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Attorneys for Defendant Add-On Computer Peripherals, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE

JOSE MALDONADO, individually, on a  
representative basis, and on behalf of all  
others similarly situated;

Plaintiff,

vs.

ADD-ON COMPUTER PERIPHERALS  
LLC, a California Limited Liability  
Company; and DOES 1 through 20, inclusive;

Defendants.

Case No.: 30-2021-01206062-CU-OE-CXC  
*[Assigned to Hon. William Claster, Dept  
CX104, for all purposes]*

**AMENDED CLASS AND PAGA ACTION  
SETTLEMENT AGREEMENT AND  
RELEASE OF CLAIMS**

Complaint filed: June 14, 2021

1 This Amended Class And PAGA Action Settlement Agreement and Release of Claims is  
2 entered into by and between Plaintiff Jose Maldonado, individually and on behalf of all others  
3 similarly situated, and Defendant Add-On Computer Peripherals, LLC, and is approved by their  
4 respective counsel of record, subject to the terms and conditions hereof and the Court's approval.

5 **A. Definitions**

6 As used herein, for the purposes of this Settlement Agreement only, the following terms  
7 shall be defined as set forth below:

8 1. "Action" or "Lawsuit" means and refers to the case entitled *Jose Maldonado v.*  
9 *Add-On Computer Peripherals, LLC, et al.*, Orange County Superior Court, Case No. 30-2021-  
10 01206062-CU-OE-CXC.

11 2. "Agreement" or "Settlement Agreement" shall mean this Amended Class and  
12 PAGA Action Settlement Agreement and Release of Claims, including any attached Exhibits.

13 3. "Aggrieved Employees" means all current and former non-exempt employees  
14 employed by Defendant in California at any time during the PAGA Period. Defendant  
15 represents that there are approximately 90 eligible Aggrieved Employees.

16 4. "Attorneys' Fees and Costs Award" shall have the meaning ascribed to it in  
17 Paragraph 47(f) below.

18 5. "Class Counsel" refers to Brian Mankin and Peter Carlson of Lauby Mankin  
19 Lauby LLP.

20 6. "Class Data" means a complete list that Defendant will diligently and in good  
21 faith compile from its records and provide to the Settlement Administrator on one spreadsheet  
22 and shall include the Settlement Class Members' full names; last known addresses; telephone  
23 numbers (if available); Social Security Numbers; the total Pay Periods Worked during the PAGA  
24 Period for each Aggrieved Employee, and the total Pay Periods Worked during the Class Period  
25 for each Settlement Class Member.

26 7. "Class Period" is deemed to be any time during the period of June 14, 2017,  
27 through the Preliminary Approval Date or June 15, 2022, whichever is earlier.

28 8. "Class Representative" or "Plaintiff" means and refers to Jose Maldonado.

1           9.       “Complaint” refers to the operative first amended complaint alleging class action  
2 and representative PAGA action claims, for which the original complaint was originally filed in  
3 the Orange County Superior Court on June 14, 2021, and amended on August 20, 2021, in the  
4 matter of *Jose Maldonado v. Add-On Computer Peripherals, LLC*, Orange County Superior  
5 Court Case No. 30-2021-01206062-CU-OE-CXC.

6           10.      “Court” (or “Judge”) means the California Superior Court, County of Orange.

7           11.      “Defendant” means and refers to Add-On Computer Peripherals, LLC.

8           12.      “Defendant’s Counsel” or “Defense Counsel” means and refers to Eric M.  
9 Steinert, Leo Q. Li, and Frances J. Choi of Seyfarth Shaw LLP.

10          13.      “Effective Date” means the date upon which both of the following have occurred:  
11 (i) approval of the settlement is granted by the Court, or other court assuming jurisdiction of this  
12 Action, and (ii) the Court’s judgment approving the settlement becomes Final. “Final” shall  
13 mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is  
14 affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a  
15 petition for writ of certiorari to the California Supreme Court, or (ii) if a petition for writ of  
16 certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the judgment  
17 is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time  
18 for filing or noticing any appeal of the judgment.

19          14.      “Final Approval” refers to the order of the Court granting final approval of this  
20 Settlement Agreement and entering a judgment approving this Agreement on substantially the  
21 terms provided herein or as the same may be modified by subsequent agreement of the Parties.

22          15.      “Final Settlement Class” means, collectively, all Settlement Class Members who  
23 have not opted out of the Settlement Class by submitting timely Requests for Exclusion.

24          16.      “Gross Settlement Amount” shall have the meaning ascribed to it in Paragraph  
25 47(a) below.

26          17.      “Individual Settlement Payment(s)” shall have the meaning ascribed to it in  
27 Paragraph 47(c) below.

28          18.      “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 47(b)

below.

19. “Notice of Settlement” means the notice substantially in the form attached as Exhibit A, subject to the Court’s approval, that will be sent to the Settlement Class Members.

20. “Notice Response Deadline” is 60 calendar days from the date the Notice of Settlement is mailed to the Settlement Class Members.

21. “Objecting Settlement Class Member” means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement with respect to the Released Class Claims, pursuant to Paragraph 68(c) below.

22. “PAGA Penalties” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well as the individual PAGA payment allocated to each Aggrieved Employee, as set forth further below in Paragraph 47(h).

23. “PAGA Period” is deemed to be any time during the period of June 14, 2020, through the Preliminary Approval Date or June 15, 2022, whichever is earlier.

24. “PAGA Released Claims” by the Aggrieved Employees upon Final Approval of the Settlement means all PAGA claims that Plaintiff alleged or could have alleged against the Released Parties, on behalf of the Aggrieved Employees and the State of California, based on the facts and/or theories stated in the operative complaint and/or in Plaintiff’s June 14, 2021 notice letter to the LWDA, including but not limited to, all PAGA claims premised upon California Labor Code §§ 201-204, 210, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802, any applicable California Industrial Welfare Commission Wage Order, PAGA, California Labor Code §§ 2699, *et seq.*, and any remedies for any of the PAGA claims described herein, including civil penalties, declaratory relief, equitable relief, interest, and attorneys’ fees and costs.

25. “Participating Class Member” means any and all Settlement Class Members who are deemed to participate, who will receive an Individual Settlement Payment, and who do not opt-out by submitting a timely, valid Request for Exclusion.

26. “Parties” or “Settling Parties” mean Plaintiff, the Settlement Class, and



1 Defendant, collectively.

2 27. “Pay Periods Worked” or “Eligible Pay Periods,” in the context of Settlement  
3 Class Members, means all bi-weekly pay periods during the Class Period in which the Settlement  
4 Class Member was employed by Defendant as a non-exempt employee in California and worked  
5 at least one shift during the pay period. Likewise, in the context of Aggrieved Employees, these  
6 phrases mean all bi-weekly pay periods during the PAGA Period in which the Aggrieved  
7 Employee was employed by Defendant as a non-exempt employee in California and worked at  
8 least one shift during the pay period.

