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14 [Defendant's Counsel Identified on Signature Page]

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF SANTA CLARA**

17 R. ROSS and C. ROGUS, individually and on  
behalf of all others similarly situated,  
18  
19 Plaintiffs,

20 v.

21 HEWLETT PACKARD ENTERPRISE  
COMPANY, a Delaware corporation,  
(formerly HEWLETT-PACKARD  
22 COMPANY)

23 Defendant.  
24  
25  
26  
27  
28

CASE NO.: 18CV337830

*Assigned for all purposes to the  
Honorable Sunil R. Kulkarni*

**SETTLEMENT AGREEMENT**

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1 This Class Action Settlement and Release of Claims (“Agreement”) is made and entered into  
2 between: (1) Plaintiff R. Ross (“Plaintiff Ross”) and Plaintiff C. Rogus (“Plaintiff Rogus”) (collectively,  
3 “Plaintiffs”), on behalf of themselves and the Settlement Class Members as defined herein; and  
4 Defendant Hewlett Packard Enterprise Company (“Defendant” or “HPE”) (collectively, “the Parties”)  
5 subject to approval from the Court, as provided below.

6 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and  
7 settle the Action (as defined below) and the Released Claims (as defined below), upon and subject to the  
8 terms and conditions hereof, as follows:

9 **1. DEFINITIONS**

10 For the purposes of this Agreement only, the following terms shall be defined as set forth below:

11 **1.1. “Action”** refers to the class action entitled *R. Ross & C. Rogus v. Hewlett*  
12 *Packard Enterprise Company*, Santa Clara County Superior Court Case No. 18 CV 337830.

13 **1.2. “Agreement” or “Settlement Agreement”** refers to this Settlement Agreement,  
14 which includes all of the Recitals and the Exhibits attached hereto.

15 **1.3. “Class Counsel”** refers to Zimmerman Reed LLP and Lockridge Grindal Nauen  
16 P.L.L.P.

17 **1.4. “Class Total Compensation”** refers to the wages, bonuses, and equity as defined  
18 by HPE to all Participating Settlement Class Members for work performed during the period of  
19 November 1, 2015 to September 1, 2022, within a job code classification attached in Exhibit A, as  
20 determined by dates of employment in the relevant job classification codes and other qualifying  
21 information agreed upon by the Parties.

22 **1.5. “Complaint”** refers to the Class Action Complaint filed in Santa Clara Superior  
23 Court on November 8, 2018 *R. Ross & C. Rogus v. Hewlett Packard Enterprise Company*, Santa Clara  
24 County Superior Court Case No. 18 CV 337830.

25 **1.6. “Court”** refers to the Santa Clara Superior Court.

26 **1.7. “Days”** refers to calendar days. However, if any deadline in this Agreement falls  
27 on a Saturday, Sunday, or California State or Federal holiday, then the deadline shall extend the next  
28 business day.

1           **1.8. “Defendant or “HPE”** refers to Hewlett Packard Enterprise Company.

2           **1.9. “Defendant’s Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing  
3 any notices required under this Agreement, Defendant’s Counsel shall refer to Camille Olson and  
4 Richard Lapp, Seyfarth Shaw LLP, 560 Mission Street, 31st Floor, San Francisco, CA 94105.

5           **1.10. “Dispute Fund”** refers to a \$400,000 portion of the Gross Fund Value (defined  
6 below) that shall be set aside to supplement a Participating Settlement Class Member’s Individual  
7 Settlement Payment based on her individual circumstances.

8           **1.11. “Effective Date”** refers to the date upon which both of the following have  
9 occurred: (i) final approval of the settlement is granted by the Court and (ii) the Court’s Judgment  
10 approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the  
11 Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or  
12 the expiration of the time to file a petition for review with the California Supreme Court or other court in  
13 California assuming jurisdiction of this matter; or, (ii) if a petition for review is filed, the date of denial  
14 of the petition, or the date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal  
15 is filed, the expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a  
16 timely objection to the settlement is filed, “Effective Date” shall be the later of: (a) the date on which the  
17 time for all appeals relating to objections to Settlement and the Final Approval Order has expired; or (b)  
18 if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision  
19 denying any petition (where the immediately lower court affirmed the Judgment) or affirming the  
20 Judgment.

21           **1.12. “Fee Petition”** refers to the motion for an award of attorneys’ fees and costs,  
22 which will be submitted by Class Counsel.

23           **1.13. “Final Approval Order”** refers to the final order by the Court approving the  
24 Settlement following the Final Fairness Hearing.

25           **1.14. “Final Fairness Hearing”** refers to the hearing at which the Court will make a  
26 final determination whether the terms of the Agreement are fair, reasonable, and adequate for the  
27 Settlement Class Members and meet all applicable requirements for Final Approval.  
28



1           **1.15. “Gross Fund Value” or “GFV”** refers to the maximum settlement payment HPE  
2 may be obligated to make in connection with the Settlement or Agreement, which in this case is no more  
3 than \$8,500,000. This sum shall include all (a) all costs of settlement administration performed by a  
4 third party settlement administrator; (b) service payments to Plaintiffs (“Service Payment”) and General  
5 Release Payments to Plaintiffs (“Plaintiffs’ General Release Payments”); (c) costs and attorneys’ fees  
6 for Plaintiffs’ counsel; (d) the Settlement Class Members’ share of any required payroll taxes; (e) HPE’s  
7 share of payroll taxes as required by law; and (f) the Settlement Dispute Fund. The Gross Fund Value is  
8 a material term of this Agreement. To the extent Plaintiffs or the Court seeks to require HPE to pay  
9 more than the Gross Fund Value as part of this Settlement or Agreement, HPE shall retain the right, in  
10 the exercise of its sole discretion, to nullify the Settlement or Agreement.

11           **1.16. “Individual Settlement Payment”** refers to the *pro rata* portion of the Net  
12 Settlement Fund that Participating Settlement Class Members shall receive and shall include the  
13 employee’s share of payroll taxes.

14           **1.17. “Judgment”** refers to the final judgment by the Court approving the Settlement.

15           **1.18. “Net Settlement Amount”** refers to the amount after the following deductions  
16 are made from the GFV: (a) all costs of settlement administration performed by a third party settlement  
17 administrator; (b) Plaintiffs’ Service Payments; and Plaintiffs’ General Release Payments; (c) costs and  
18 attorneys’ fees for Plaintiffs’ counsel; (d) HPE’s share of payroll taxes as required by law; (e) the  
19 Settlement Class Members’ share of any required payroll taxes, and (f) the Settlement Dispute Fund.

