopes from the initial mailing with forwarding addresses will be used by the Settlement
8 Administrator to locate Class Members and re-mail the Settlement Documents to the correct or
9 updated address. The Settlement Administrator will use all appropriate tracing methods,
10 including skip tracing, to ensure that the Settlement Documents are received by Class Members.
11 The Settlement Administrator shall also take reasonable steps including skip tracing to locate any
12 Class Member whose Class Notice is returned as undeliverable.

13 67. Within twenty-one (21) days of receiving the class data from Defendants and after
14 it has completed all of the address updates for Class Members, the Settlement Administrator shall
15 mail the Class Notice to Class Members. At least five (5) business days prior to this mailing, the
16 Settlement Administrator shall provide Defendants with a report listing the estimated Settlement
17 Payment amounts to each Class Member.

18 68. Class Members shall have sixty (60) days from the date of mailing of the
19 Settlement Documents to opt out of the Class or object to the Settlement. If the 60th day falls on
20 a Sunday or holiday, the deadline will be the next business day that is not a Sunday or holiday.
21 After recalculating estimated settlement allocations to account for disputed claims, Settlement
22 Class Members will receive their allocation from the settlement fund agreed upon pursuant to this
23 Settlement Agreement and calculated by the Settlement Administrator.

24 69. All Settlement Administration Expenses shall come out of the Maximum
25 Settlement Amount.
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27
28

1 **VIII. CALCULATION OF SETTLEMENT PAYMENTS AND DISTRIBUTION OF NET**
2 **SETTLEMENT FUND**

3 70. **Calculation of Settlement Amounts.** The Settlement Administrator will calculate
4 pro rata Settlement Payments to Class Members based on each Class Member's relative
5 percentage of eligible employee work weeks in the Class as reflected on Defendants' internal
6 records. This same percentage will also determine the pro rata share of the PAGA payment to the
7 members of the PAGA Group. After deducting for attorney's fees, litigation costs, the Service
8 Enhancement, the PAGA payment (both the LWDA PAGA Penalty Amount and the PAGA
9 Group Payments paid to the PAGA Group), the Reserve Fund, and Settlement Administration
10 Expenses, the remainder of the Maximum Settlement Amount will be allocated to Class Members
11 as the Net Settlement Amount.

12 71. **Eligibility for Settlement Payments.** Class Members who have not opted-out of
13 the settlement will be considered Settlement Class Members eligible to receive a Settlement
14 Payment. Only Settlement Class Members will be eligible to receive a Settlement Payment.

15 72. Each Class Notice mailed to a Class Member will identify the dates of
16 employment and/or number of compensable weeks that Defendants' records indicate the
17 individual worked as a Class Member and estimate each Class Member's pro rata share of the Net
18 Settlement Amount including (if applicable) their share of the PAGA Group Payment as members
19 of the PAGA Group.

20 73. Settlement Class Members will have the right to challenge only the dates of
21 employment and/or number of weeks worked as shown on the Class Notice. Challenges to the
22 dates of employment and/or number of weeks worked listed on the Class Notice shall be sent
23 directly to the Settlement Administrator at the address indicated on the Class Notice. Any
24 challenge must be made during the Claims Period. The Settlement Administrator will inform
25 Class Counsel and Defendants' Counsel in writing of any timely filed challenges. The dates of
26 employment and/or work weeks listed on the Class Notice are presumed to be accurate unless the
27 Settlement Class Member submits documentation demonstrating otherwise, *i.e.*, a Settlement
28 Class Member who fails to provide written proof will have his or her challenge denied. In the
event of any dispute over an individual's dates of employment, Defendants' Counsel, after

1 consultation with Plaintiffs' Counsel, will investigate the challenge and determine whether any
2 additional amount is owed to the Settlement Class Member making the challenge. Defendants
3 will decide whether the Settlement Class Member's challenge shall be accepted. Defendants'
4 decision is final and binding without a right of appeal.

5 74. The Settlement Administrator shall (a) date stamp all original Requests for
6 Exclusion that it receives; (b) serve copies on Class Counsel and Defendants' Counsel no later
7 than 5 business days after receipt, or immediately if received within 5 business days of the
8 Fairness Hearing; and (c) file the date-stamped originals with the Clerk of the Court no later than
9 5 business days prior to the date of the Fairness Hearing or immediately if received less than 5
10 business days prior to the date of the Fairness Hearing.