9 28. “Preliminary Approval Date” means the date the Court approves the Settlement  
10 Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

11 29. “Preliminary Approval Order” means the judicial Order to be entered by the  
12 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement  
13 and providing for the issuance of the Notice of Settlement to the Settlement Class, an opportunity  
14 to opt out of the Settlement, an opportunity to submit timely objections to the Settlement, and  
15 setting a hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees  
16 and costs.

17 30. “QSF” means the Qualified Settlement Fund set up by the Settlement  
18 Administrator for the benefit of the Final Settlement Class, and from which the settlement  
19 payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue  
20 Code Sec. 468.

21 31. “Released Class Claims” or “Class Claims” by the Participating Class Members  
22 upon Final Approval of the Settlement will include any and all claims, rights, demands, liabilities  
23 and causes of action that were or could have been pled under local, state, or federal law arising  
24 out of or based on the facts alleged in the operative complaint against the Released Parties for the  
25 duration of the Class Period, including but not limited to, all claims under California Labor Code  
26 §§ 201-204, 210, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802, any  
27 applicable California Industrial Welfare Commission Wage Order, California Code of  
28 Regulations, tit. 8, § 11070, the California Unfair Competition Law, California Business &

1 Professions Code §§ 17200, *et seq.*, and any remedies for any of the claims described herein,  
2 including, damages, statutory penalties, restitution, declaratory relief, equitable or injunctive  
3 relief, interest, and attorneys' fees and costs.

4 32. "Released Parties" means Defendant and its past and present officers, directors,  
5 shareholders, employees, managers, human resources representatives, agents, contractors,  
6 attorneys, principals, heirs, representatives, accountants, auditors, consultants, insurers and  
7 reinsurers, and their respective parent corporations, subsidiaries or related entities, divisions,  
8 affiliates, attorneys, successors and assigns.

9 33. "Release" shall mean the release and discharge of the Released Class Claims by  
10 Plaintiff and all of the Participating Class Members and the release and discharge of the PAGA  
11 Released Claims by Plaintiff, the State of California, and all of the Aggrieved Employees. The  
12 *res judicata* effect of the Judgment will be the same as that of the Release of the Released Class  
13 Claims and PAGA Released Claims.

14 34. "Request for Exclusion" means and refers to a valid and timely request for  
15 exclusion from the Settlement of the Released Class Claims, which may be submitted by any  
16 Settlement Class Member, other than Plaintiff, pursuant to Paragraph 68(a) below.

17 35. "Service Payment" or "Service Award" means, as set forth further in Paragraph  
18 47(e) below, the amount approved by the Court to be paid to the Class Representative, Jose  
19 Maldonado, in addition to his Individual Settlement Payment as a Participating Class Member.

20 36. "Settlement Administrator" means and refers to Phoenix Class Action  
21 Administration Solutions, the third-party class action settlement administrator agreed to by the  
22 Parties, that will provide the Notice of Settlement to the Settlement Class and distribute the  
23 settlement amounts as described in this Agreement.

24 37. "Settlement Administration Costs" means the costs payable from the Gross  
25 Settlement Amount to the Settlement Administrator for administering this Settlement, including,  
26 but not limited to, printing, distributing, and tracking documents for this Settlement, tax  
27 reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property  
28 due diligence, reporting and remittance obligations, distributing the Gross Settlement Amount,

1 and providing necessary reports and declarations, as requested by the Parties. The Settlement  
2 Administration Costs shall be paid from the Settlement Amount, including, if necessary, any  
3 such costs in excess of the amount represented by the Settlement Administrator as being the  
4 maximum costs necessary to administer the Settlement.

5 38. "Settlement Class" consists of all current and former non-exempt employees  
6 employed by Defendant in California at any time during the Class Period. Defendant represents  
7 that there are approximately 150 eligible Class Members.

8 39. "Settlement Class Member" or "Class Member(s)" refers to individual members  
9 of the Settlement Class.

10 **B. General Terms**

11 40. Plaintiff filed a class action complaint with the Court on June 14, 2021 against  
12 Defendant and Does 1 through 20. Plaintiff subsequently amended the Complaint on August 20,  
13 2021, to add PAGA claims. The operative Complaint alleges class and representative PAGA  
14 claims, including: (1) failure to pay minimum and regular wages, (2) failure to pay overtime  
15 wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to pay  
16 vested vacation wages, (6) failure to timely pay final wages, (7) failure to provide accurate  
17 itemized wage statements, (8) unfair and unlawful competition pursuant to Business and  
18 Professions Code §17200 *et seq.*, and (9) related claims under PAGA.

19 41. Defendant denies Plaintiff's claims and allegations and contends that the Action is  
20 not suitable for class certification or manageable as a class or representative action.

21 42. The Class Representative believes he can proceed with his representative and  
22 class claims, that the Action is meritorious, and that class certification is appropriate.

23 43. The Parties have conducted a thorough investigation into the facts of the Action.  
24 This includes conducting an extensive exchange of informal discovery, including Defendant's  
25 written policies and practices and the production of payroll and timekeeping records for  
26 Settlement Class Members. Class Counsel is both knowledgeable about and has done extensive  
27 research with respect to the applicable law and potential defenses to the claims of the Settlement  
28 Class. Class Counsel has diligently pursued an investigation of the Class Members' claims

1 against Defendant. Based on the foregoing data and on their own independent investigation and  
2 evaluation, Class Counsel is of the opinion that the settlement with Defendant for the  
3 consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and  
4 adequate and is in the best interest of the Class Members in light of all known facts and  
5 circumstances, including the risk of significant delay and uncertainty associated with litigation,  
6 various defenses asserted by Defendant, and numerous potential appellate issues.

7 44. On March 14, 2022, Plaintiff and Defendant participated in mediation before the  
8 Honorable Nancy Wieben Stock, a retired Judge who served in the Orange County Complex  
9 Civil Department and now serves as mediator on wage and hour class action cases among other  
10 matters. The Action resolved at mediation pursuant to a mediator's proposal.

11 45. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts  
12 to be performed or judgments to be entered pursuant to the terms of the Settlement and  
13 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of  
14 any statute or law or liability on the claims or allegations in the Action.