20           **1.19. “Notice of Class Action Settlement” or “Class Notice”** refer to the Notice of  
21 Class Action Settlement, substantially in the form attached as Exhibit B.

22           **1.20. “Objection”** refers to a timely, written, signed objection by a Settlement Class  
23 Member who elects to object to the Settlement, substantially in the form detailed in the Notice of Class  
24 Action Settlement.

25           **1.21. “Objection Deadline”** refers to the date 63 days after the date of mailing of the  
26 Class Notice by which all objections or requests for exclusion must be submitted.

27           **1.22. “Participating Settlement Class Member”** refers to a Settlement Class Member  
28 who has not opted out of the Settlement.

1           **1.23. “Parties”** refers to (1) Plaintiffs Rocio Ross and Claudia Rogus, individually and  
2 on behalf of the Settlement Class Members and Hewlett Packard Enterprise Company (“Defendant”).

3           **1.24. “Plaintiffs”** refers to Plaintiffs Rocio Ross and Claudia Rogus.

4           **1.25. “Plaintiffs’ General Release Payments”** refers to the sum of \$5,000 each  
5 (\$10,000 total) that Plaintiffs shall receive as consideration for signing a general release of any and all  
6 claims against the Releasees as set forth in Section 10 of this Agreement. These payments shall not be  
7 subject to payroll taxes.

8           **1.26. “Plaintiffs’ Counsel”** refers to Zimmerman Reed LLP and Lockridge Grindal  
9 Nauen P.L.L.P.

10           **1.27. “Preliminary Approval Order”** refers to the order issued and entered by the  
11 Court following a Motion for Preliminary Approval of the Settlement and this Agreement.

12           **1.28. “Released Claims”** refers to those claims defined in Section 10 of this  
13 Agreement. The Released Claims shall apply to all Participating Settlement Class Members. The scope  
14 of the Released Claims is a material term of this Agreement. To the extent Plaintiffs seek to modify the  
15 scope of the Released Claims in order to narrow it, HPE shall retain the right, in the exercise of its sole  
16 discretion, to nullify the Settlement Agreement.

17           **1.29. “Releasees” or “Released Parties”** refers to Defendant and its present and  
18 former affiliates and all of their present and former officers, directors, owners, partners, employees,  
19 agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other  
20 persons acting by through, under or in concert with any of them.

21           **1.30. “Request for Exclusion”** refers to a timely, written, signed opt-out request by a  
22 Settlement Class Member who elects to be excluded from the Settlement, substantially in the form  
23 attached as Exhibit C to this Agreement, and pursuant to the process set forth in this Agreement.

24           **1.31. “Service Payment”** refers to the payment up to \$15,000, subject to Court  
25 approval, to each Plaintiff from the Gross Fund Value in recognition of their efforts and work in  
26 prosecuting the Action on behalf of the Settlement Class Members. These payments shall not be subject  
27 to payroll taxes.  
28

1           **1.32. “Settlement Administrator”** refers to the third-party administrator, Atticus  
2 Administration, LLC, who has been mutually selected by the Parties, subject to Court approval, to  
3 perform the notice, claims administration, and distribution of payment functions further described in this  
4 Agreement. The Settlement Administrator shall meet all of the requirements to establish a Qualified  
5 Settlement Fund (“QSF”) pursuant to U.S. Treasury Regulation Section 468B-1.

6           **1.33. “Settlement Class Members” or “Settlement Class”** refers to women (as  
7 identified in Defendant’s Human Resources Information System, Workday) actively employed in  
8 California by Defendant at any point from November 1, 2015 through the date of Preliminary Approval,  
9 who have not entered into a waiver and release or arbitration agreement with respect to their  
10 employment, and who were employed in one of the job codes set forth on Exhibit A, and who were not  
11 otherwise excluded.

12           **1.34. “Settlement Class Period”** refers to the period of November 1, 2015 through the  
13 date of the Preliminary Approval Order.

14           **1.35. “Total Compensation”** refers to the wages, bonuses, and equity as defined by  
15 HPE, paid to a Settlement Class Member for work performed during the period of November 1, 2015 –  
16 September 1, 2022, within a job code classification attached in Exhibit A, as determined by dates of  
17 employment in the relevant job classification codes and other qualifying information agreed upon by the  
18 Parties.

19           **1.36. “Workweeks”** refers to any workweek as defined by HPE policies in which a  
20 Settlement Class Member performed work during the period of November 1, 2015 to September 1,  
21 2022, within a job code classification attached in Exhibit A, as determined by dates of employment in  
22 the relevant job classification codes and other qualifying information agreed upon by the Parties.

## 23           **2. PROCEDURAL HISTORY AND RECITALS**

24           **2.1. Causes Of Action.** Plaintiffs filed a class Action Complaint in this matter on  
25 November 8, 2018, which alleged causes of action for: (1) violation of the California Equal Pay Act  
26 (“EPA”), Cal. Lab. Code §§ 1197.5, 1194.5 (including violation of the Fair Employment Housing Act,  
27 Gov. Code §12940(a)); (2) failure to pay all wages due to discharged and quitting employees, Cal. Lab.  
28 Code §§ 201-20, 1194.5; (3) unfair business practices, Cal. Bus. & Prof. Code § 17200 (“UCL”)

1 (including violation of the Fair Employment Housing Act)); and (4) declaratory relief, Cal. Civ. Proc.  
2 Code § 1060 *et seq.*

3           **2.2. Defendant’s Demurrer.** On April 2, 2019, HPE filed a demurrer and motion to  
4 strike Plaintiffs’ Complaint on the grounds that Plaintiffs’ individual claims were defective because  
5 Plaintiffs failed to describe their positions with sufficient specificity in terms of skill, effort and  
6 responsibility required for their positions, and had not met pleading standards because they did not  
7 identify comparators or show that any comparators engaged in equal or substantially similar work. On  
8 July 2, 2019, the Court sustained HPE’s demurrer as to Plaintiffs’ individual claims based on their  
9 representation that they were not pursuing such claims in litigation. The Court also struck Plaintiffs’  
10 UCL allegations that were premised on alleged FEHA violations of intentional discrimination and Labor  
11 Code Section 203.