11 75. The Settlement Administrator shall also (a) date stamp all original rescission of
12 Requests for Exclusion it receives; (b) serve copies on Class Counsel and Defendants' Counsel no
13 later than 5 business days after receipt, or immediately if received within 5 business days of the
14 Court's Fairness Hearing; and (c) file the date-stamped originals with the Clerk of the Court no
15 later than 5 business days prior to the date of the Fairness Hearing or immediately if received less
16 than 5 business days prior to the date of the Fairness Hearing.

17 76. The Settlement Administrator shall make the final calculation of Settlement
18 Payments from the Net Settlement Amount to be distributed to the Settlement Class Members
19 within 5 days after the Settlement Effective Date. Upon completion of its final calculation of
20 payments, and at least 5 days prior to the distribution of payments to Settlement Class Members
21 from the Net Settlement Amount, the Settlement Administrator shall provide the Parties with a
22 redacted report listing the amount of all Settlement Payments to be made to each Settlement Class
23 Member from the Net Settlement Amount. The Settlement Administrator shall also provide
24 Defendants' Counsel with an unredacted copy of the report.

25 77. Within 15 days after the Settlement Effective Date, the Settlement Administrator
26 shall distribute and pay Settlement Payment checks to all Settlement Class Members, pay the
27 Class Representative his Enhancement Payment, issue a check to the LWDA for the LWDA
28

1 PAGA Penalty Amount, issues checks to the PAGA Group for their PAGA Group Payments, and
2 pay Class Counsel's attorney's fees and costs.

3 78. The Settlement Administrator shall be responsible for issuing and mailing the
4 checks and any necessary tax reporting forms to Settlement Class Members, the Class
5 Representative, Class Counsel, and Defendants. The Settlement Administrator shall provide a
6 declaration of payment, which will be filed with the Court and served on Class Counsel and
7 Defendants within 30 days of mailing the payments to Settlement Class Members, the Class
8 Representatives and Class Counsel.

9 79. **Uncashed Settlement Checks.** Settlement Class Members who are sent
10 Settlement Payments and PAGA Group Members who are sent PAGA Group Payments shall
11 have at least 90 calendar days after mailing by the Settlement Administrator to cash their checks
12 and will be so advised of such deadline. If such Settlement Class Members and/or PAGA Group
13 Members do not cash their checks within that period, those checks will become void and a stop
14 payment will be placed on the uncashed checks. Within thirty (30) days after the expiration date
15 of the settlement checks, the Settlement Administrator shall provide to Class Counsel and
16 Defendants' Counsel a verification/declaration signed under penalty of perjury that it has mailed
17 the settlement checks to Participating Class Members, and if uncashed, that such amounts have
18 been sent to the Controller of the State of California to be held pursuant to the Unclaimed
19 Property Law, California Civil Code Section 1500, *et seq.* in the name of the Settlement Class
20 Member to whom the uncashed check was addressed, for the benefit of those Class Members who
21 did not cash their checks until such time as they claim their property.

22 **IX. RELEASE BY SETTLEMENT CLASS MEMBERS**

23 80. **Release by Settlement Class Members.** The releases agreed upon and made part
24 of the settlement by Settlement Class Members ("Settlement Class Released Claims") shall
25 include a release of Releasees, as defined above, of the Settlement Class Released Claims.
26 Settlement Class Released Claims are any and all wage and hour claims that accrued during or
27 prior to the Class Period and that have been or could have been asserted in the instant Action
28 based on the allegations in the Second Amended Complaint in this Action, including but not

1 limited to any and all claims for overtime, minimum wage, meal and rest breaks, and waiting time
2 penalties, and any and all claims that are derivative or directly related to the foregoing claims,
3 which include any and all claims: for penalties, premium pay, punitive damages, and interest; for
4 failure to furnish accurate wage statements; under California Labor Code Sections 201, 202, 203,
5 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 1198; for violation(s) of the
6 California Business & Professions Code; and/or under the common law, such as conversion and
7 unjust enrichment. All Settlement Class Members shall be bound by the release, unless they
8 formally opt-out. The PAGA Group shall be bound by the release as to any PAGA claims even if
9 they have formally opted out of the Class. All Settlement Class Members who cash their non-
10 PAGA settlement check shall also release any and all claims under the FLSA, including but not
11 limited to claims under 29 U.S.C. § 206, 211(c) and 215(a), including liquidated damages,
12 whether known or unknown, that accrued from September 11, 2015 through the date the check is
13 cashed. By cashing the check, Settlement Class Members will have opted in have consented to
14 join an action under the FLSA and opted-in on a collective basis with respect to those claims.