15 46. Stipulation to Class Certification and Representative Treatment. For settlement  
16 purposes only, Defendant will stipulate that the Settlement Class Members described herein who  
17 do not submit a timely Request for Exclusion from the Settlement Class may be conditionally  
18 certified as a settlement class and that the Aggrieved Employees are appropriate for  
19 representative treatment for purposes of settlement. This stipulation to certification and  
20 representative treatment is in no way an admission that class action certification and/or  
21 representative treatment is proper and shall not be admissible in this or in any other action except  
22 for the sole purpose of enforcing this Agreement. Nor should Defendant's stipulation to  
23 conditional class certification and representative treatment be deemed as a waiver to any  
24 additional defenses against class or representative action treatment, including but not limited to  
25 Defendant's right to exclude Settlement Class Members who signed binding arbitration  
26 agreements from participating in this Action. Should, for whatever reason, the Court fail to issue  
27 Final Approval, the Parties' stipulation to class certification and representative treatment as part  
28 of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not

1 be admissible in connection with, the issue of whether or not certification and/or representative  
2 treatment would be appropriate in a non-settlement context. Defendant expressly reserves its  
3 rights and declares that it would continue to oppose class certification, representative treatment,  
4 and the substantive merits of the case should the Court decline to issue Final Approval. Plaintiff  
5 expressly reserves his rights and declares that he will continue to pursue class certification,  
6 representative treatment, and a trial should the Court decline to issue Final Approval.

7 **C. Terms of Settlement**

8 47. The financial terms of the Settlement are as follows:

9 (a) Gross Settlement Amount: The Parties agree to settle this Action for Four  
10 Hundred Seventy-Five Thousand Dollars (\$475,000) (“the Gross Settlement Amount”). The  
11 Gross Settlement Amount is the maximum amount that will be paid, and includes Individual  
12 Settlement Payments, Attorneys’ Fees and Costs Award, the Service Payment to the Class  
13 Representative, all Settlement Administration Costs, PAGA Penalties, and interest. Defendant  
14 shall separately pay the employer’s share of applicable payroll tax obligations due on the wage  
15 portions of the Individual Settlement Payments, which shall be reported through the Settlement  
16 Administrator.

17 (b) Net Settlement Amount: The “Net Settlement Amount” is defined as the  
18 Gross Settlement Amount less the court-approved Attorneys’ Fees and Costs Award, the court-  
19 approved Service Payment to the Class Representative, the court-approved Settlement  
20 Administration Costs, and PAGA Penalties. If the Court reduces the Attorneys’ Fees and Costs  
21 Award, Service Payment to the Class Representative, or Settlement Administration Costs, or  
22 either increases or decreases the amount allocated to the PAGA Penalties, the Net Settlement  
23 Amount shall be increased or decreased accordingly.

24 (c) Individual Settlement Payments: Individual Settlement Payments for the  
25 Settlement Class will be calculated and apportioned from the Net Settlement Amount based on  
26 the number of Eligible Pay Periods a Settlement Class Member worked during the Class Period.  
27 Specific calculations of Individual Settlement Payments will be made as follows:

- 28
- Defendant will calculate the total number of Pay Periods Worked by each

Settlement Class Member during the Class Period and the aggregate total number of Pay Periods Worked by all Settlement Class Members during the Class Period.

- To determine each Settlement Class Member's estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Pay Periods Worked, resulting in the "Pay Period Value." Each Settlement Class Member's Individual Settlement Payment will be calculated by multiplying his or her total number of Pay Periods Worked during the Class Period by the Pay Period Value.
- Individual Settlement Payments will be reduced by any required deductions for each Participating Class Member as specifically set forth herein, including employee-side tax withholdings and deductions.
- The entire Net Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionally increase the Individual Settlement Payment for each Participating Class Member according to the number of Pay Periods Worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Amount.

(d) Allocation of Individual Settlement Payments: The Individual Settlement Payments will be allocated based on the allegations in the Action as follows: Ten percent (10%) will be allocated as wages subject to withholding of all applicable local, state and federal taxes; and ninety percent (90%) will be allocated for interest and penalties (pursuant to, e.g., California Labor Code sections 203, 210, 226, etc.) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

1 (e) Service Payment to Class Representative: The amount, if any, awarded to  
2 the Class Representative as a Service Payment will be set by the Court in its discretion, not to  
3 exceed \$7,500, in exchange for the services Plaintiff performed on behalf of the Class (including  
4 taking steps to support the Settlement) and for entering into the general and expansive release  
5 discussed hereinafter. Defendant agrees not to oppose this request if Plaintiff does not request  
6 exclusion from the Settlement Class and does not take any action, directly or indirectly, to  
7 undercut this Settlement. The Service Payment to Plaintiff will be paid out of the Gross  
8 Settlement Amount. The Class Representative will be issued IRS Form 1099 in connection with  
9 this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes  
10 on this payment. The Parties agree that any amount awarded as the Service Payment to Plaintiff  
11 less than the requested amount shall not be a basis for Class Counsel to void this Settlement  
12 Agreement or to appeal this aspect of the Court's ruling. Should the Court approve a lesser  
13 amount for the Service Payment, the difference shall be added to the Net Settlement Amount to  
14 be distributed to the Participating Class Members.

15 (f) Attorneys' Fees and Costs Award: Defendant agrees to not oppose a  
16 request by Class Counsel to the Court for an award of attorneys' fees of not more than one-third  
17 of the Gross Settlement Amount (\$158,333.33), plus reasonable litigation costs not to exceed  
18 \$20,000 ("Attorneys' Fees and Cost Award"), subject to Court approval. The Attorneys' Fees  
19 and Cost Award shall be paid from the Gross Settlement Amount, and except for this award,  
20 Defendant shall have no further obligation to pay any attorneys' fees, costs or expenses to Class  
21 Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the  
22 difference shall be added to the Net Settlement Amount to be distributed to the Participating  
23 Class Members. The Parties agree that any amount awarded as attorneys' fees and costs to Class  
24 Counsel less than the requested amount shall not be a basis for Class Counsel to rescind or  
25 otherwise void this Settlement Agreement. The Settlement Administrator shall issue to Class  
26 Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the  
27 Court.  
28

1 (g) Settlement Administration Costs: The fees and other charges of the  
2 Settlement Administrator will be paid from the Gross Settlement Amount, not to exceed \$7,500  
3 unless approved by all Parties and the Court.

4 (h) PAGA Penalties: The Parties agree that \$30,000 is allocated to PAGA  
5 Penalties and is to be paid from the Gross Settlement Amount, subject to the Court's approval.  
6 Of this amount, \$22,500 (75%) shall be paid to the LWDA in satisfaction of civil penalties under  
7 the Private Attorney General Act of 2004 ("PAGA") and \$7,500 (25%) will be paid to the  
8 Aggrieved Employees based upon the number of Pay Periods Worked by each Aggrieved  
9 Employee during the PAGA Period, which will be treated entirely as civil penalties and shall be  
10 reported as required on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA  
11 of the Settlement.

