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11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 MOBILE EMERGENCY HOUSING CORP.,  
14 and TRACK RAT ENTERPRISES, INC. d/b/a  
15 PERFORMANCE AUTOMOTIVE & TIRE  
16 CENTER, and DAVID JUSTIN LYNCH,  
individually, and on behalf of all others  
similarly situated,

17 Plaintiffs,

18 v.

19 HP INC. d/b/a HP COMPUTING AND  
20 PRINTING INC., a Delaware Corporation,

21 Defendant.

CASE NO. 5:20-cv-09157-SVK

**SETTLEMENT AGREEMENT AND  
RELEASE**

1 This Settlement Agreement and Release dated October 28, 2024 (the “Agreement”), is made  
2 and entered into by and among: (i) Plaintiffs Mobile Emergency Housing Corp., Track Rat Enterprises,  
3 Inc. d/b/a Performance Automotive & Tire Center, and David Justin Lynch (“Plaintiffs”), on behalf of  
4 themselves and each of the members of the Class (as defined herein), by and through their counsel in  
5 the instant action, and (ii) Defendant HP Inc. (“HP” or “Defendant”), by and through its counsel of  
6 record. The Agreement is intended to fully, finally, and forever resolve, discharge, and settle the  
7 Released Claims (as defined herein) against Defendant, subject to the approval of the Court and the  
8 terms and conditions set forth in this Agreement.

9 **I. RECITALS**

10 WHEREAS, on December 17, 2020, Plaintiffs filed a complaint in this action (Dkt. 1);

11 WHEREAS, on April 8, 2021, Plaintiffs filed a Third Amended Complaint (“Operative  
12 Complaint”) (Dkt. 42), which HP moved to dismiss on May 24, 2021 (Dkt. 47);

13 WHEREAS, on October 15, 2021, the Court granted in part and denied in part HP’s motion to  
14 dismiss (Dkt. 52);

15 WHEREAS, the Parties thereafter engaged in significant discovery into their claims and  
16 defenses, including through review and analysis of thousands of pages of documents and the  
17 depositions of each named Plaintiff, HP’s corporate representative under Federal Rule of Civil  
18 Procedure 30(b)(6), and three other HP employees;

19 WHEREAS, on July 6, 2023, Plaintiffs moved to certify classes under Federal Rules of Civil  
20 Procedure 23(b)(2), 23(b)(3), and 23(c)(4) (Dkt. 118-3);

21 WHEREAS, on December 8, 2023, the Court denied Plaintiffs’ motion to certify classes under  
22 Federal Rules of Civil Procedure 23(b)(3) and 23(c)(4), and granted Plaintiffs’ motion insofar as it  
23 certified four classes under Rule 23(b)(2) (Dkt. 143);

24 WHEREAS, on June 7, 2024, the Parties filed cross-motions for summary judgment (Dkts. 161-  
25 3, 169-4), and fully briefed those motions;

26 WHEREAS, on August 12, 2024, the Parties notified the Court that they had reached an  
27 agreement in principle to settle all claims in this case, subject to the execution of a full settlement  
28 agreement (Dkt. 192);

1           WHEREAS, on August 12, 2024, pursuant to the Parties' stipulation, the Court vacated the  
2 hearing on the Parties' cross-motions for summary judgment, suspended all pending motions subject  
3 to final approval of the settlement agreement, ordered the Parties to notify the Court no later than  
4 September 20, 2024, whether they had executed a full settlement agreement, and ordered Plaintiffs to  
5 file a motion for settlement approval no later than October 11, 2024 (Dkt. 193);

6           WHEREAS, on September 23, 2024, pursuant to the Parties' stipulation, the Court extended  
7 the deadlines for the Parties to execute a settlement agreement, and for Plaintiffs to file a motion for  
8 settlement approval, to October 31, 2024 (Dkt. 195);

9           WHEREAS, Plaintiffs in entering into this Agreement recognize and acknowledge the expense  
10 and time it would take to prosecute this action through trial and any subsequent appeals, and the risk  
11 that this action could ultimately be unsuccessful in light of HP's defenses;

12           WHEREAS, HP has asserted and would assert numerous defenses to the claims alleged by  
13 Plaintiffs; expressly denies each of the claims and allegations asserted against HP; and expressly denies  
14 any liability arising out of the conduct alleged in the Operative Complaint;

15           WHEREAS, HP acknowledges that further litigation of this action could be protracted and  
16 expensive, and has taken into account the uncertainty and risks inherent in any litigation;

17           WHEREAS, Plaintiffs and HP have therefore each independently determined that it is desirable  
18 and beneficial for this action to be fully and finally resolved in the manner and upon the terms and  
19 conditions set forth in this Agreement; and

20           WHEREAS, by entering into this Agreement, HP does not admit any wrongdoing and this  
21 Agreement is not and shall not constitute an admission of liability by HP.