15 81. Settlement is further conditioned upon covenant by Settlement Class Members
16 who are members of the PAGA Group that they will not participate in any proceeding seeking
17 penalties under § 2699 for claims based on facts which were or could have been alleged in the
18 Second Amended Complaint.

19 82. The Settlement Class Members shall be deemed to have expressly waived and
20 relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may
21 otherwise have had relating to the Settlement Class Released Claims pursuant to Section 1542 of
22 the California Civil Code, which provides as follows:

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

26 83. Nothing in this Settlement Agreement shall be construed to bar any claims by the
27 Named Plaintiff or Settlement Class Members that may arise after the Class Period. This release
28 also specifically excludes any claims the Named Plaintiff and Settlement Class Members may

1 have that arise from time periods in which they were not working as Class Members during the
2 Class Period.

3 **X. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL AND**
4 **BETWEEN PRELIMINARY AND FINAL APPROVAL**

5 84. The Parties shall promptly submit this Settlement Agreement to the Court together
6 with a Motion for Preliminary Approval of Settlement and Certification of Settlement Class. The
7 motion shall also seek an order, attached as Exhibit B:

- 8 a. Preliminarily approving the settlement;
- 9 b. Approving as to form and content the proposed Notice of Settlement;
- 10 c. Directing the mailing of the Notice of Settlement by first class mail to
11 members of the Settlement Class;
- 12 d. Preliminarily certifying the Settlement Class for purposes of settlement and
13 preliminarily appointing Named Plaintiff and Plaintiff's Counsel as representatives of the
14 Settlement Class;
- 15 e. Preliminarily approving settlement administration services to be provided
16 by the Settlement Administrator;
- 17 f. Preliminarily approving the proposed service awards to Named Plaintiff as
18 Class Representative;
- 19 g. Preliminarily approving the application for payment of reasonable
20 attorneys' fees and costs to Plaintiff's Counsel;
- 21 h. Enjoining Plaintiff and all Class Members and anyone acting on behalf of
22 any Class Member, until the Class Member opts out, from: further prosecution of the Litigation;
23 filing, or taking any action directly or indirectly, to commence, prosecute, pursue or participate on
24 a class or collective action basis any action, claim or proceeding against Defendants in any forum
25 in which any of the claims subject to the Settlement are asserted, or which in any way would
26 prevent any such claims from being extinguished; or seeking, whether on a conditional basis or
27 not, certification of a class or collective action that involves any such claims; and
28

1 i. Scheduling a Fairness Hearing on the question of whether the proposed
2 settlement should be finally approved as fair, reasonable and adequate as to the members of the
3 Settlement Class.

4 85. Defendants shall provide to the Settlement Administrator within forty (40) days
5 after Preliminary Approval is granted the class membership list and identification and contact
6 information specified in Paragraph VII.64 above. Defendants shall submit this information in
7 electronic format as specified by the Settlement Administrator and shall thereafter, during the
8 notice, approval, opt out, and payment processes, assist the Settlement Administrator as necessary
9 or as requested to use, correct, or update this information in order to enable the Settlement
10 Administrator to locate and contact Class Members, and to provide information needed or
11 requested by the Settlement Administrator in order to make determinations on Class Members'
12 challenges.

13 86. The Parties shall cooperate with each other and the Settlement Administrator
14 during the process of giving Class Members notice and opportunity to opt out of or object to the
15 Settlement, in every way necessary and appropriate to assure effective communication to
16 individual Class Members of information concerning their rights and obligations under this
17 Settlement Agreement.

18 87. Plaintiff's Counsel shall provide the Court at least 5 days prior to the Fairness
19 Hearing a declaration by the Settlement Administrator of due diligence and proof of mailing of
20 the Notice of Settlement required to be mailed to Class Members by this Settlement Agreement,
21 and of the delivery results of the Settlement Administrator's mailings including tracing and re-
22 mailing efforts.