12 (i) Tax Liability: Class Counsel, Defendant, and Defendant's counsel make  
13 no representations as to the tax treatment or legal effect of Settlement Amounts called for  
14 hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or  
15 representation by Class Counsel, Defendant, or Defendant's counsel in this regard. Plaintiff,  
16 Participating Class Members, and Aggrieved Employees understand and agree that they will be  
17 solely responsible for the payment of any taxes and penalties assessed on their respective  
18 Settlement Amounts described herein. The amount of federal income tax withholding will be  
19 based upon a flat withholding rate for supplemental wage payments in accordance with Treas.  
20 Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be  
21 made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2  
22 and/or Forms 1099 will be distributed at the times and in the manner required by the Internal  
23 Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the  
24 regulations promulgated thereunder, or other applicable tax law, are changed after the date of this  
25 Agreement, the processes set forth in this Section may be modified in a manner to bring  
26 Defendant into compliance with any such changes. Plaintiff, Participating Class Members, and  
27 Aggrieved Employees understand and agree that they will be solely responsible for the payment  
28 of any taxes and penalties assessed on their respective payments described herein.



1 (j) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS  
2 AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”  
3 AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING  
4 PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO  
5 PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR  
6 DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND  
7 OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH  
8 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE  
9 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
10 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE  
11 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS  
12 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX  
13 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO  
14 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY  
15 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT  
16 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY  
17 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY  
18 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO  
19 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION  
20 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR  
21 ADVISOR’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS  
22 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF  
23 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING  
24 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

25 48. No Credit Toward Benefit Plans. The Individual Settlement Payments made to  
26 Participating Class Members under this Agreement, as well as any other payments made  
27 pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any  
28 benefit plans to which any Settlement Class Members may be eligible, including, but not limited

1 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans,  
2 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'  
3 intention that this Settlement will not affect any rights, contributions, or amounts to which any  
4 Settlement Class Members may be entitled under any benefit plans. The Parties agree that the  
5 amounts paid pursuant to this Settlement are not for days or hours worked, and shall not be  
6 included toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

7 49. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under  
8 no circumstances will any portion of the Gross Settlement Amount revert to Defendant.  
9 Participating Class Members will not have to make a claim in order to receive an Individual  
10 Settlement Payment, and Aggrieved Employees will not have to make a claim in order to receive  
11 their share of PAGA Penalties. Distributions, in the form of Individual Settlement Payments,  
12 will be made directly to each Participating Class Member and Aggrieved Employee. The  
13 Settlement Administrator shall be responsible for accurately and timely reporting and remittance  
14 obligations with respect to unclaimed funds as a result of a Participating Class Member or  
15 Aggrieved Employee not cashing an Individual Settlement Payment by the check cashing  
16 deadline, as set forth herein.

17 50. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and  
18 adequate, and will so represent same to the Court.

19 **D. Release by Plaintiff and the Settlement Class**

20 51. Upon entry of the Final Approval Order and Defendant's funding of the  
21 Settlement Amount, and except as to such rights or claims as may be created by this Settlement  
22 Agreement, the Participating Class Members, for themselves and for their respective spouses,  
23 domestic partners, children, estates, heirs, and representatives, will forever completely release  
24 and discharge the Released Parties from the Released Class Claims for the Class Period. It is the  
25 intent of the Parties that the Final Approval Order and judgment entered by the Court shall have  
26 full equitable and collateral estoppel and *res judicata* effect and be final and binding upon  
27 Participating Class Members regarding the Released Class Claims.

28 52. Upon entry of the Final Approval Order and Defendant's funding of the

1 Settlement Amount, Plaintiff, standing in the shoes of the Labor Commissioner/LWDA, and on  
2 behalf of the State of California and all Aggrieved Employees, will forever completely release  
3 and discharge the Released Parties from the PAGA Released Claims through the PAGA Period.  
4 It is the intent of the Parties that the Final Approval Order and judgment entered by the Court  
5 shall have full equitable and collateral estoppel and *res judicata* effect and be final and binding  
6 upon Aggrieved Employees regarding the PAGA Released Claims.

7 53. Plaintiff and Defendant intend that the Settlement described in this Agreement  
8 will release and preclude any further claim, whether by lawsuit, administrative claim or action,  
9 arbitration, demand, or other action of any kind, by each and all of the Participating Class  
10 Members to obtain a recovery based on, arising out of, and/or related to any and all of the  
11 Released Class Claims. The Class Members shall be so notified in the Notice of Settlement.  
12 This paragraph only applies to Participating Class Members and, thus, does not apply to any  
13 Class Member who timely and validly submits a Request for Exclusion, nor does it apply to  
14 Aggrieved Employees with respect to the PAGA Released Claims.

15 54. Plaintiff and Defendant also intend that the Settlement described in this  
16 Agreement will release and preclude any further PAGA claim, whether by lawsuit,  
17 administrative claim or action, arbitration, demand, or other PAGA action of any kind, by each  
18 and all of the Aggrieved Employees to obtain a recovery based on, arising out of, and/or related  
19 to any and all of the PAGA Released Claims. The Aggrieved Employees shall be so notified in  
20 the Notice of Settlement and Class Counsel shall provide appropriate notice to the LWDA of this  
21 Agreement prior to the filing of the Motion for Preliminary Approval. This section is not  
22 intended to preclude any Aggrieved Employee other than Plaintiff from bringing any claim other  
23 than a PAGA claim.

24 55. Class Representative, on behalf of himself and the Participating Class Members,  
25 acknowledges and agrees that the claims, including claims for unpaid wages and untimely  
26 payment of wages, are disputed, and that the payments set forth herein constitute payment of all  
27 sums allegedly due to them. Class Representative, on behalf of himself and the Participating  
28 Class Members, acknowledges and agrees that California Labor Code Section 206.5 is not

1 applicable to the Parties hereto. Section 206.5 provides in pertinent part as follows:

2           An employer shall not require the execution of any release of any claim or  
3           right on account of wages due, or to become due, or made as an advance  
4           on wages to be earned, unless payment of those wages has been made.

5 **E.     Release by Class Representative**

6           56.     As a material inducement to Defendant to enter into this Settlement Agreement  
7 and in consideration of the Enhancement Award, and in addition to the Class Representative's  
8 release of the Released Class Claims and PAGA Released Claims, Class Representative does  
9 hereby, for himself and for his respective spouses, domestic partners, marital community,  
10 children, estates, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors,  
11 administrators, trustees, conservators, guardians, personal representatives, and assigns forever  
12 and completely release and discharge and covenants not to sue the Released Parties with respect  
13 to any and all claims, demands, liens, agreements, contracts, covenants, actions, suits, causes of  
14 action, wages, obligations, debts, liquidated damages, penalties, interest, costs, expenses,  
15 attorneys' fees, damages, judgments, orders and liabilities of whatever kind or nature in law,  
16 equity or otherwise, whether now known or unknown, suspected or unsuspected, concealed or  
17 hidden, which Plaintiff now owns or holds or has at any time heretofore owned or held as against  
18 said Released Parties, or any of them. Such released claims include specifically, but not  
19 exclusively and without limiting the generality of the foregoing, any and all claims, demands,  
20 agreements, obligations and causes of action, known or unknown, suspected or unsuspected,  
21 concealed or hidden, including but not limited to all claims arising out of, based upon, or relating  
22 to Class Representative's employment with Defendant or the remuneration for or termination of  
23 such employment, as alleged in the operative Complaint, arising out of or in any way connected  
24 with any transactions, occurrences, acts or omissions set forth, or facts alleged, in any and all  
25 charges, complaints, claims or pleadings filed by Class Representative against any Released  
26 Party prior to the date hereof with any city, county, state or federal agency, commission, office or  
27 tribunal whatsoever; or arising out of or in any way connected with any transactions,  
28 occurrences, acts or omissions occurring prior to the date hereof, including specifically without