22           **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among  
23 Plaintiffs (for themselves and the Class Members) and HP, by and through their counsel, that, subject  
24 to the approval of the Court, the Litigation and the Released Claims shall be finally and fully  
25 compromised, settled, and released, and the Litigation shall be dismissed with prejudice, as to all  
26 Settling Parties and their Related Parties (as defined below), upon and subject to the terms and  
27 conditions of the Agreement, as follows.

1 **II. TERMS AND CONDITIONS OF AGREEMENT**

2 **1. Definitions**

3 As used in the Agreement, the following terms have the meanings specified below.

4 1.1 “Administrative Expenses” means the cost of the Notice program relating to this  
5 Settlement.

6 1.2 “Agreement” or “Settlement Agreement” or “Settlement” means this Settlement  
7 Agreement and Release.

8 1.3 “Class” or “Class Members” means all members of the four injunctive-relief classes  
9 certified in the Court’s Order Granting in Part and Denying in Part Plaintiffs’ Motion for Class  
10 Certification (Dkt. 143) (described below), exclusive of (1) any Judge or Magistrate presiding over this  
11 action and members of their immediate families; (2) HP, its officers, directors, and affiliates at all  
12 relevant times, members of their immediate families and their legal representatives, and any entity in  
13 which HP had or has a controlling interest; (3) Plaintiffs’ counsel; and (4) the legal representatives,  
14 successors, and assigns of any such excluded persons and entities.

15 a. All persons and entities who, during the period November 1, 2020 through  
16 October 1, 2021: (1) resided in the United States; (2) owned a Class Printer; (3) used a third-party  
17 cartridge in the printer; (4) viewed a “Supply Problem” error message on the printer at a time when the  
18 printer was using a third-party cartridge; and (5) did not view any disclosures from HP regarding the  
19 potential for printers using third-party cartridges to cease functioning before they viewed the “Supply  
20 Problem” error message.

21 b. All persons and entities who, during the period November 1, 2020 through  
22 October 1, 2021: (1) resided in California; (2) owned a Class Printer; (3) used a third-party cartridge  
23 in the printer; (4) viewed a “Supply Problem” error message on the printer at a time when the printer  
24 was using a third-party cartridge; and (5) did not view any disclosures from HP regarding the potential  
25 for printers using third-party cartridges to cease functioning before they viewed the “Supply Problem”  
26 error message.

27 c. All persons and entities who, during the period January 1, 2017 through October  
28 1, 2021: (1) resided in the United States; (2) owned a Class Printer; (3) had HP collect their printer’s

1 data; and (4) did not view any disclosures about HP’s data-collection practices before HP collected  
2 their printer’s data.

3 d. All persons and entities who, during the period January 1, 2017 through October  
4 1, 2021: (1) resided in California; (2) owned a Class Printer; (3) had HP collect their printer’s data;  
5 and (4) did not view any disclosures about HP’s data-collection practices before HP collected their  
6 printer’s data.

7 1.4 “Class Counsel” means Thomas A. Zimmerman, Jr. and Jeffrey D. Blake of Zimmerman  
8 Law Offices, P.C., and Mark L. Javitch of Javitch Law Office.

9 1.5 “Class Printer” means any of the following product models:

- 10 • HP Color LaserJet Pro M254DW
- 11 • HP Color LaserJet Pro MFP M180NW
- 12 • HP Color LaserJet Pro MFP M281FDW
- 13 • HP Color LaserJet Pro MFP M281CDW
- 14 • HP Color LaserJet Pro MFP M182NW
- 15 • HP Color LaserJet Pro MFP M183FW
- 16 • HP Color LaserJet Pro MFP M283CDW
- 17 • HP Color LaserJet Pro MFP M283FDW
- 18 • HP Color LaserJet Pro M255DW
- 19 • HP Color LaserJet Pro MFP M479DW
- 20 • HP Color LaserJet Pro MFP M479FNW
- 21 • HP Color LaserJet Pro MFP M479FDN
- 22 • HP Color LaserJet Pro MFP M479FDW
- 23 • HP LaserJet Pro M404N
- 24 • HP LaserJet Pro M404DN
- 25 • HP LaserJet Pro M404DW
- 26 • HP Color LaserJet Pro M454DN
- 27 • HP Color LaserJet Pro M454DW
- 28 • HP LaserJet Pro MFP M428DW

- HP LaserJet Pro MFP M428FDN
- HP LaserJet Pro MFP M428FDW

1.6 “Class’s Released Claims” means any and all claims, rights, causes of action, liabilities, actions, suits, or demands of any kind whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that were or could have been alleged based on the facts alleged in the Operative Complaint against Defendant or Defendant’s Related Parties, except that, notwithstanding the foregoing, the Class does not release claims for monetary relief, damages, or statutory damages.