12           **2.3. Stipulation to Strike.** Following the Court’s ruling on Defendant’s demurrer, in  
13 September 2019, the Parties entered into a Stipulation to Strike Plaintiffs’ Request for Injunctive Relief  
14 from the Complaint. On September 9, 2019, the Court struck the portions of Plaintiffs’ Complaint  
15 seeking injunctive relief.

16           **2.4. The Parties Took Extensive Discovery.** The Parties have engaged in extensive  
17 discovery during the pendency of this case. Plaintiffs have served, and HPE has responded to, eight sets  
18 of requests for production, five sets of special interrogatories, and two sets of requests for admission.  
19 HPE has provided over 9,000 pages of documents; HPE has also produced over 4 GB in data. Plaintiffs  
20 have taken five days of testimony of HPE’s persons most qualified. Plaintiffs have each responded to  
21 two sets of requests for production and two sets of special interrogatories.

22           **2.5. The Parties’ Mediation.** Defendant and Plaintiffs mutually agreed to a  
23 mediation with an independent mediator, Tripper Ortman, III. Mr. Ortman is a well-known mediator  
24 who specializes in mediating complex class actions, including allegations of sex discrimination under  
25 state and federal laws. Two full-day mediation sessions took place on January 28, 2022 and February  
26 14, 2022, but the Parties did not reach a settlement. The mediator subsequently made a mediator’s  
27 proposal for settlement which both Parties accepted. Nonetheless, the Parties continued to engage in  
28 settlement discussions and negotiate settlement terms through June 15, 2022, when they memorialized a

1 memorandum of understanding regarding an agreement in principle. Prior to the mediation, and  
2 throughout the course of mediation, Defendant and Plaintiffs exchanged information regarding Plaintiffs  
3 and employees employed in California, HPE's policies and procedures, the number of putative class  
4 members, compensation, and variables relevant to an employee's pay.

5           **2.6. HPE's Denials.** HPE denies and continues to deny: (a) all of the allegations  
6 made by Plaintiffs in the Action; (b) that it violated any applicable laws; (c) that it is liable or owes  
7 damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or  
8 claims asserted in the Action; and (d) that class certification or representative treatment of the Action or  
9 any alleged claim is proper.

10           Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and without  
11 admitting or conceding that class certification or representative treatment is appropriate for any purpose  
12 other than settlement purposes alone, HPE has agreed to settle the Action on the terms and conditions set  
13 forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the Action. Any  
14 stipulations or statements by HPE contained in this Agreement are made for settlement purposes only.

15           **2.7. Class Counsel's Evaluation.** Based on Class Counsel's investigation and  
16 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,  
17 adequate, and in the best interest of the Settlement Class. Class Counsel diligently and effectively  
18 investigated Plaintiffs' claims and the claims of the class Plaintiffs seek to represent, drafted the  
19 Complaint, took depositions, propounded and responded to written discovery, and reviewed and  
20 analyzed documents and information produced with the assistance of two experts, one in labor  
21 economics and one in industrial and organizational psychology. Class Counsel concluded that the  
22 Settlement reflected in this Agreement is in the best interests of the Settlement Class, and that it is fair,  
23 reasonable, and adequate, after reviewing HPE's policies, practices, data and other information, and  
24 evaluating the risks of continued litigation.

25           **2.8. The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever  
26 settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of  
27 action, obligations or liability of any and every kind that were or could have been asserted in the Action  
28 to the extent that such claims arise out of the alleged facts, circumstances, and occurrences underlying

1 the allegations as set forth in the claims filed in the Action. The Parties also intend that this Settlement  
2 shall be applicable to the Releasees (defined above).

3 **2.9. Certification Of Settlement Class Members.** This Agreement is contingent  
4 upon approval of class certification of the Settlement Class Members under California Code of Civil  
5 Procedure section 382 by the Court, for settlement purposes only. HPE does not waive, and instead  
6 expressly reserves, its right to challenge the propriety of class certification or representative treatment  
7 for any other purpose should the Court not approve the Settlement or this Agreement.

8 **2.10. The Parties' Agreement To Cooperate.** The Parties agree to cooperate and to  
9 take all steps necessary and appropriate to effectuate all aspects of this Agreement, to obtain a  
10 Preliminary Approval Order and Final Approval Order of this Settlement, and to cause the Court to enter  
11 judgment thereon.

12 **NOW THEREFORE**, in consideration of the covenants and agreements set forth herein, and of  
13 the release and dismissal of all Released Claims, the Parties stipulate and agree to the terms and  
14 provisions of this Settlement Agreement, subject to the approval of the Court.

15 **3. NOTICE TO SETTLEMENT CLASS MEMBERS**

16 **3.1. Settlement Administrator.** The Parties request that the Court appoint Atticus  
17 Administration, LLC, as Settlement Administrator. The Parties agree that settlement administration  
18 costs are estimated at no more than \$35,000 based on a written proposal received from the Settlement  
19 Administrator. All disputes relating to the Settlement Administrator's performance of its duties, after  
20 good-faith efforts by the Parties to first resolve such disputes, will be referred to the mediator.

21 **3.2. Settlement Class Member Data For Settlement Administrator.** HPE shall  
22 provide the Settlement Administrator with (1) the name of each Settlement Class Member; (2) the most  
23 current known address of each Settlement Class Member, as reflected in HPE's records as of September  
24 1, 2022; (3) the social security number of each Settlement Class Member (sent through a secure  
25 mechanism); (4) the Total Compensation earned by each Settlement Class Member through September  
26 1, 2022 ("Settlement Class Data") based on information available as of September 1, 2022; and (5) the  
27 e-mail addresses of Settlement Class Members that were utilized in providing information to certain  
28 Settlement Class Members in July of 2020. HPE will use its best efforts to provide updated Settlement

1 Class Data, including Total Compensation through the date of Preliminary Approval as soon as  
2 practicable, but no later than 45 calendar days from the date of Preliminary Approval.

3 **3.3. Confidentiality Of Settlement Class Member Contact Information And Class**

4 **Data.** The identifying information and contact information in the Settlement Class Data is being  
5 provided confidentially between HPE's Counsel and the Settlement Administrator only, except that a list  
6 of employee identification numbers and Individual Settlement Payments will be provided to Plaintiffs'  
7 Counsel for review. The Settlement Administrator shall treat the information as private and confidential  
8 and take all necessary precautions to maintain the confidentiality of the identifying and contact  
9 information of the Settlement Class Member. This information is to be used only to carry out the  
10 Settlement Administrator's duties as specified in this Settlement Agreement. The Settlement  
11 Administrator shall return the Settlement Class Data and all associated data to HPE's Counsel or  
12 confirm its destruction upon completion of the Settlement Administrator's duties in administering the  
13 Settlement. Unless the information pertains to Plaintiffs only, or has been anonymized using a random  
14 identifier or employee identification number, in no event shall the Settlement Administrator provide any  
15 information from the Settlement Class Data to Class Counsel without the express written authorization  
16 of HPE's Counsel. HPE agrees to cooperate with Plaintiffs' Counsel by providing to same information  
17 reasonably necessary to address any particular individual who may object or disputes their Individual  
18 Settlement Payment.