1 limiting the generality of the foregoing any claim under Title VII of the Civil Rights Act of 1964,  
2 the Age Discrimination in Employment Act (29 U.S.C. Section 621 *et seq.*), the Americans with  
3 Disabilities Act, the Employee Retirement Income Security Act, the National Labor Relations  
4 Act, the Fair Labor Standards Act, the Family and Medical Leave Act, the California  
5 Constitution, the California Labor Code, the California Civil Code, the California Government  
6 Code, the California Business & Professions Code, the California Family Rights Act, the  
7 California Fair Employment and Housing Act, or any other federal, state, or local statute or  
8 regulation (collectively, the “Class Representative’s Claims”).

9         57. Class Representative agrees that there is a risk that any injury that he may have  
10 suffered by reason of the Released Parties’ relationship with him might not now be known, and  
11 there is a further risk that said injuries, whether known or unknown at the date of this Settlement  
12 Agreement, might possibly become progressively worse, and that as a result thereof further  
13 damages may be sustained. Nevertheless, Class Representative agrees to forever and fully  
14 release and discharge the Released Parties, and understands that by the execution of this  
15 Settlement Agreement no further claims for any such injuries that existed at the time of the  
16 execution of this Settlement Agreement may ever be asserted by Class Representative with  
17 respect to claims arising in the time period from the beginning of time to the execution of this  
18 Settlement Agreement.

19         58. Class Representative expressly waives and relinquishes all rights and benefits  
20 afforded by Section 1542 of the Civil Code of the State of California and does so understanding  
21 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil  
22 Code of the State of California states:

23                 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
24                 THAT THE CREDITOR OR RELEASING PARTY DOES NOT  
25                 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT  
26                 THE TIME OF EXECUTING THE RELEASE AND THAT, IF  
27                 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
28                 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR  
                    OR RELEASED PARTY.

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a  
full and complete release and discharge of all parties, Class Representative and Class Counsel

1 expressly acknowledge that this Settlement Agreement is intended to include in its effect,  
2 without limitation, all claims that Class Representative knew of, as well as all claims that he does  
3 not know or suspect to exist in his favor against the Released Parties, or any of them, for the time  
4 period from the beginning of time to the execution of this Settlement Agreement, and that this  
5 Settlement Agreement contemplates the extinguishment of any such Class Representative's  
6 claims. Notwithstanding the above, the general release by Class Representative shall not extend  
7 to claims for workers' compensation benefits, claims for unemployment benefits, or other claims  
8 that may not be released by law.

9 59. Class Representative represents and warrants that he has not filed and will not file  
10 any other lawsuit, administrative claim or action, arbitration, demand, or other action of any kind  
11 against Defendant or the Released Parties. Class Representative represents and warrants that the  
12 only pending claims against Defendant or the Released Parties are included in this Action.

13 **F. Interim Stay of Proceedings**

14 60. Pending completion of all of the prerequisites necessary to effectuate this  
15 Settlement, the Parties agree, subject to Court's approval, to a stay of all proceedings in the  
16 Action except such as are necessary to effectuate the Settlement.

17 **G. Notice Process**

18 61. Appointment of Settlement Administrator. The Parties have agreed to the  
19 appointment of the Settlement Administrator to perform the duties of a settlement administrator,  
20 including mailing the Notice of Settlement, using standard devices to obtain forwarding  
21 addresses, independently reviewing and verifying documentation associated with any claims or  
22 opt-out requests, resolving any disputes regarding the calculation or application of the formula  
23 for determining the Individual Settlement Payments, drafting and mailing the settlement checks  
24 to Participating Class Members, and Aggrieved Employees, issuing W-2 and 1099 Tax Forms,  
25 performing unclaimed funds due diligence, reporting and performing remittance obligations, and  
26 performing such other tasks as set forth herein or as the Parties mutually agree or that the Court  
27 orders.

28 62. Disputes Regarding Settlement Administration. Any and all disputes relating to

1 administration of the Settlement by the Settlement Administrator (except for disputes regarding  
2 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction  
3 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendant notify  
4 the Court that all payments and obligations contemplated by this Settlement Agreement have  
5 been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will  
6 confer in good faith to resolve the dispute without the necessity of Court intervention. The  
7 Settlement Administrator shall also be responsible for issuing to Plaintiff, Participating Class  
8 Members, Aggrieved Employees, and Class Counsel any W-2, 1099, or other Tax Forms as may  
9 be required by law for all amounts paid pursuant to this Agreement. The Settlement  
10 Administrator shall also be responsible for setting up all necessary tax accounts and forwarding  
11 all payroll taxes and penalties to the appropriate government authorities.

12 63. Class Data. Within 21 days after entry of the Preliminary Approval Order,  
13 Defendant shall provide the Class Data to the Settlement Administrator. The Settlement  
14 Administrator will run a check of the Class Members' addresses against those on file with the  
15 U.S. Postal Service's National Change of Address Database. The Class Data provided to the  
16 Settlement Administrator will remain confidential, shall be used solely to administer the  
17 Settlement, and it will not be used or disclosed to anyone (including Class Counsel), except as  
18 required by applicable tax authorities, pursuant to Defendant's express written consent, or by  
19 order of the Court. Although Class Counsel will not be provided with the list of Class Data,  
20 nothing herein shall prevent Class Counsel from communicating with Class Members regarding  
21 the Action and Settlement. The Settlement Administrator will be required to sign and provide to  
22 Defendant a Certification Regarding Confidential Discovery Materials and to be bound by a  
23 Stipulated Protective Order as entered by the Court.

24 64. Notice of Settlement. The Notice of Settlement, as approved by the Court, shall  
25 be sent by the Settlement Administrator to the Settlement Class Members, by first class mail, in  
26 English, with Spanish and Vietnamese translations available upon request, within ten (10)  
27 calendar days following the Settlement Administrator's receipt of the Class Data. The  
28 Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding

addresses of Settlement Class Members if any envelopes are returned.

65. Returned Notices of Settlement. The Settlement Administrator will take steps to ensure that the Notice of Settlement is received by all Settlement Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address. Notices of Settlement will be re-mailed to any Settlement Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The re-mailed Notice of Settlement shall be identical to the original Notice of Settlement, except that it shall notify the Settlement Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Notice Response Deadline or fifteen (15) days after the re-mailing of the Notice of Settlement.