1.7 “Class Representatives’ Released Claims” means any and all claims, rights, causes of action, liabilities, actions, suits, damages, or demands of any kind whatsoever, known or unknown, matured or unmatured, at law or in equity, existing under federal or state law, that were or could have been alleged based on the facts alleged in the Operative Complaint against Defendant or Defendant’s Related Parties.

1.8 “Court” means the United States District Court for the Northern District of California.

1.9 “Defendant” and “HP” mean HP Inc. and its present and former parents, subsidiaries, divisions, and affiliates.

1.10 “Dynamic Security” means an HP-developed technology which causes Class Printers to run authentication checks that change over time on installed toner cartridges to determine whether the toner cartridges contain a non-HP security chip, such that Dynamic Security may prevent Class Printers from operating with such toner cartridges.

1.11 “Effective Date” means the date on which this Settlement becomes “effective”—that is, the date on which the Court enters the Final Order and Judgment and the Final Order and Judgment has been upheld through the resolution of all appeals and writs of certiorari, and through the expiration of all time to appeal and file writs of certiorari, except that the Effective Date shall not be delayed by a modification of or appeal from those parts of the Final Order and Judgment that have no effect on this Agreement becoming binding, effective, and final in its entirety between Releasing Plaintiffs, Class Members, and Defendant.

1.12 “Fee and Expense Award” means the order awarding attorneys’ fees and reimbursement

1 of actual costs and expenses incurred by Class Counsel in the Litigation.

2 1.13 “Final Approval Hearing” means the hearing to be requested by the Settling Parties and  
3 conducted by the Court, following Notice to the Class, at which time Plaintiffs shall move the Court to  
4 finally approve the fairness, reasonableness and adequacy of the Settlement and to enter the Final Order  
5 and Judgment.

6 1.14 “Final Order and Judgment” means an order, substantially in the form of **Exhibit 3**  
7 hereto, to be entered by the Court in this Litigation granting final approval of this Settlement Agreement  
8 and dismissing the Litigation with prejudice.

9 1.15 “Litigation” means the action captioned *Mobile Emergency Housing Corp. v. HP Inc.*,  
10 Case No. 5:20-cv-09157-SVK (N.D. Cal.).

11 1.16 “Notice” means the Notices of Proposed Settlement of Class Action, which, subject to  
12 Court approval, shall be substantially in the form attached hereto as **Exhibit 1**. Notice shall be posted  
13 within thirty (30) days after entry of the Preliminary Approval Order, or such other time as may be set  
14 by the Court.

15 1.17 “Objection Date” means the date set forth in the Notice by which Class Members must  
16 object to the Settlement, which shall be forty-five (45) days after the publication of Notice or such other  
17 time as may be set by the Court.

18 1.18 “Operative Complaint” means the Third Amended Complaint filed by Plaintiffs in this  
19 Litigation on April 8, 2021 (Dkt. 42).

20 1.19 “Parties” or “Settling Parties” means Plaintiffs and HP collectively.

21 1.20 “Person” means an individual, corporation, limited liability corporation, professional  
22 corporation, partnership, limited partnership, limited liability partnership, association, joint stock  
23 company, joint venture, estate, legal representative, trust, unincorporated association, government or  
24 any political subdivision or agency thereof, and any business or legal entity, and including any of their  
25 heirs, successors, representatives, or assigns.

26 1.21 “Plaintiffs” or “Class Representatives” means Mobile Emergency Housing Corp., Track  
27 Rat Enterprises, Inc. d/b/a Performance Automotive & Tire Center, and David Justin Lynch.

28 1.22 “Preliminary Approval Order” means the Order Preliminarily Approving Settlement and

1 Providing for Notice, substantially in the form attached hereto as **Exhibit 2**.

2 1.23 “Related Parties” means, as applicable, each of a person or entity’s respective present  
3 and former parents, subsidiaries, divisions, affiliates, and each of their and a person or entity’s  
4 respective present and former employees, members, partners, principals, agents, officers, directors,  
5 controlling shareholders, attorneys, agents, related or affiliated entities, predecessors, successors,  
6 spouses, estates, heirs, executors, trusts, trustees, administrators, agents, representatives, and assigns,  
7 in their capacity as such, and any entity in which a person or entity has a controlling interest.

