

PLAN OF ALLOCATION FOR SETTLEMENT FUND

In re HP Firmware Update Litigation, Case No. 5:16-cv-05820-EJD-SVK

The Settlement Fund will be distributed according to the following plan, subject to approval by the Court. All capitalized terms contained and not otherwise defined herein have the meanings ascribed to them in the Settlement Agreement dated September 18, 2018.

I. General Provisions

A. Class members may submit claims for payments from the Settlement Fund for lost time and reasonable out-of-pocket expenses attributable to Dynamic Security. In addition to compensation for lost time, expenses eligible for reimbursement include the cost of replacement cartridges, a new printer, and/or printing or printer repair services, provided such expenditures are attributable to Dynamic Security. Class members need not submit documentation to make a claim, but, as set forth below, valid documented claims will be paid in full before any undocumented claims are paid.

B. Class members may submit completed Claim Forms by mail or through the Settlement Website.

C. To be eligible for payment, claims must be submitted or postmarked no later than 120 days after the date of entry of the Preliminary Approval Order. Late claims may be considered if deemed appropriate by the Claims Administrator in consultation with Class Counsel, or if ordered by the Court.

D. The Claims Administrator will establish and maintain the Settlement Website, which will be accessible through commonly used internet service providers and will, among other things, be used for the electronic submission of Claim Forms. The Claims Administrator will be responsible for receiving and processing requests for Claim Forms, for promptly delivering Claim Forms to Class members who request them, for establishing, in consultation with Class Counsel, appropriate claim auditing and verification protocols and procedures, and for determining the eligibility of claims for payment consistent with this plan of allocation or as otherwise ordered by the Court.

E. HP will bear the costs of notice and of settlement and claims administration, including the procedures described herein.

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II. The Claim Form

A. There will be one Claim Form.

B. For a claim to be eligible for payment, the claimant must confirm or provide their current contact information, and attest that:

- 1. the claimant owns or owned a Class Printer;
- 2. the Class Printer experienced an interruption in printing between March 1, 2015 and December 31, 2017;
- 3. the interruption occurred when the Class Printer had a working non-HP replacement ink cartridge installed; and
- 4. the claimant has not been reimbursed or otherwise compensated for the out-of-pocket losses at issue in the claim.

C. Additionally, for a claim to be eligible for payment, the claimant must provide either:

- 1. documentation—for example and without limitation, receipts, payment card statements, or photographs—of reasonable out-of-pocket expenses the claimant paid that are attributable to the relevant interruption in printing, including, without limitation, amounts paid for replacement cartridges, a new printer, and/or printing or printer repair services (a “Documented Claim”); **OR**
- 2. a sworn statement identifying, to the best of the claimant’s information and belief, (a) the month and year when the relevant interruption in printing occurred, (b) the brand of non-HP cartridges installed in the Class Printer at the time, and (c) the seller from which those cartridges were purchased.

III. Determination of Class Member Payments

A. After determining which claims are eligible for payment and identifying the total set of eligible claims, the Claims Administrator will allocate the Settlement Fund as follows.

1 1. Each Documented Claim will be paid in full; provided, however, that if the sum
2 of all Documented Claims exceeds the Settlement Fund, they will be proportionally reduced—i.e., the
3 actual amount of each Documented Claim will be reduced according to the percentage by which the
4 value of all such claims exceeds the Fund.

5 2. If the sum of all Documented Claims does not exceed the Fund, after all such
6 claims have been paid in full, the remaining amount in the Settlement Fund (the “Residual Fund”)
7 will be allocated *pro rata* to all eligible claimants on a per-Printer basis (the “Residual Amount”),
8 subject to § III.A.3 below. Payment of the Residual Amount to claimants with Documented Claims
9 will be in addition to amounts due to such claimants under § III.A.1.

10 3. If the Residual Amount exceeds \$250, Class Counsel will notify the Court and
11 propose additional means of distributing the balance of the Residual Fund and/or of providing notice
12 of the Settlement to non-participating Class members.

13 B. If, after all necessary calculations under § III.A:

14 1. there is no Residual Fund, the Claims Administrator will pay only Documented
15 Claims, by check or electronic payment;

16 2. the Residual Amount is less than or equal to \$250, the Claims Administrator
17 will pay all eligible claimants by check or electronic payment;

18 3. the Residual Amount exceeds \$250, the Claims Administrator, pursuant to §
19 III.A.1, will pay each valid Documented Claim in full by check or electronic payment, without regard
20 to any supplemental distributions that may thereafter occur.