19 **3.4. Mailing Of Class Notice Of Class Action Settlement And Request For**

20 **Exclusion.** The Settlement Administrator shall email or mail the Notice of Class Action Settlement, and  
21 Request for Exclusion to Settlement Class Members within 21 calendar days of receiving the Class Data  
22 from HPE. The Settlement Administrator shall send the Notice of Class Action Settlement, and Request  
23 for Exclusion to Settlement Class Members via First Class U.S. Mail, using the most current, known  
24 address for each Settlement Class Member, as reflected in HPE's records at the time of entry of the  
25 Court's Preliminary Approval Order. Upon receipt of this information from HPE, the Settlement  
26 Administrator shall perform a search based on the National Change of Address Database maintained by  
27 the United States Postal Service to update and correct any known or identifiable address changes.  
28

1                   **3.4.1 Re-mailing Of Returned Class Notices.** Any mailing returned to the  
2 Settlement Administrator as undeliverable shall be sent within three business days via First Class U.S.  
3 Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement  
4 Administrator shall attempt to determine the correct address by again using the National Change of  
5 Address Database maintained by the United States Postal Service to update and correct any known or  
6 identifiable address changes. Following this procedure, the Settlement Administrator shall perform a  
7 single re-mailing via First Class U.S. Mail within three business days. The Settlement Administrator  
8 shall make reasonable efforts to locate Settlement Class Members, and may use personal phone  
9 numbers, or email addresses, or may use social security numbers to skip trace.

10                   **3.4.2 Content Of The Class Notice Of Class Action Settlement.** The Notice  
11 of Class Action Settlement shall be substantially in the form attached as Exhibit B to this Agreement.

12                   **3.4.3 Content Of The Request For Exclusion.** The Request for Exclusion  
13 shall be substantially in the form attached as Exhibit C to this Agreement.

14                   **3.5. Proof Of Mailing.** At least five calendar days prior to the Final Fairness Hearing,  
15 the Settlement Administrator shall provide a declaration of due diligence and proof of mailing or  
16 emailing with regard to mailing of the Notice of Class Action Settlement to Class Counsel and HPE's  
17 Counsel, which they shall in turn provide to the Court.

18                   **4. SETTLEMENT CLASS MEMBERS' OPTIONS TO RESPOND**

19                   **4.1. Settlement Class Members' Consideration Period.** Settlement Class Members  
20 shall be provided 63 calendar days to exercise any rights with regard to the Settlement, following the  
21 postmark date of the initial mailing of the Notice of Class Action Settlement and the Request for  
22 Exclusion. No Settlement Class Member responses of any kind that are postmarked more than 63  
23 calendar days after the initial mailing of Class Notice shall be considered. Responses from Settlement  
24 Class Members must be postmarked for mail with the U.S. Postal Service.

25                   **4.2. Request For Exclusion And Opt Out Rights.** Settlement Class Members shall  
26 be given the opportunity to opt out of the Settlement, including foregoing the release of class claims and  
27 any payment to be received as a Participating Settlement Class Member.  
28



1                   **4.2.1 Opt Out Procedures.** Settlement Class Members may opt out of the  
2 Settlement by mailing to the Settlement Administrator a Request for Exclusion, substantially in the form  
3 attached as Exhibit C. Any such Request for Exclusion must be postmarked not more than 63 calendar  
4 days after the postmark date of the initial mailing of the Notice of Class Action Settlement and the  
5 Request for Exclusion. To be a valid Request for Exclusion, a Settlement Class Member must provide  
6 her name (and former names at the time of HPE employment, if different), current address, current  
7 telephone number, and last four digits of their Social Security Number. Any Request for Exclusion that  
8 does not include all of the required information or that is not submitted in a timely manner will be  
9 deemed null, void, and ineffective. If there is a dispute regarding the timeliness or validity of a Request  
10 for Exclusion, the Settlement Administrator shall make the determination, after consultation with Class  
11 Counsel and HPE’s Counsel. Requests for Exclusion from Settlement Class Members must be  
12 postmarked for mail with the U.S. Postal Service.

13                   **4.2.2 Effect Of Opt Out.** Any Settlement Class Member who opts out of the  
14 Settlement may not object to the Settlement, shall not receive any portion of the Net Settlement Amount  
15 as a Participating Settlement Class Member, and shall not be bound by the Released Claims provisions  
16 in this Agreement. If a Settlement Class Member submits both a Request for Exclusion and an  
17 Objection, the Settlement Class Member’s opt-out will be valid and deemed to invalidate the Objection.  
18 Each Settlement Class Member who does not opt out of the Settlement shall be bound by the applicable  
19 Released Claims provisions in this Agreement, including all of the Released Claims.

20                   **4.2.3 HPE’s Rights To Withdraw.** HPE has the right, at its sole option, to  
21 withdraw from this Settlement or Agreement if the number of Settlement Class Members excluding  
22 themselves from the Settlement exceeds five percent of the total number of Settlement Class Members.  
23 This right to withdraw is a material term of the Agreement and HPE has the right, at its sole option, to  
24 withdraw from this Agreement if these material terms are not approved by the Court.