8 1.24 “Released Claims” means the Class Representatives’ Released Claims and the Class’s  
9 Released Claims.

10 1.25 “Released Parties” means HP and its Related Parties.

11 1.26 “Releasing Plaintiffs” means Plaintiffs and each Class Member.

12 1.27 “Relevant 180/254/281 Series Printers” means the following printers owned by Class  
13 Members:

- 14 • HP Color LaserJet Pro M254DW
- 15 • HP Color LaserJet Pro MFP M180NW
- 16 • HP Color LaserJet Pro MFP M281FDW
- 17 • HP Color LaserJet Pro MFP M281CDW

18 **2. The Settlement**

19 *a. Settlement Benefits*

20 2.1 Defendant will comply with the terms of the injunctive relief described in this section  
21 for four years from the Effective Date of this Settlement Agreement (the “Settlement Period”).  
22 However, Defendant will be relieved from its obligation to comply with the terms of the injunctive  
23 relief described in this section if, before the Settlement Period ends, either (a) there are such changes  
24 in Defendant’s Dynamic Security or data collection technology or practices, as they relate to Class  
25 Printers, that would render any of the disclosures described in the paragraphs in this section inaccurate,  
26 or (b) there are changes to any applicable statute, regulation, or other law, or any government  
27 enforcement actions or activities, that Defendant reasonably believes would require a modification of  
28 any of the disclosures described in this section in order to comply with the applicable statute, regulation,

1 or law. Defendant shall provide Class Counsel with written notice of Defendant taking any action  
2 contrary to any of its obligations to comply with any terms of the injunctive relief within fourteen days  
3 after taking such action.

4 2.2 For the avoidance of doubt, nothing in this Settlement Agreement prevents HP from  
5 making non-substantive changes to the disclosures described in subsections 2.3, 2.4, and 2.5 at any  
6 time.

7 2.3 For a period of one year from the Effective Date of this Settlement Agreement, to the  
8 extent HP incorporates Dynamic Security features into a firmware update delivered in the United States  
9 to the Class Printers, HP will:

- 10 • Continue to disclose the impact of Dynamic Security on the Learn About  
11 Dynamic Security web page ([www.hp.com/learn/ds](http://www.hp.com/learn/ds)) and the Learn About  
12 Supplies web page (<https://learn-about-supplies.ext.hp.com/>). These disclosures  
13 will continue to explain that Dynamic Security measures are designed to block  
14 cartridges using a non-HP chip, and that Dynamic Security measures may be  
15 delivered to printers through periodic firmware updates.
- 16 • Continue to include, in the notification on Class Printers when a firmware update  
17 that includes Dynamic Security features becomes available for those printers, to  
18 the extent users' printers are configured to receive such notifications, the  
19 following disclosure: "As a reminder, this printer is intended to work only with  
20 new or reused cartridges that have a new or reused HP chip, and it uses dynamic  
21 security measures to block cartridges using a non-HP chip. Periodic firmware  
22 updates like this one will maintain the effectiveness of these measures and block  
23 cartridges that previously worked."
- 24 • Continue to provide, in conjunction with any notification on Class Printers when  
25 a firmware update that includes Dynamic Security features becomes available  
26 for those printers, the ability for users of Class Printers to either agree to install  
27 the firmware update or decline to install the firmware update.
- 28 • Continue to include, on the HP web pages where firmware versions that include

1 Dynamic Security features for the Class Printers may be downloaded, a  
2 disclosure that includes the following language: “This Firmware includes  
3 dynamic security measures, which are used to block cartridges using a non-HP  
4 chip or modified or non-HP electronic circuitry. The printer is intended to work  
5 only with new or reused cartridges that have a new or reused HP chip or  
6 circuitry.”

- 7 • Continue to provide HP customer support representatives with information to  
8 use in discussing issues related to Dynamic Security in the Class Printers. The  
9 information provided will include the same language that is currently provided  
10 to HP’s customer support representatives to use when discussing Dynamic  
11 Security issues with customers:
  - 12 ○ Dynamic security is part of HP’s process for authenticating cartridges for  
13 use in HP printers.
  - 14 ○ Non-HP Chips and Modified or non-HP electronic circuitry are not  
15 produced or validated by HP.
  - 16 ○ HP cannot guarantee that these chips or circuitry will work in your printer  
17 now or in the future.
  - 18 ○ Refilled or remanufactured cartridges that still use an unmodified  
19 Original HP Chip or electronic circuitry continue to be authenticated by  
20 the printer.