23 **XI. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL**

24 88. The Parties will submit a proposed Final Approval Order, attached as Exhibit C,
25 which shall include findings and orders:

26 a. Approving the settlement, adjudging the terms thereof to be fair,
27 reasonable and adequate, and directing that its terms and provisions be carried out;

- 1 b. Approving the payment of a Service Enhancement to the Named Plaintiff
2 as Class Representative;
- 3 c. Approving Class Counsel’s application for an award of attorneys’ fees and
4 reimbursement of out-of-pocket litigation expenses;
- 5 d. Releasing and extinguishing all Class Member Released Claims and Class
6 Representative Released Claims;
- 7 e. permanently enjoining all Class Members and Settlement Class Members
8 from pursuing and/or seeking to reopen claims that have been released by this Settlement
9 Agreement; and
- 10 f. Providing that the Court will retain jurisdiction to oversee administration
11 and enforcement of the terms of the Settlement and the Court’s orders.
- 12 89. Following entry of the Court’s Final Approval Order, the Parties will each act to
13 assure its timely execution and the fulfillment of all its provisions, including but not limited to the
14 following:
- 15 a. Should an appeal be taken from the Final Approval Order, all Parties will
16 support the approval order on appeal;
- 17 b. Class Counsel and Defendants’ Counsel will assist the Settlement
18 Administrator as needed or requested in the process of identifying and locating Class Members
19 entitled to payments from the Class Settlement Fund and assuring delivery of such payments;
- 20 c. Class Counsel and Defendants’ Counsel will assist the Settlement
21 Administrator as needed or requested in responding to late requests for payments and the fair
22 administration of that payment;
- 23 d. Class Counsel and Defendants’ Counsel will cooperate with each other and
24 assist the Settlement Administrator as needed.
- 25 e. The Parties and Class Counsel will certify to the Court completion of all
26 payments required to be made by this Settlement Agreement.
- 27
- 28

XII. PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT

90. The preliminary schedule for notice, approval, and payment procedures carrying out this settlement is as follows. The schedule may be modified depending on whether and when the Court grants necessary approvals and orders notice to the class, and sets further hearings. In the event of such modification, the Parties shall cooperate in order to complete the settlement procedures as expeditiously as reasonably practicable.

| | |
|---|---|
| Within 40 days after the Date of Preliminary Approval | Defendants to fund the QSF. |
| Within 40 days after the Date of Preliminary Approval | Defendants to provide the Settlement Administrator the most recent names, last known residence addresses, and social security numbers for all Class Members, as well as any information regarding the Class Members' dates of employment. |
| 21 days after receipt of class data from Defendants | Settlement Administrator to complete any skip trace or other address searched for Class Members, including updating any Class Member contact information. Mailing by first class mail of Settlement Documents. |
| 5 business days before mailing Settlement Documents. | Settlement Administrator to provide Defendants' counsel with estimated Settlement Payments to each Class Member and PAGA Group Payments to members of the PAGA Group. |
| 60 days after mailing Settlement Documents. | Deadline for Class Members to opt-out or object. |

| | |
|---|--|
| 1 business day prior to the Fairness Hearing. | Last day to rescind objections or opt-outs. |
| 30 days after entry of the Court's Final Approval Order, if no appeals are filed. | Settlement Effective Date |
| Within 5 days after Settlement Effective Date. | Settlement Administrator to make the final calculation of Settlement Payments from the Net Settlement Amount to be distributed to the Settlement Class Members and provide Defendants' counsel with a report listing the amount of all payments to be made to each Settlement Class Member and/or members of the PAGA Group. |
| Within 15 days after the Settlement Effective Date | Settlement Administrator to distribute and pay Settlement Payment checks to all Settlement Class Members from the QSF, pay the Class Representative his enhancement payment and pay Class Counsel the attorney's fees and costs approved by the Court, pay the LWDA PAGA Penalty Amount to the LWDA and pay the PAGA Group Payment to members of the PAGA Group. |
| Within 30 days after distribution. | Settlement Administrator to provide a declaration of payment, which will be filed with the Court and served on Class Counsel and Defendants. |
| 90 days after payment of first round settlement checks | Uncashed checks presented to Controller of the State of California. |

1 **XIII. VOIDING OR MODIFYING THE SETTLEMENT AGREEMENT**

2 91. Defendants have the right to withdraw from the Settlement within thirty (30) days
3 after expiration of the opt-out period if: (a) 5% or more of all Settlement Class members opts out
4 of the Settlement; or (b) Plaintiff or his counsel breach the Term Sheet or this Settlement
5 Agreement; or (c) the Court does not certify the Settlement Class or does not certify a class
6 releasing the claims set forth herein, or if the settlement is construed by the Court to be different
7 from the Agreement. In the event of Defendants' withdrawal, Defendants will pay the costs
8 already incurred by the Settlement Administrator.