25                   **4.3. Objection Rights.** Because the Settlement Class will be certified by the Court,  
26 only Settlement Class Members who do not opt out of the Settlement shall be entitled to object to the  
27 terms of the Settlement.  
28

1                   **4.3.1 Objection Procedures.** Settlement Class Members' objections to the  
2 Settlement or this Agreement must be made using the procedures set forth in the Notice of Class Action  
3 Settlement. Any Objection must be sent to the Settlement Administrator and postmarked not more than  
4 60 calendar days after the first postmark date of mailing the Notice of Class Action Settlement. An  
5 Objection shall be deemed to be submitted as of the postmarked date. The written Objection must  
6 contain: (1) the name and case number of this lawsuit: *R. Ross & C. Rogus v. Hewlett Packard*  
7 *Enterprise Company*, Santa Clara County Superior Court Case No. 18 CV 337830; (2) the full name of  
8 the Settlement Class Member making the Objection, (3) the specific reason(s) for the Objection; and  
9 (4) any and all evidence and supporting papers (including, without limitation, all briefs, written  
10 evidence, and declarations) for the Court to consider. Settlement Class Members who submit an  
11 Objection remain bound by this Agreement. Settlement Class Members need not object in writing to  
12 appear at or make a verbal objection at the Final Fairness Hearing. Objections from Settlement Class  
13 Members must be postmarked for mail with the U.S. Postal Service. Objections sent by facsimile,  
14 email, or other forms of electronic transmission will not be considered. HPE agrees to cooperate with  
15 Plaintiffs by providing relevant information to Plaintiffs' Counsel in connection with an objection from  
16 an objector.

17                   **4.3.2 Waiver Of Objection Rights.** Settlement Class Members who fail to  
18 make Objections in the manner specified in the Notice of Class Action Settlement shall be deemed to  
19 have waived any Objections and shall be foreclosed from making any Objection, whether by appeal or  
20 otherwise, to this Agreement.

21                   **4.4. Proof Of Settlement Class Members' Responses.** No later than 90 calendar  
22 days after the initial mailing of the Notice of Class Action Settlement and Request for Exclusion, the  
23 Settlement Administrator will prepare and submit a declaration attesting to (by number of relevant  
24 individuals) its mailing of the Notice of Class Action Settlement, its inability to deliver any mailing due  
25 to invalid addresses, and its receipt of valid Requests for Exclusion. At least five calendar days prior to  
26 the Final Fairness Hearing, the Settlement Administrator will prepare a supplemental declaration to  
27 submit to the Court, to indicate the number of objections and opt out Requests for Exclusion.  
28

1           **4.5. Binding Effect Of Settlement.** Although some Settlement Class Members might  
2 not receive the Notice of Class Action Settlement or timely submit the Request for Exclusion, as  
3 provided under this Settlement and Agreement, due to inability to locate their current address following  
4 the procedures set forth in this Agreement, such individuals shall nonetheless be bound by all of the  
5 terms of this Settlement and Agreement and the Final Order and Dismissal with Prejudice.

6           **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

7           **5.1. Distribution Of The Net Settlement Amount Based On Total Compensation.**

8 The Net Settlement Amount shall be used to fund payments to Participating Settlement Class Members  
9 who have not opted out of the settlement. The Individual Settlement Payment for each Participating  
10 Settlement Member's *pro rata* share of the Settlement shall be calculated based on each Participating  
11 Settlement Class Member's Total Compensation.

12           **5.2. Calculation Of Payments To Participating Settlement Class Members.** The  
13 Action contains claims for wages. Based on the nature of the claims in the Action, the Parties agree that  
14 Individual Settlement Payments shall be allocated as wages. In accordance with applicable tax laws, the  
15 Individual Settlement Payments will be allocated as Form W-2 income and reported to the appropriate  
16 taxing authorities.

17           **5.2.1 Individual Settlement Calculations and Payments.** Individual  
18 Settlement Payments will be calculated and distributed to Participating Settlement Class Members who  
19 do not validly opt out of the Settlement from the Net Settlement Amount on a *pro rata* basis, based on  
20 her respective Total Compensation earned during the Settlement Class Period. Specific calculations of  
21 each will be made as follows:

22           **A.** The Settlement Administrator will be provided with the Total Compensation paid to  
23 each Participating Settlement Class Member during the period November 1, 2015 to September 1,  
24 2022, as well as the aggregate Total Compensation earned by all Participating Class Members during  
25 this same period.

26           **B.** To determine the amount to be paid to each Participating Settlement Class Member for  
27 her Individual Settlement Payment, the Settlement Administrator will use the following formula:  
28

1 Individual Settlement Payment = (Class Member's Total Compensation ÷ Class Total Compensation)  
2 × Net Settlement Amount.

3 C. The net amount of the Individual Settlement is to be paid out to Participating  
4 Settlement Class Members by way of check and is referred to as "Individual Settlement Payment(s)".

5 D. Each Participating Settlement Class Member who was employed by Defendant for less  
6 than twelve months during the Settlement Class Period shall receive no less than \$500.00 (less payroll  
7 deductions). Each Participating Settlement Member who was employed by Defendant for twelve  
8 months or more during the Settlement Class Period shall receive no less than \$1,000 (less payroll  
9 deductions).

10 **5.2.2 Disputes Regarding Individual Settlement Payments.** The Parties  
11 agree to set aside \$400,000 as a Settlement Dispute Fund ("Dispute Fund") to provide eligible  
12 Participating Settlement Class Members an enhancement of their Individual Settlement Payment.  
13 Participating Settlement Class Members shall submit any requests for a monetary enhancement directly  
14 to the Settlement Administrator within 63 days of the date the Class Notice is issued using the  
15 Settlement Administrator's website. Any request for an enhancement must be accompanied by  
16 documentary evidence and include the last four digits of the Participating Settlement Class Member's  
17 social security number. The Settlement Administrator will review requests for enhancements and make  
18 recommendations to approve or deny to Plaintiffs' counsel. Any request for enhancement shall be  
19 evaluated pursuant to the criteria set forth in Labor Code section 1197.5(a). Counsel for the Parties shall  
20 confer and approve or deny any requests. Should approved requests for enhancement exceed the  
21 allocation for the Dispute Fund, all approved requests will be reevaluated *pro rata* so as not to exceed  
22 the total allocation of the Dispute Fund. Any decision reached by Counsel for the Parties is final and is  
23 not appealable or otherwise disputable.

24 **5.3. Unused Dispute Funds.** Any unused, residual funds in the Settlement Fund will  
25 be distributed *pro rata* to Participating Settlement Class Members in the manner set forth above in  
26 Paragraph 5.1.

27 **5.4. Settlement Checks.** Settlement checks will include language indicating that  
28 endorsing and cashing the check will constitute a release of claims that were or could have been asserted

1 based on the facts alleged in the Action. The language to be included will be substantially similar to the  
2 following:

3 VOID IF ALTERED OR NOT CASHED BEFORE [XXX DATE – 120 days from  
4 mailing]

5 SIGNED ENDORSEMENT BY NAMED PAYEE IS REQUIRED

6 By depositing or signing this check, I confirm I am releasing all federal pay claims,  
7 whether known or unknown, including but not limited to those under the federal Equal  
8 Pay Act section of the Fair Labor Standards Act, asserted in, or that could have been  
9 asserted in, *R. Ross & C. Rogus v. Hewlett Packard Enterprise Company*, that arose or  
10 accrued at any time from November 1, 2015 through [Preliminary Approval Date],  
11 arising from my time as an employee of Hewlett Packard Enterprise Company. My  
12 release does not include, however, any claims, rights, causes of action or liabilities that  
13 cannot be released as a matter of law.