21 2.4 For a period of four years from the Effective Date of this Settlement Agreement, to the  
22 extent HP incorporates Dynamic Security features into a firmware update delivered in the United States  
23 to Relevant 180/254/281 Series Printers, HP will:

- 24 • Continue to include, in the notification sent to Relevant 180/254/281 Series  
25 Printers when a firmware update that includes Dynamic Security features  
26 becomes available for those printers, to the extent the printers are configured to  
27 receive such notifications, the following disclosure: “As a reminder, this printer  
28 is intended to work only with new or reused cartridges that have a new or reused

1 HP chip, and it uses dynamic security measures to block cartridges using a non-  
2 HP chip. Periodic firmware updates like this one will maintain the effectiveness  
3 of these measures and block cartridges that previously worked.”

- 4 • For Relevant 180/254/281 Series Printers that are not configured to receive  
5 notifications of firmware updates, when a firmware update that includes  
6 Dynamic Security next becomes available for those printers, HP will provide a  
7 notification that includes the following text: “As a reminder, this printer is  
8 intended to work only with new or reused cartridges that have a new or reused  
9 HP chip, and it uses dynamic security measures to block cartridges using a non-  
10 HP chip. Periodic firmware updates like this one will maintain the effectiveness  
11 of these measures and block cartridges that previously worked.”
- 12 • Continue to provide, in conjunction with any notification sent to Relevant  
13 180/254/281 Series Printers when a firmware update that includes Dynamic  
14 Security features becomes available for those printers, the ability for users of  
15 Class Printers to either agree to install the firmware update or decline to install  
16 the firmware update.
- 17 • Continue to include, on the HP web pages where firmware versions that include  
18 Dynamic Security features for Relevant 180/254/281 Series Printers may be  
19 downloaded, a disclosure that includes the following language: “This Firmware  
20 includes dynamic security measures, which are used to block cartridges using a  
21 non-HP chip or modified or non-HP electronic circuitry. The printer is intended  
22 to work only with new or reused cartridges that have a new or reused HP chip or  
23 circuitry.”
- 24 • Continue to provide HP customer support representatives with information to  
25 use in discussing issues related to Dynamic Security in Relevant 180/254/281  
26 Series Printers. The information provided will include the same language that is  
27 currently provided to HP’s customer support representatives to use when  
28 discussing Dynamic Security issues with customers:

- Dynamic security is part of HP’s process for authenticating cartridges for use in HP printers.
- Non-HP Chips and Modified or non-HP electronic circuitry are not produced or validated by HP.
- HP cannot guarantee that these chips or circuitry will work in your printer now or in the future.
- Refilled or remanufactured cartridges that still use an unmodified Original HP Chip or electronic circuitry continue to be authenticated by the printer.

2.5 For a period of one year from the Effective Date of this Settlement Agreement:

- For users who choose to install the HP Smart App to manage their Class Printers, HP will continue to include the following language on one of the setup pages: “When using this app, HP collects some required functionality data from your mobile or desktop device. The app uses this data to support HP Smart features and operation.”
- In the HP Privacy Statement (<https://www.hp.com/us-en/privacy/privacy.html>), HP will continue to disclose that it collects data on “ink or toner cartridge type (in particular, whether non-original cartridges, or cartridges with a non-HP chip or electronic circuitry are used).”

b. *No Class Settlement Fund*

2.6 The Parties agree that the Settlement Agreement will not include a cash settlement fund or any monetary compensation to Class Members, except as set forth in section 5, below.

### **3. Preliminary Approval Order and Final Approval Hearing**

3.1 Promptly after execution of the Agreement, Plaintiffs shall submit the Agreement together with its Exhibits to the Court and shall apply for entry of the Preliminary Approval Order, requesting the preliminary approval of the Settlement set forth in the Agreement; setting of dates for posting of the Notice, the Objection Date, and the Final Approval Hearing; and approval of the Notice. Notice shall be accomplished by digital publication of Notice on HP’s website, with a link to the Notice

1 from the relevant HP Support page(s), and on Class Counsels' websites.

2 3.2 All Class Members will be bound by all proceedings, orders and judgments in the  
3 Litigation.