9 92. If for any reason the Settlement is not approved by the court, or if Defendants
10 withdraw from the Settlement, this Settlement Agreement and any related settlement documents
11 will be null and void, other than the confidentiality and non-disclosure provisions in Section XIV
12 and the non-admission provisions in Paragraph V.53.a, and any class action certified for
13 settlement purposes will be vacated. In such an event, neither this Settlement Agreement, nor the
14 Term Sheet, nor the settlement documents, nor the negotiations leading to the Settlement may be
15 used as evidence for any purpose, and Defendants shall retain the right to challenge all claims and
16 allegations in the action, to assert all applicable defenses, and to dispute the propriety of class or
17 collective certification on all applicable grounds.

18 93. Other than as specified above, this Settlement Agreement may not be changed,
19 altered, or modified, except in writing and signed by counsel for the Parties hereto, and approved
20 by the Court. This Settlement Agreement may not be discharged except by performance in
21 accordance with its terms or by a writing signed by the Parties hereto.

22 **XIV. CONFIDENTIALITY AND PUBLICITY**

23 94. Names of Settlement Class Members and their allocation amounts shall be kept
24 strictly confidential by the Settlement Administrator, who will not release such information to
25 Class Counsel and will only file such information under seal if necessary. Class Counsel agrees
26 that any information they receive or have received in connection with this Settlement, may be
27 used for this action only, and may not be used for any purpose or in any other action or
28 proceeding.

1 95. Named Plaintiff and Class Counsel agree not to disclose the terms of this
2 settlement, except in court papers, or if required by legal process, as necessary to effectuate and
3 administer the terms of this Settlement, or for accounting or tax reporting purposes, or as ordered
4 by the Court. Neither Named Plaintiff nor Class Counsel, directly or indirectly, shall issue a press
5 release, hold a press conference, respond to any press inquiries, publish information about the
6 settlement on any website (other than used by the Settlement Administrator for claims
7 administration purposes) or on social media, or otherwise publicize the settlement. After the
8 filing of the motion for preliminary approval, Class Counsel may respond to any press inquiries
9 only that the matter has been resolved.

10 96. **Returns and/or Destruction of Confidential Settlement Materials.** Named
11 Plaintiff and Class Counsel agree to return all confidential documents produced to them for
12 settlement purposes in this action after the Claims Administrator submits the final declaration of
13 distributions.

14 **XV. PARTIES' AUTHORITY**

15 97. The signatories hereby represent that they are fully authorized to enter into this
16 Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

17 **XVI. MUTUAL FULL COOPERATION**

18 98. The Parties agree to fully cooperate with each other to accomplish the terms of this
19 Settlement Agreement, including but not limited to, executing such documents and taking such
20 other action as may reasonably be necessary to implement the terms of this Settlement
21 Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all
22 efforts contemplated by this Settlement Agreement and any other efforts that may become
23 necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the
24 terms set forth herein. As soon as practicable after execution of this Settlement Agreement,
25 Plaintiff's Counsel shall, with the assistance and cooperation of Defendants and Defendants'
26 counsel, take all necessary steps to secure the Court's preliminary and final approval of this
27 Settlement Agreement.

1 **XVII. NOTICES**

2 99. Unless otherwise specifically provided herein, all notices, demands or other
3 communications given hereunder shall be in writing and shall be deemed to have been duly given
4 as of the third business day after mailing by United States registered or certified mail, return
5 receipt requested, addressed as follows:

6 To Plaintiff's Counsel:

7 Cody Payne
8 PROTECTION LAW GROUP, LLP
9 136 Main Street, Suite A
10 El Segundo, CA 90245
11 Tel: (424) 290-3094
12 Fax: (866) 264-7880
13 cody@protectionlawgroup.com

14 To Defendant's Counsel:

15 Carrie A. Gonell
16 MORGAN, LEWIS & BOCKIUS LLP
17 600 Anton Blvd., Suite 1800
18 Costa Mesa, CA 92626
19 Tel: 949.399.7000
20 Fax: 949.399.7001
21 carrie.gonell@morganlewis.com

22 If the identity of the persons to be notified for any Party changes, or their address changes,
23 that Party shall notify all other Parties of said change in writing.

24 **XVIII. MISCELLANEOUS PROVISIONS**

25 100. **Captions and Titles.** Paragraph titles or captions contained herein are inserted as
26 a matter of convenience and for reference, and in no way define, limit, extend, or describe the
27 scope of this Settlement Agreement or any provision hereof. Each term of this Settlement
28 Agreement is contractual and not merely a recital.

101. **Drafting.** The Parties hereto agree that the terms and conditions of this Settlement
Agreement are the result of lengthy, intensive arms-length negotiations between the Parties.
Neither party shall be considered the "drafter" of the Settlement Agreement for purposes of
having terms construed against that party, and this Settlement Agreement shall not be construed
in favor of or against any Party by reason of the extent to which any Party or his, her or its
counsel participated in the drafting of this Settlement Agreement.