14 Endorsed: [Payee's name printed by Claims Administrator]

15 **5.5. Timing Of Participating Settlement Class Member Payments.** The Settlement  
16 Administrator shall issue the checks constituting the Participating Settlement Class Member payments  
17 no later than 60 calendar days after the Effective Date.

18 **5.6. Distribution Of The Entire Net Settlement Amount Without Reversion.** This  
19 Settlement shall be non-reversionary. Each Participating Settlement Class Member who does not opt  
20 out of the Settlement shall be entitled to an Individual Settlement Payment consisting of their share of  
21 the Net Settlement Amount, in accordance with the formula set forth above.

22 **5.7. Undeliverable Or Uncashed Checks And The Expiration of Checks.** Any  
23 settlement checks returned to the Settlement Administrator as undeliverable shall be sent within five  
24 calendar days via First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding  
25 address is provided, the Settlement Administrator shall attempt to determine the correct address using  
26 the National Change of Address Database maintained by the United States Postal Service or using a  
27 single, skip-trace search, and it shall then perform a re-mailing within five calendar days. **All**  
28 **settlement checks mailed out will expire after 120 days from the date they are mailed.** However,  
the Settlement Administrator shall distribute reminder postcards via U.S. Mail to all Participating  
Settlement Class Members who have yet to deposit or otherwise negotiate their settlement check(s) 45  
days after first distributing the settlement checks that reminds them of the deadline. The sum value of  
all expired checks will be tallied by the Settlement Administrator and distributed *pro rata* to

1 Participating Settlement Class Members pursuant to the formula set forth above. The Settlement  
2 Administrator shall notify Class Counsel and HPE's Counsel of any undeliverable checks.

3 **6. PETITION FOR ATTORNEYS' FEES AND COSTS**

4 **6.1. Attorneys' Fees Will Be One Third Of Gross Settlement Amount.** Class  
5 Counsel intends to request—and HPE agrees not to oppose—that the Court approve an attorneys' fees  
6 award in an amount up to one third of the Gross Settlement Amount (or \$2,833,333.33) and verified  
7 costs in an amount supported by adequate documentation by Class Counsel. HPE shall not object to or  
8 contest the amount of attorneys' fees or costs requested. HPE will furnish information if additional  
9 information is requested by the Court. Except as provided in this Agreement, HPE shall have no  
10 liability for any other attorneys' fees or costs. Plaintiffs' Counsel reserves the right to appeal any award  
11 of attorneys' fees less than 33 1/3% of the Gross Fund Value, or its actual costs.

12 **6.2. Approval Of Attorneys' Fees And Costs Award Is Not Material.** The Court's  
13 approval of an attorneys' fees or costs award requested in the Fee Petition is not a material term of the  
14 Settlement or this Agreement. If the Court does not approve or approves only a lesser amount than that  
15 requested by Class Counsel, the other terms of the Settlement and this Agreement shall still apply. The  
16 Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel does not give  
17 the Plaintiffs, the Settlement Class Members or Class Counsel any basis to abrogate the Settlement or  
18 this Agreement. Any amount of an attorneys' fees and costs award requested by Class Counsel, but  
19 unapproved by the Court shall be allocated to the Net Settlement Amount.

20 **6.3. Timing Of Payment Of Attorneys' Fees And Costs.** The Settlement  
21 Administrator shall pay to Class Counsel any approved attorneys' fees and costs award no later than 60  
22 calendar days after the Effective Date. If necessary, the Settlement Administrator shall issue an Internal  
23 Revenue Service Form 1099 to Class Counsel for any attorneys' fees and costs award payment. Class  
24 Counsel shall be solely and legally responsible for paying all applicable taxes on any attorneys' fees and  
25 costs award payments.

26 **6.4. Waiver of Any Other Costs and Fees.** Apart from such award of fees and  
27 reimbursement of costs for which provision is made in this Section, Plaintiffs and Defendant waive any  
28

1 and all claims for fees, costs, indemnity or contribution against Plaintiffs, any Settlement Class Member,  
2 Plaintiffs' Counsel, Defendant, and their counsel.

## 3 **7. PLAINTIFFS' SERVICE PAYMENTS**

4 **7.1. Service Payment Of \$15,000 to Each Plaintiff.** Class Counsel intends to  
5 request—and HPE agrees not to oppose—that the Court approve a Service Payment of up to \$15,000 for  
6 each Plaintiff (total \$30,000), for their participation and effort in the Action. Each Plaintiff shall also  
7 receive a general release payment of \$5,000 as consideration for signing a general release against the  
8 Releasees as set forth in Paragraph 10. Such payments shall not be subject to payroll taxes or  
9 withholdings. Plaintiffs shall also receive the applicable Participating Settlement Class Member  
10 payments under this Agreement. Plaintiffs' Counsel reserves the right to appeal any Service Payment  
11 less than \$15,000 to each Plaintiff.

12 **7.1.1 Plaintiffs' Service Payments Not Material.** The Court's approval of the  
13 full requested amount of the Plaintiffs' Service Payments is not a material term of the Settlement or this  
14 Agreement. If the Court approves only a lesser amount than that requested by Class Counsel for a  
15 Plaintiff Service Payments, the other terms of the Settlement and this Agreement shall apply, including  
16 the provisions set forth in Paragraph 10.3. The Court's refusal to approve the full amount of the  
17 Plaintiffs' Service Payments requested by Class Counsel does not give the Plaintiff, the Settlement Class  
18 Members, or Class Counsel any basis to abrogate the Settlement or this Agreement. Any amount of a  
19 Plaintiff's Service Payment requested by Class Counsel but unapproved by the Court shall be allocated  
20 to the Net Settlement Amount.

21 **7.1.2 Timing Of Plaintiffs' Service Payments.** The Settlement Administrator  
22 shall pay to Plaintiffs any approved Service Payments no later than 60 calendar days after the Effective  
23 Date. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs for any Service Payment.  
24 Plaintiffs shall be solely and legally responsible for paying all applicable taxes on any Service Payments.