4 3.3 Any Class Member who wishes to object to the fairness, reasonableness, or adequacy  
5 of the Settlement, or the application of Class Counsel for a Fee and Expense Award and/or for Service  
6 Awards for Plaintiffs, must timely do so in the manner specified in the Preliminary Approval Order.  
7

8 3.4 Plaintiffs will request that after Notice is published and Class Members have had an  
9 opportunity to object to the Settlement, the Court hold the Final Approval Hearing and approve the  
10 settlement of the Litigation as set forth herein. No later than fourteen (14) days prior to the Final  
11 Approval Hearing, Class Counsel will file a motion for final approval of the Settlement. At the Final  
12 Approval Hearing, Class Counsel will also request that the Court approve the Fee and Expense Award,  
13 and Service Awards for the Plaintiffs.

14 **4. Releases**

15 4.1 The Released Claims shall be construed as broadly as possible to effect complete finality  
16 over this Litigation.

17 4.2 Plaintiffs hereby waive all rights and remedies provided by California Civil Code  
18 section 1542, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO  
19 CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
20 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER  
21 MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."  
22 In connection with such waiver and relinquishment, Plaintiffs acknowledge that they or their attorneys  
23 may hereafter discover claims or facts in addition to or different from those that they now know or  
24 believe to exist with respect to the Released Claims, but it is their intention to hereby fully, finally, and  
25 forever settle and release all of the Released Claims known or unknown, suspected or unsuspected, that  
26 they have against the Released Parties. Plaintiffs acknowledge that they have been advised by their  
27 attorneys of the contents and effect of Section 1542, and with knowledge, hereby expressly waive  
28 whatever benefits they may have had pursuant to that section. Plaintiffs acknowledge that the foregoing

1 waiver was separately bargained for and a material element of the Settlement Agreement of which the  
2 Released Claims are a part.

3 4.3 Upon the Effective Date, all Releasing Plaintiffs and anyone claiming through or on  
4 behalf of any of them shall be deemed to have fully, finally, and forever released, relinquished, and  
5 discharged all Released Claims against Defendant, and the Settlement Agreement shall be the exclusive  
6 remedy for any and all Released Claims. Upon the Effective Date, the Releasing Plaintiffs shall be  
7 forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute any  
8 action or other proceeding in any court of law or equity, arbitration tribunal, or administrative forum,  
9 asserting any Released Claim against Defendant. The Court's failure or refusal to enter the requested  
10 injunction is not grounds to terminate the Settlement Agreement or otherwise alter any term of the  
11 Settlement Agreement.

12 4.4 In exchange for the releases and other consideration set forth herein, Plaintiffs will  
13 dismiss Defendant with prejudice from the Litigation as set forth herein.

14 4.5 The Settling Parties agree that the Court shall retain exclusive and continuing  
15 jurisdiction over the Settling Parties and the Class Members to interpret and enforce the terms,  
16 conditions, and obligations under this Agreement.

17 **5. Class Counsel's Attorneys' Fees and Expenses; Service Awards**

18 5.1 No later than fourteen (14) days prior to the Final Approval Hearing, Class Counsel  
19 shall apply to the Court for a Fee and Expense Award covering out-of-pocket attorneys' fees and  
20 expenses actually and reasonably incurred. Class Counsel may request a Fee and Expense Award not  
21 to exceed \$725,000, and HP will not oppose an application for a Fee and Expense Award in an amount  
22 not to exceed \$725,000. HP shall pay Class Counsel the Fee and Expense Award within twenty-one  
23 (21) days after the Effective Date pursuant to instructions to be delivered by Class Counsel within three  
24 (3) days after the Effective Date. Except as otherwise agreed herein, the Parties shall be responsible  
25 for their own attorneys' fees and costs.

26 5.2. No later than fourteen (14) days prior to the Final Approval Hearing, Plaintiffs will  
27 move the Court for Service Award payments for their services as Class Representatives. Plaintiffs may  
28 request Service Awards of not more than \$5,000 per Plaintiff, subject to review and approval by the

1 Court, and HP will not oppose an application for a Service Award in an amount not to exceed \$5,000  
2 per Plaintiff. Such awards shall be paid by HP to Class Counsel, for delivery to each Plaintiff, within  
3 twenty-one (21) days after the Effective Date pursuant to instructions to be delivered by Class Counsel  
4 within three (3) days after the Effective Date.

5 5.3 The procedure for and the allowance or disallowance by the Court of any applications  
6 by any Plaintiff's counsel for a Fee and Expense Award, or by any Plaintiff for a Service Award, are  
7 to be considered by the Court separately from the Court's consideration of the fairness, reasonableness  
8 and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to the  
9 application for a Fee and Expense Award, or application for Service Awards, or any appeal from any  
10 order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the  
11 Agreement, or affect or delay the finality of the Final Order and Judgment approving the Agreement  
12 and the Settlement of the Litigation set forth herein.