1 102. **Extensions of Time.** If a party cannot reasonably comply with an obligation
2 under this Settlement Agreement by the deadline set forth herein applicable to that obligation, that
3 party may apply to the Court for a reasonable extension of time to fulfill that obligation. Consent
4 to such a request for an extension will not be unreasonably withheld by the other party.

5 103. **Governing Law.** The rights and obligations of the Parties hereunder shall be
6 construed and enforced in accordance with, and shall be governed by, the laws of the State of
7 California, without regard to principles of conflict of laws.

8 104. **No Impact on Benefit Plans.** Neither the Settlement nor any amounts paid under
9 the Settlement will modify any previously credited hours or service under any employee benefit
10 plan, policy, or bonus program sponsored by Releasees. Such amounts will not form the basis for
11 additional contributions to, benefits under, or any other monetary entitlement under Releasees'
12 sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this
13 Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary,
14 earnings, wages, or any other form of compensation for the purposes of any Releasees' benefit
15 plan, policy, or bonus program. Releasees retain the right to modify the language of Releasees'
16 benefit plans, policies and bonus programs to effect this intent, and to make clear that any
17 amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of
18 service," or any similar measuring term as defined by applicable plans, policies and bonus
19 programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that
20 additional contributions or benefits are not required by this Settlement Agreement.

21 105. **Integration.** This Settlement Agreement, along with attached exhibits, contains
22 the entire agreement between the Parties relating to the settlement and transaction contemplated
23 hereby, and all prior or contemporaneous agreements, understandings, representations, and
24 statements, whether oral or written and whether by a Party or such Party's legal counsel, are
25 merged herein, with the express exception of the Confidential Settlement Agreement and General
26 Release that the Parties have previously executed, which the Parties intend to remain binding
27 along with this Settlement Agreement following the execution of both agreements. No rights
28 hereunder may be waived except in writing.

1 106. No Prior Assignments. This Settlement Agreement shall be binding upon and
2 inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
3 administrators and successors. The Parties hereto represent, covenant, and warrant that they have
4 not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
5 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
6 action or rights herein released and discharged except as set forth herein.

7 107. Class Member Signatories. It is agreed that because the members of the Class
8 are so numerous, it is impossible or impractical to have each member of the Class execute this
9 Settlement Agreement. The Class Notice attached hereto will advise all Class Members of the
10 binding nature of the release and such shall have the same force and effect as if this Settlement
11 Agreement were executed by each member of the Class.

12 **XIX. COUNTERPARTS**

13 108. This Settlement Agreement may be executed in counterparts with signatures
14 transmitted by facsimile or as an electronic image of the original signature. When each Party has
15 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
16 and, when taken together with other signed counterparts, shall constitute one Settlement
17 Agreement, which shall be binding upon and effective as to all Parties. A facsimile signature
18 shall have the same force and effect as the original signature.

19 **READ CAREFULLY BEFORE SIGNING**

20
21 **PLAINTIFF**

22 Dated: 4-11-2020

23 Calvin Hansen
Calvin Hansen

24
25 **DEFENDANT GEII**

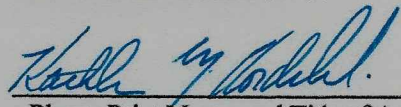
26 Dated: 4/20/2020
27 4:00 PM EST

28 Katherine C. Morgan as Counsel
Katherine C. Morgan, Exec. Inhouse Counsel
Please Print Name and Title of Authorized Signatory

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DEFENDANT ABB INC.

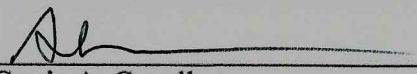
Dated: 4-21-2020
2:00 p.m. EDT


Please Print Name and Title of Authorized Signatory
KATHLEEN M. KORDELESKI
Chief Counsel ABB Inc.

APPROVED AS TO FORM.

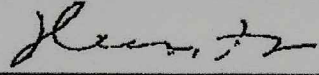
Dated: April 22, 2020

MORGAN, LEWIS & BOCKIUS LLP

By 
Carrie A. Gonell
Alexander L. Grodan
Attorneys for Defendant

Dated: April 13, 2020

PROTECTION LAW GROUP, LLP

By 
Heather Davis
Amir Nayebdadash
Cody Payne
Kim Nguyen
Attorneys for Plaintiff