## 25 **8. SETTLEMENT ADMINISTRATOR COSTS**

26 Class Counsel intends to request—and HPE agrees not to oppose—that the Court approve  
27 Settlement Administration Costs of up to \$35,000. Upon completion of administration of the  
28 Settlement, the Settlement Administrator shall provide written certification of such completion to Class

1 Counsel and HPE’s Counsel. The Parties agree to cooperate in the settlement administration process  
2 and to make all reasonable efforts to control and to minimize settlement administration costs.

3 **9. FINAL FUNDING OF THE GROSS SETTLEMENT**

4 **9.1. Funding Of Gross Settlement Amount Within 30 Days Of Effective Date.**

5 HPE shall deposit into an interest-bearing escrow account with the Settlement Administrator the Gross  
6 Fund Value within 30 calendar days after the Effective Date.

7 **9.2. Tax Payment Considerations.** Class Counsel, HPE’s Counsel, HPE, and the  
8 Settlement Administrator are not giving any tax advice in connection with the Settlement or any  
9 payments to be made pursuant to this Agreement. Neither Class Counsel, HPE’s Counsel, or HPE intend  
10 anything contained in this Settlement or Agreement to constitute advice regarding taxes or taxability,  
11 nor shall anything in this Settlement or Agreement be relied upon as such within the meaning of United  
12 States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

13 **9.3. No Impact On Contributions To Employee Benefit Plans.** None of the  
14 payments made pursuant to the Settlement and this Agreement shall be considered to alter the terms or  
15 to grant any rights to additional payments under any employee benefit plans. None of the payments  
16 made pursuant to the Settlement and this Agreement shall be considered for purposes of determining  
17 eligibility for, vesting or participation in, or contributions to any benefit plan, including, without  
18 limitation, all plans subject to the Employee Retirement and Income Security Act of 1974 (“ERISA”).  
19 Any distribution of payments to Plaintiffs or Participating Settlement Class Members shall not be  
20 considered as a payment of wages or compensation under the terms of any applicable benefit plan and  
21 shall not affect participation in, eligibility for, vesting in, the amount of any past or future contribution  
22 to, or level of benefits under any applicable benefit plan.

23 Any amounts paid will not impact or modify any previously credited hours of service or  
24 compensation taken into account under any bonus or incentive plan, benefit plan sponsored or  
25 contributed to by HPE or any jointly-trusted benefit plan, or for purposes of calculating the regular rate  
26 of pay. For purposes of this Agreement, “benefit plan” means each and every “employee benefit plan,”  
27 as defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k) plan, bonus,  
28 pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability,



1 vacation, sick leave, severance, hospitalization, insurance, incentive, deferred compensation, or any  
2 other similar benefit plan, practice, program, or policy.

3 **9.4. HPE's Taxes.** The Settlement Administrator shall deduct HPE's portion of  
4 payroll taxes from the Gross Fund Value prior to calculating the Net Settlement Amount, and shall pay  
5 HPE's portion of payroll taxes to the applicable tax authorities on behalf of HPE.

6 **10. RELEASES**

7 **10.1. Release by Participating Settlement Class Members.** Upon entry of the Final  
8 Approval Order and Judgment and payment by HPE to the Settlement Administrator, and except as to  
9 such rights or claims as may be created by this Agreement, each Participating Settlement Class Member,  
10 and each of their respective executors, administrators, representatives, agents, heirs, successors, assigns,  
11 trustees, spouses, or guardians, will release each of the Released Parties of and from any and all claims,  
12 debts, liabilities, demands, obligations, statutory or civil penalties, wages, other compensation, benefits,  
13 liquidated damages, interest, premium pay, guarantees, restitution, disgorgement, preliminary or  
14 permanent injunctive relief, declaratory relief, costs, expenses, attorneys' fees, damages, actions or  
15 causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that  
16 were or reasonably could have been pled based on the same facts alleged in the Action, including, but  
17 not limited to (1) claims under federal, state and local laws for violation of federal, state and local equal  
18 pay laws (except for claims under the Federal Equal Pay Act, which shall be released according to the  
19 provisions in Section 10.2); (2) unequal pay or pay discrimination claims based on employment by  
20 Defendant; (3) unequal pay under the California Fair Pay Act; (4) violation of California's Unfair  
21 Competition Law; (5) the Civil Rights Act of 1964 and 1999, as amended; (6) the California  
22 Government Code, specifically including, but not limited to, the Fair Employment and Housing Act  
23 pursuant to Government Code Section 12900, *et seq.*; (7) the California Labor Code (including claims  
24 for waiting time penalties under Sections 201, 202 and 203 as well as claims under Section 1194.5).  
25 The Participating Settlement Class Members agree not to sue or otherwise make a claim against any of  
26 the Releasees for any of the released claims in this paragraph.

27 **10.2. Release of Federal EPA Claims.** In addition, each Participating Settlement Class  
28 Member, by not opting out and further cashing or negotiating their settlement award check, will also be

1 deemed to have opted into the Action for purposes of the federal Equal Pay Act, 29 U.S.C § 206 (d) *et*  
2 *seq.* (“Federal EPA”) and their released claims will include a release under the Federal EPA. The  
3 Participating Settlement Class Members who have opted into the Action for the purposes of the Federal  
4 EPA agree not to sue or otherwise make a claim against any of the Releasees for the Federal EPA claims  
5 released in this paragraph.

6 **10.3. Additional Release By Plaintiffs.** In addition to the above releases applicable to  
7 the Participating Settlement Class Members, upon entry of the Final Approval Order and judgment and  
8 payment by HPE to the Settlement Administrator, and in exchange for receipt of \$5,000 each, Plaintiffs  
9 also generally release any and all claims against each of the Released Parties. The Settlement  
10 Administrator shall provide Plaintiffs with a form 1099 in connection with the entire Service Payment  
11 and General Release Payment. This general release includes any and all claims arising from the  
12 employment relationship with HPE. This general release by the Plaintiffs also includes a waiver of  
13 California Civil Code Section 1542. As part and parcel to this release upon its becoming effective,  
14 Plaintiffs expressly waive all rights provided by California Civil Code Section 1542, or other similar  
15 statutes, that the Plaintiffs may have against each of the Released Parties. California Civil Code Section  
16 1542 states:

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

20 **10.4. Plaintiffs’ Acknowledgments.** Plaintiffs acknowledge that they have read this  
21 Agreement in its entirety, including the above language from the California Civil Code, and that they  
22 fully understand both this Agreement and the California Civil Code section. By executing this  
23 Agreement, Plaintiffs expressly waive any benefits and rights granted pursuant to California Civil Code  
24 Section 1542 or any statute, rule, or principle of common law or equity, in any jurisdiction, that is  
25 similar, comparable, or equivalent, in whole or in part, to California Civil Code Section 1542, except as  
26 otherwise set forth herein. The Plaintiffs acknowledge that HPE has no obligation to rehire them. The  
27 Plaintiffs acknowledge and agree that this knowing and voluntary waiver is an essential and material  
28 term of this Agreement, and the Agreement would not have been entered into without such a waiver.