13 5.4 Defendant and its Related Parties shall have no responsibility for the allocation among  
14 Class Counsel, or any other Plaintiff's counsel or Person who may assert some claim thereto, of any  
15 Fee and Expense Award that the Court may make in the Litigation.

16 **6. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination**

17 6.1 This Agreement shall be conditioned on the Court's entry of the Preliminary Approval  
18 Order and the Final Order and Judgment.

19 6.2 In the event that the Agreement or the Settlement set forth in the Agreement is not  
20 approved by the Court or otherwise fails to become effective in accordance with its terms, the Settling  
21 Parties shall be restored to their respective positions in the Litigation as of August 12, 2024. In such  
22 event, the terms and provisions of the Agreement, except this subsection, shall be null and void, have  
23 no further force and effect, and shall not be used in the Litigation or in any other proceeding for any  
24 purpose, and any judgment or order entered by the Court in accordance with the terms of the Agreement  
25 shall be treated as vacated, *nunc pro tunc*, and shall not be used in the Litigation or in any other  
26 proceeding for any purpose. No order of the Court or modification or reversal on appeal of any order  
27 of the Court concerning the amount of any Service Award or any attorneys' fees, costs, expenses, and  
28 interest awarded by the Court to Class Counsel or any other Plaintiff's counsel shall operate to terminate

1 or cancel this Agreement or constitute grounds for cancellation or termination of the Agreement.

2 **7. Miscellaneous Provisions**

3 7.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this  
4 Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement  
5 all terms and conditions of the Agreement and to exercise their best efforts to accomplish the foregoing  
6 terms and conditions of the Agreement.

7 7.2 The Settling Parties and their respective counsel agree that they will act in good faith  
8 and will not engage in any conduct that could frustrate the purposes of this Agreement.

9 7.3 The Settling Parties and their respective counsel will not make any public statement that  
10 is inconsistent with the Parties' objective of securing Court approval of the Settlement.

11 7.4 The determination of the terms and conditions contained herein and the drafting of the  
12 provisions of this Agreement have been by mutual understanding after negotiation, with consideration  
13 by, and participation of, the Settling Parties and their counsel. This Agreement shall not be construed  
14 against any Settling Party on the basis that it was the drafter or participated in the drafting. Any statute  
15 or rule of construction that ambiguities are to be resolved against the drafting party shall not be  
16 employed in the implementation of this Agreement and the Settling Parties agree that the drafting of  
17 this Agreement has been a mutual undertaking.

18 7.5 The Settling Parties intend this Agreement to effect a final and complete resolution of  
19 the Released Claims between Releasing Plaintiffs, on the one hand, and Defendant, on the other hand,  
20 with respect to the Litigation. The Settlement resolves claims which are contested and shall not be  
21 deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties  
22 agree that, during the course of the Litigation, the Parties and their respective counsel at all times  
23 complied with the requirements of Federal Rule of Civil Procedure 11 and California Code of Civil  
24 Procedure § 128.7. The Settling Parties agree that the Settlement Amount and the other terms of the  
25 Settlement were negotiated in good faith by the Settling Parties, and reflect a Settlement that was  
26 reached voluntarily after consultation with competent legal counsel.

27 7.6 The Settlement Agreement was reached as the result of mediation conducted before  
28 third-party mediator Hon. Elizabeth D. Laporte (Ret.). The Parties did not discuss Service Award

1 payments or attorneys' fees and expenses while negotiating the material terms of the proposed  
2 Settlement.

3 7.7 Neither this Agreement nor the Settlement contained herein, nor any act performed or  
4 document executed pursuant to or in furtherance of the Agreement or the Settlement, (a) is or may be  
5 deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim,  
6 the truth of any of the allegations in the Litigation of any wrongdoing, fault, or liability of Defendant  
7 or its Related Parties, or that Plaintiffs or any Class Members have suffered any damages, harm, or  
8 loss; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or  
9 omission on the part of Defendant or its Related Parties in any civil, criminal, or administrative  
10 proceeding in any court, administrative agency, or other tribunal.

11 7.8 Defendant may file this Agreement and/or the Final Order and Judgment in any other  
12 action that may be brought against it in order to support a defense or counterclaim based on principles  
13 of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any  
14 theory of claim or issue preclusion or similar defense or counterclaim.