66. Disputes Regarding Information on Notices of Settlement. Class Members are deemed to participate in the Settlement, unless they timely opt-out, and Aggrieved Employees may not opt out of the PAGA Released Claims. The Notice of Settlement will inform Class Members of his/her estimated Individual Settlement Payment and the number of Pay Periods Worked during the Class Period and during the PAGA Period. Class Members may dispute their Pay Periods Worked if they feel they should be credited with more Eligible Pay Periods than Defendant's records show by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Pay Periods Worked and estimated Individual Settlement Payment. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Settlement Administrator to render a final decision. Class Members will have until the Notice Response Deadline to dispute Pay Periods Worked, object or opt out, unless extended by the Court. In the event that the Settlement Administrator increases the number of Pay Periods Worked for any Settlement Class Member, then the Settlement Administrator will recalculate the



Participating Class Members' Individual Settlement Payments; accordingly, in no event will Defendant be required to increase the Gross Settlement Amount.

67. Declaration of Due Diligence. The Settlement Administrator shall provide counsel for the Parties, at least twenty-five (25) calendar days prior to the final approval hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Notices of Settlement.

68. Settlement Class Members' Rights. Each Settlement Class Member will be fully advised of the Settlement, the ability to object to the provisions in the Settlement related to the Released Class Claims, and the ability to opt-out or request exclusion from the Settlement with respect to the Released Class Claims. The Notice of Settlement will inform the Settlement Class Members of the Court-established deadlines for filing objections or requesting exclusion from the Settlement with respect to the Released Class Claims in accordance with the following guidelines:

(a) Requests for Exclusion from Participating in the Settlement Class. Any Settlement Class Member, other than Plaintiff, may request to be excluded from the Settlement Class by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Notice Response Deadline. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE ADD-ON COMPUTER PERIPHERALS LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

To be valid, any Request for Exclusion must include the full name, address, telephone number, last four digits of the social security number or date of birth, and signature of the Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address set forth in the Notice of Settlement. Any such Request must be made in accordance with the terms set forth in the Notice

1 of Settlement. A Request for Exclusion will be timely only if postmarked by the Notice  
2 Response Deadline, unless the Parties otherwise agree in writing. Any Settlement Class Member  
3 who timely requests exclusion in compliance with these requirements: (i) will not have any rights  
4 under this Agreement with respect to the Released Class Claims, including the right to object,  
5 appeal, or comment on the Settlement; (ii) will not be entitled to receive any payments under this  
6 Agreement for the Released Class Claims; and (iii) will not be bound by this Agreement, or the  
7 Judgment, with respect to the Released Class Claims. Any Aggrieved Employee who requests  
8 timely exclusion will still be subject to the PAGA Released Claims to the fullest extent permitted  
9 by law and shall be sent his or her share of PAGA Penalties.

10 (b) Binding Effect on Participating Class Members. Except for those  
11 Settlement Class Members who exclude themselves in compliance with the procedures set forth  
12 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for  
13 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this  
14 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise  
15 provided herein, will be deemed to have waived all objections and oppositions to the fairness,  
16 reasonableness, and adequacy of the Settlement.

17 (c) Objections to Settlement of the Released Class Claims. Any Settlement  
18 Class Member, other than Plaintiff, may object to the terms of this Agreement, except as to the  
19 PAGA Released Claims. To object, a Settlement Class Member shall inform the Settlement  
20 Administrator, in writing, of his or her objection which must be postmarked by the Notice  
21 Response Deadline at the address set forth in the Notice of Settlement. Such objection shall  
22 include the objecting Settlement Class Member's full name, address, telephone number, last four  
23 digits of the social security number or date of birth, signature, and dates of employment with  
24 Defendant, in addition to the case name and number, the basis for the objection, including any  
25 legal support and each specific reason in support of the objection, as well as any documentation  
26 or evidence in support thereof, and, if the Objecting Settlement Class Member is represented by  
27 counsel, the name and address of his or her counsel. The Settlement Administrator shall provide  
28 objections, if any, to Class Counsel and Defense Counsel within three (3) calendar days of

1 receipt, and the Settlement Administrator shall attach the same to its declaration of due diligence  
2 and file with the Court prior to the Final Approval Hearing. Any Participating Class Member  
3 who files an objection remains eligible to receive monetary compensation from the Settlement.  
4 Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses incurred by any  
5 Class Member and/or his or her counsel related to any objections to the Settlement. Submitting  
6 an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is  
7 preserved by becoming a party of record by timely and properly intervening or filing a motion to  
8 vacate the judgment under Code of Civil Procedure Section 663. Settlement Class Members and  
9 Aggrieved Employees may not object to or opt-out of the Settlement with respect to the PAGA  
10 Released Claims.

11 (d) Failure to Object. Any Settlement Class Member who desires to object to  
12 the Released Class Claims in the Settlement but fails to timely submit a written objection or in  
13 person objection at the Final Approval Hearing waives any right to object and will be foreclosed  
14 from making any objection to this Settlement. Any Settlement Class Member who does not  
15 timely and properly become a party of record by intervening or filing a motion to vacate the  
16 judgment waives any and all rights to appeal from the Judgment, including all rights to any post-  
17 judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for  
18 new trial, a motion under California Code of Civil Procedure Section 473, and extraordinary  
19 writs.

20 (e) Responses to Objections. Counsel for the Parties may file a response to  
21 any objections submitted by objecting Settlement Class Members at least five (5) court days  
22 before the date of the Final Approval Hearing.

23 (f) Settlement Class Members will have until the Notice Response Deadline  
24 to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The  
25 Settlement Administrator shall disclose jointly to Class Counsel and Defendant's counsel what  
26 objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the  
27 request of Class Counsel or Defense Counsel.

28 (g) Defective Submissions. If a Settlement Class Member's Request for

1 Exclusion or objection is defective as to the requirements listed herein, that Settlement Class  
2 Member will be given an opportunity to cure the defect(s). The Settlement Administrator will  
3 mail the Settlement Class Member a cure letter within three (3) business days of receiving the  
4 defective submission to advise the Settlement Class Member that his or her submission is  
5 defective and that the defect must be cured to render the Request for Exclusion or objection  
6 valid. The Settlement Class Member will have the later of (i) the Notice Response Deadline or  
7 (ii) 15 calendar days from the date of the cure letter to postmark or fax a revised Request for  
8 Exclusion or objection. If the revised Request for Exclusion or objection is not postmarked or  
9 received by fax within that period, it will be deemed untimely and disregarded.

10 69. Funding of the Settlement Amount. Defendant shall make a one-time deposit into  
11 the QSF of the Gross Settlement Amount within twenty (20) calendar days after the Effective  
12 Date. Defendant separately shall pay its share of employer payroll taxes as calculated and  
13 directed by the Settlement Administrator. Once Defendant has complied with its obligation set  
14 forth in this paragraph, it shall be deemed to have satisfied all of the terms and conditions of this  
15 Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall  
16 have no further obligations under the Agreement, regardless of what occurs with respect to the  
17 further administration of the Settlement. The Settlement Administrator (and not Defendant) shall  
18 issue the applicable W-2s and IRS Form 1099 reflecting all payments to the Class Members.

19 70. Distribution of Funds. No later than ten (10) calendar days after the deposit of the  
20 Gross Settlement Amount into the QSF, the Settlement Administrator will mail the Individual  
21 Settlement Payments to the Participating Class Members, the payment to Class Counsel for the  
22 Attorneys' Fees and Costs Award, any Service Payment to the Class Representative, the payment  
23 to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

24 71. Deadline for Cashing Settlement Checks. Participating Class Members and  
25 Aggrieved Employees shall have 180 calendar days after mailing by the Settlement  
26 Administrator to cash their settlement checks. If any Participating Class Member's or Aggrieved  
27 Employee's check is not cashed within that period, the check will be void and a stop-payment  
28 will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California

1 State Controller's Office in the name of the Class Member or Aggrieved Employee. The release  
2 will be binding upon all Participating Class Members and Aggrieved Employees who do not cash  
3 their checks within the 180-day period. In the event that any settlement check is returned to the  
4 Settlement Administrator within 180 days of mailing, the Settlement Administrator will, within  
5 five (5) business days of receipt of the returned settlement check, perform a skip trace to locate  
6 the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is  
7 located by these means, the Administrator will have ten (10) business days to re-issue the check.  
8 Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator  
9 will have any liability for lost or stolen settlement checks, forged signatures on settlement  
10 checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the  
11 event a Participating Class Member or Aggrieved Employee notifies the Settlement  
12 Administrator that he or she believes that a settlement check has been lost or stolen, the  
13 Settlement Administrator shall immediately stop payment on such check. If the check in  
14 question has not been negotiated prior to the stop payment order, the Settlement Administrator  
15 will issue a replacement check.

16 72. Without prejudice to any other remedies, the Settlement Administrator shall agree  
17 to be responsible for any breach of its obligations (whether committed by the Settlement  
18 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless  
19 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees  
20 and expenses) arising out of any breach committed by the Settlement Administrator or its agents.

21 **H. Duties of the Parties Prior to the Court's Approval**

22 73. Promptly after execution of this Settlement Agreement, Plaintiff will move the  
23 Court for Preliminary Approval of this Settlement and entry of the Preliminary Approval Order  
24 accomplishing the following:

25 (a) Scheduling the Final Approval Hearing on the issue of whether this  
26 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members  
27 and a hearing on fees, costs and the Service Payment;

28 (b) Approving as to form and content of the proposed Notice of Settlement,

1 attached hereto Exhibit A;

2 (c) Directing the mailing of the Notice of Settlement by first class mail to the  
3 Settlement Class Members;

4 (d) Preliminarily approving this Settlement; and

5 (e) Preliminarily certifying the class solely for purposes of this Settlement.

6 74. Reallocation of Settlement Proceeds. In the event the Court fails, on its first  
7 hearing, to approve this Agreement because the amount of the PAGA Penalties is not adequate,  
8 then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, within  
9 this Agreement, in order to try to achieve Final Approval of the Agreement upon any subsequent  
10 Court hearings.

11 **I. Duties of the Parties Following Court's Final Approval**

12 75. In connection with the Final Approval Hearing provided for in this Settlement  
13 Agreement, Class Counsel shall submit a proposed Final Approval Order:

14 (a) Approving the Settlement, adjudging the terms thereof to be fair,  
15 reasonable and adequate, and directing consummation of its terms and provisions;

16 (b) Approving Class Counsel's application for an award of attorneys' fees and  
17 reimbursement of litigation costs and expenses, the Service Payment to the Class Representative,  
18 and the payment to the Settlement Administrator for costs of administering the settlement; and

19 (c) Entering judgment approving settlement, thereby permanently barring all  
20 Participating Class Members from prosecuting any Released Class Claims against any of the  
21 Released Parties and permanently barring all Aggrieved Employees and the LWDA from  
22 prosecuting any PAGA Released Claims against any of the Released Parties.

23 76. Final Judgment. The Settlement Administrator shall give the Participating Class  
24 Members and Aggrieved Employees notice of the entry of Final Judgment on a postcard or letter  
25 that will be included with the Individual Settlement Payments.

26 **J. Voiding the Agreement**

27 77. Defendant will have, in its sole discretion, the right to void and withdraw from the  
28 Settlement if more than ten (10) Class Members submit a timely and valid Request for Exclusion

1 to the Settlement Administrator.

2 78. All Parties, signatories, and their counsel shall not encourage opt-outs or  
3 objections to this Agreement. The Parties specifically agree not to solicit opt-outs, directly or  
4 indirectly, through any means.

5 79. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will  
6 have no further obligations under the Settlement, including any obligation by Defendant to pay  
7 the Gross Settlement Amount, or any amounts that otherwise would have been owed under this  
8 Settlement.

9 80. If the Settlement is voided or fails for any reason, any costs incurred by the  
10 Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise  
11 specified in this Agreement.

12 **K. Other Terms**

13 81. Waiver. The waiver by one Party of any breach of this Agreement by another  
14 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

15 82. No Waiver of Defendant's Arbitration Agreements. The Parties agree that this  
16 Settlement and any effort to obtain the Court's approval of the Settlement, including but not  
17 limited to, seeking conditional certification of Class for the sole purpose of settlement, does not  
18 constitute a waiver of Defendant's right to seek to enforce any alleged arbitration agreements  
19 entered into between Defendant and some Class Members in the Action or any future  
20 proceedings.

21 83. Full and Complete Defense. This Agreement may be pleaded by any Released  
22 Party as a full and complete defense to, and may be used as the basis for an injunction against,  
23 any action, suit, or other proceeding that has been or may be instituted, prosecuted or attempted,  
24 asserting any Released Claim.

25 84. Parties' Authority. The signatories hereto represent that they are fully authorized  
26 to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions  
27 hereof. The signatories hereto further represent that the Parties to this Agreement are  
28 represented by competent counsel, and they have had an opportunity to consult with counsel

1 prior to authorizing its execution.

2       85.    No Publicity. The Parties will not publicize the Settlement or disclose it to third  
3 parties, except as required or necessary to effectuate its terms and comply with law, including the  
4 payment of taxes. Specifically, Plaintiff and Plaintiff's counsel shall not publicize the settlement  
5 on their websites, in advertising/marketing materials or on social media. The Parties and their  
6 counsel agree that they will not issue any press releases or initiate any contact with the media  
7 about the fact, amount, or terms of the settlement. If counsel for any party receives an inquiry  
8 about the settlement from the media, counsel may respond only after the motion for approval of  
9 the settlement has been filed and only by confirming the accurate terms of the settlement.  
10 Nothing in this provision shall prevent Defendants from making any required disclosure.