15 7.9 The Parties and their counsel agree that they will not issue any press releases or initiate  
16 any contact with the media about the fact or terms of this Settlement Agreement. Unless required by  
17 applicable law, neither Plaintiffs nor their counsel shall publicize the terms of this Settlement  
18 Agreement in any medium, or initiate or issue any press release or have any communications with the  
19 press or media concerning this Settlement Agreement except as ordered by the Court. Except as  
20 mandated by the Court, Plaintiffs' counsel shall not include, and shall affirmatively remove, any  
21 reference to any of the foregoing subjects in any advertising, mass mailing, website, or other  
22 communication. If counsel for either Party receives an inquiry about the Settlement from the media,  
23 counsel may respond only after the motion for preliminary approval has been filed. Notwithstanding  
24 the foregoing, nothing will prevent Class Counsel from communicating with members of the Class as  
25 necessary to fulfill their obligations as Class Counsel, and nothing in this section shall prohibit Class  
26 Counsel from including publicly available information from or about the Settlement Agreement on  
27 their websites or in their declarations in other cases describing their qualifications as counsel.

28 7.10 HP shall pay the Administrative Expenses associated with posting the Notice on its

1 website. Plaintiffs shall pay the Administrative Expenses associated with posting the Notice on Class  
2 Counsels' websites.

3 7.11 All agreements made and orders entered during the course of the Litigation relating to  
4 the confidentiality of information shall survive this Agreement.

5 7.12 All of the Exhibits to the Agreement are material and integral parts hereof and are fully  
6 incorporated herein by this reference.

7 7.13 The Agreement may be amended or modified only by a written instrument signed by or  
8 on behalf of all Settling Parties or their respective successors-in-interest.

9 7.14 The Agreement and the Exhibits attached hereto constitute the entire agreement among  
10 the Parties hereto, and no representations, warranties or inducements have been made to any Party  
11 concerning the Agreement or its Exhibits other than the representations, warranties, and covenants  
12 contained and memorialized in such documents.

13 7.15 Class Counsel, on behalf of the Class, is expressly authorized to take all appropriate  
14 action required or permitted to be taken by the Class Members they represent pursuant to the Agreement  
15 to effectuate its terms.

16 7.16 Each counsel or other Person executing the Agreement or any of its Exhibits on behalf  
17 of any Party hereto warrants that such Person has the full authority to do so.

18 7.17 The Agreement may be executed in one or more counterparts. All executed counterparts  
19 and each of them shall be deemed to be one and the same instrument. A complete set of executed  
20 counterparts shall be filed with the Court. Signatures sent by facsimile or sent in PDF form via e-mail  
21 shall be deemed originals.

22 7.18 The Agreement shall be binding upon, and inure to the benefit of, the successors and  
23 assigns of the Parties hereto.

24 7.19 The Court shall retain jurisdiction with respect to implementation and enforcement of  
25 the terms of the Agreement, and all Settling Parties submit to the jurisdiction of the Court for purposes  
26 of implementing and enforcing the Settlement embodied in the Agreement and matters related to this  
27 Settlement.

28 7.20 Pending approval of the Court of the Agreement and its Exhibits, all proceedings in the

1 Litigation shall be stayed and all Class Members shall be barred and enjoined from prosecuting any of  
2 the Released Claims against Defendant.

3 7.21 This Agreement and the Exhibits hereto shall be considered to have been negotiated,  
4 executed and delivered, and to be wholly performed, in the State of California, and the rights and  
5 obligations of the Parties to the Agreement shall be construed and enforced in accordance with, and  
6 governed by, the substantive laws of the State of California.

7 7.22 Defendant shall serve notice of the Settlement Agreement that meets the requirements  
8 of 28 U.S.C. § 1715 on the appropriate federal and state officials no later than ten (10) days following  
9 the filing of this Settlement Agreement with the Court.

10 IN WITNESS WHEREOF, each of the Parties hereto have caused the Agreement to be executed  
11 by their duly authorized attorneys.

12  
13 Dated: October 28, 2024

ZIMMERMAN LAW OFFICES, P.C.

14  
15 By: /s/ Thomas A. Zimmerman, Jr.

16 Thomas A. Zimmerman, Jr.\*

17 Jeffrey D. Blake\*

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Attorneys for Plaintiffs  
and those similarly situated

1 Dated: October 28, 2024

GIBSON, DUNN & CRUTCHER LLP

2  
3 By: /s/ Samuel Liversidge  
Samuel Liversidge

4 Attorneys for Defendant HP INC.  
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