11       86.    Mutual Full Cooperation. The Parties agree to fully cooperate with each other to  
12 accomplish the terms of this Settlement Agreement, including but not limited to, execution of  
13 such documents and to take such other action as may reasonably be necessary to implement the  
14 terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their  
15 best efforts, including all efforts contemplated by this Settlement Agreement and any other  
16 efforts that may become necessary by order of the Court, or otherwise, to effectuate this  
17 Settlement Agreement and the terms set forth herein. As soon as practicable after execution of  
18 this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of  
19 Defendant and Defendant's Counsel, take all necessary steps to secure the Court's preliminary  
20 and final approval of the settlement, and the final entry of judgment. Class Counsel shall provide  
21 Defendant's Counsel with copies of the Preliminary Approval Motion and Final Approval  
22 Motion for review at least five court days prior to the filing deadline.

23       87.    No Prior Assignments. The Parties hereto represent, covenant, and warrant that  
24 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,  
25 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,  
26 cause of action or rights released and discharged by this Settlement Agreement.

27       88.    No Admission. Defendant denies any and all liability to Plaintiff and/or any  
28 Settlement Class Member in this Action, as to any and all causes of action that were asserted or



1 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and  
2 compromise the matters at issue in the Complaint to avoid further substantial expense and the  
3 inconvenience and distraction of protracted and burdensome litigation. Defendant also has taken  
4 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity  
5 in the defenses that they have asserted or could assert against Plaintiff, have determined that it is  
6 desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and  
7 conditions set forth in this Agreement.

8 89. Inadmissibility of Agreement. Whether or not the Court issues the Final  
9 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,  
10 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on  
11 the part of Defendant or any of the other Released Parties. Each of the Parties hereto has entered  
12 into this Settlement Agreement with the intention of avoiding further disputes and litigation with  
13 the attendant inconvenience and expenses. This Settlement Agreement is a settlement document,  
14 and it, along with all related documents such as the notices, and motions for preliminary and  
15 final approval, shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of  
16 Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to  
17 approve the settlement, and/or interpret or enforce this Settlement Agreement. The stipulation  
18 for class certification as part of this Settlement Agreement is for settlement purposes only and if,  
19 for any reason the settlement is not approved, the stipulation will have no force or effect.

20 90. Notices. Unless otherwise specifically provided herein, all notices, demands, or  
21 other communications pursuant to this Agreement shall be in writing and shall be deemed to  
22 have been duly given as of the third business day after mailing by United States registered or  
23 certified mail, return receipt requested, addressed:

24  
25 To the Settlement Class Members and Aggrieved Employees:

26 Brian Mankin  
27 *brian@LMLfirm.com*  
28 Lauby Mankin Lauby LLP  
4590 Allstate Drive  
Riverside, CA 92501  
Tel: (951) 320-1444 | Fax: (951) 320-1445

To Defendant:

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Tel: (310) 277-7200 | Fax: (310) 201-5219

91. Construction. 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 and that 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 or its counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendant expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

92. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this

1 Settlement Agreement is contractual and not merely a recital.

2 93. Modification. This Settlement Agreement may not be changed, altered, or  
3 modified, except in writing and signed by the Parties hereto, and approved by the Court. This  
4 Settlement Agreement may not be discharged except by performance in accordance with its  
5 terms or by a writing signed by all of the Parties hereto.

6 94. Dispute Resolution. Prior to instituting legal action to enforce the provisions of  
7 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall  
8 provide written notice to the other Party and allow an opportunity to cure the alleged  
9 deficiencies, and Plaintiff and Defendant agree to seek the help of the mediator identified in this  
10 Agreement to resolve any dispute they are unable to resolve informally. During this period, the  
11 Parties shall bear their own attorneys' fees and costs. This provision shall not apply to any legal  
12 action or other proceeding instituted by any person or entity other than Plaintiff or Defendant.

13 95. Court Retains Jurisdiction. The Parties agree that upon the entry of judgment of  
14 dismissal pursuant to the terms of this Agreement, that, pursuant to Code of Civil Procedure  
15 Section 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action  
16 over all Parties to interpret, enforce, and effectuate the terms, conditions, intents, and obligations  
17 of this Agreement.

18 96. Enforceability. Pursuant to California Evidence Code Section 1123(a) and (b),  
19 this Agreement is intended by the Parties to be, and shall be, enforceable, binding, and  
20 admissible in a court of law.

21 97. Choice of Law. This Settlement Agreement shall be governed by and construed,  
22 enforced and administered in accordance with the laws of the State of California.

23 98. Integration Clause. This Settlement Agreement contains the entire agreement  
24 between the Parties relating to the settlement and transaction contemplated hereby, and all prior  
25 or contemporaneous agreements, understandings, representations, and statements, whether oral  
26 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights  
27 hereunder may be waived except in writing.

28 99. Binding On Assigns. This Settlement Agreement shall be binding upon and inure

1 to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,  
2 successors, and assigns.

3 100. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,  
4 because the members of the Settlement Class are numerous, it is impossible or impractical to  
5 have each Class Member execute this Settlement Agreement. The Notice of Settlement will  
6 advise all Settlement Class Members of the binding nature of the releases provided herein and  
7 such shall have the same force and effect as if this Settlement Agreement were executed by each  
8 Settlement Class Member.

9 101. Invalidity of Any Provision. Before declaring any provision of this Settlement  
10 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest  
11 extent possible consistent with applicable precedents so as to define all provisions of this  
12 Settlement Agreement valid and enforceable.

13 102. Counterparts. This Settlement Agreement may be executed in counterparts, and  
14 when each Party has signed and delivered at least one such counterpart, each counterpart shall be  
15 deemed an original, and, when taken together with other signed counterparts, shall constitute one  
16 fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties.  
17 Electronic signatures shall have the same force and effect as an original.

1 Dated: August 23, 2022

**PLAINTIFF AND CLASS REPRESENTATIVE:**

Jose Maldonado

Jose Maldonado (Aug 23, 2022 17:46 PDT)

Jose Maldonado

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3  
4  
5 Dated: August 24, 2022

**CLASS COUNSEL:**

LAUBY MANKIN LAUBY LLP

Brian J. Mankin

Brian J. Mankin

Peter J. Carlson

Attorneys for Plaintiff

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7  
8  
9  
10  
11 Dated: August 29, 2022

**DEFENDANT:**

ADD-ON COMPUTER PERIPHERALS, LLC

Scott Kryzwicki

By: Scott Kryzwicki

Title: Chief Financial & Operations Officer

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13  
14  
15  
16  
17 Dated: August 29, 2022

**DEFENDANT'S COUNSEL:**

SEYFARTH SHAW LLP

Eric Steinert

Eric M. Steinert

Leo Q. Li

Frances J. Choi

Attorneys for Defendant

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