1                   **10.5. Acknowledgment Of Binding Terms Of The Settlement, Despite Other**

2 **Potential Claims.** Class Counsel and the Plaintiffs acknowledge that they may hereafter discover facts  
3 or law different from, or in addition to, the facts or law they know or believe to exist with respect to the  
4 Released Claims. Class Counsel and the Plaintiffs nonetheless agree that this Agreement and the  
5 Released Claims contained in it shall be and remain effective in all respects notwithstanding such  
6 different or additional facts or law regarding such Released Claims. These releases do not include any  
7 claims that cannot be waived as a matter of law.

8                   **10.6. No Admission of Liability.** By entering into this Agreement, HPE in no way  
9 admits the accuracy of any allegation made by Plaintiffs or Plaintiffs' Counsel. HPE in no way admits  
10 any violation of law or any liability whatsoever to Settlement Class Members, individually or  
11 collectively, and expressly deny all such liability. Neither this Agreement, nor any other Settlement  
12 documents, shall be offered in any case or proceeding as evidence of any admission by HPE of any  
13 liability on any claim for damages, penalties, restitution, or any other relief. Likewise, by entering into  
14 this Agreement, HPE in no way admits to the suitability of this case for class action or representative  
15 action litigation, other than for purposes of Settlement. Rather, HPE enters into this Agreement to avoid  
16 further protracted litigation and to resolve and to settle all disputes with Settlement Class Members.

17                   The Parties understand and agree that this Agreement and all exhibits thereto are settlement  
18 documents and shall be inadmissible for any purpose in any proceeding, except an action or proceeding  
19 to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the extent  
20 permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as  
21 the basis for an injunction against any action, suit, or other proceeding that may be instituted,  
22 prosecuted, or attempted in breach of this Agreement.

23                   **11. SETTLEMENT APPROVAL PROCEDURE**

24                   **11.1. Preliminary Approval.** The Plaintiffs shall file a motion to seek an order to  
25 preliminarily approve the proposed Settlement according to the terms in this Agreement and provide for  
26 the Notice of Class Action Settlement and the Request for Exclusion to be sent to Settlement Class  
27 Members as specified in this Agreement. This motion shall include the bases for the Gross Fund Value  
28 and why the amount is reasonable in light of the facts and controlling authorities pertaining to the claims

1 alleged in the Complaint and the procedural history of the Action. The motion shall also be  
2 accompanied by signed declarations by Class Counsel, discussing the decision that the best interests of  
3 Plaintiffs and the Settlement Class are served by the terms of this Agreement. The Plaintiffs shall  
4 submit declarations explaining the time they invested in participating and assisting Class Counsel with  
5 the investigation, discovery, and litigation in this matter.

6 **11.2. Effect Of Failure To Obtain Preliminary Approval.** If a material term of this  
7 Settlement or Agreement is not preliminarily approved, the Parties shall attempt to mutually agree on  
8 terms that will be satisfactory for the Court for Preliminary Approval. If the Parties are unable to  
9 mutually agree on satisfactory terms, the Parties will reengage the services of the mediator, Tripper  
10 Ortman, III. Any additional mediator's fees will be split equally by the Parties.

11 **11.3. Final Approval.** The Plaintiffs shall submit to the Court a Motion for a Final  
12 Approval Order. The motion shall request the entry of a Final Approval Order, which shall include  
13 findings and orders: (a) approving the Settlement and the Agreement; (b) adjudging the terms to be fair,  
14 reasonable, and adequate; (c) incorporating the Released Claims in full; (d) directing that the Settlement  
15 terms and provisions be carried out; and (e) retaining jurisdiction to oversee administration and  
16 enforcement of the terms of this Agreement and the Court's orders.

17 **11.4. Entry Of Judgment.** At the final approval hearing, the Parties shall request that  
18 the Court, among other things: (a) enter final judgment in accordance with this Agreement and without  
19 further fees or costs to any party except as expressly set forth in this Agreement; (b) approve this  
20 Agreement as fair, reasonable, adequate, and binding on Participating Settlement Class Members; (c)  
21 enter an order as to Class Counsel's request for an attorneys' fees and costs award; and (d) enter an  
22 order as to the request for Service Payments.

23 **11.5. Effect Of Failure To Obtain Entry of Judgment.** In the event the Court fails to  
24 enter judgment in accordance with this Agreement, or such judgment is vacated or reversed, the Parties  
25 shall attempt to mutually agree on terms that will be satisfactory for the Court so as to effectuate final  
26 approval and entry of judgment. If the Parties are unable to mutually agree on satisfactory terms, the  
27 Parties will reengage the services of the mediator, Tripper Ortman, III. Any additional mediator's fees  
28 will be split equally by the Parties. If the Parties are unable to resolve the case through a subsequent

1 mediation, the Action shall proceed as if no settlement had been attempted and revert to its prior  
2 procedural posture. Defendant retains the right to contest whether any aspect of the Action should be  
3 maintained as a class action or representative action, or to contest the merits of the claims being asserted  
4 by the Plaintiffs or Settlement Class in the Action.

5 **11.6. Waiver Of Appeal Rights.** By accepting this Settlement, and upon final  
6 approval of the settlement being granted, the Parties hereby waive any and all rights they may have to  
7 appeal any judgment, ruling, or order made by the Court in this Action, including, without limitation,  
8 any order granting preliminary or final approval of this Settlement (with the exception of Plaintiffs'  
9 ability to appeal as described in Sections 6 and 7 of this Agreement). This includes all rights to any  
10 post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate  
11 judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become  
12 non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to  
13 oppose any appeal, appellate proceedings, or post-judgment proceedings. If an appeal is taken from the  
14 Judgment, the time for consummation of the Settlement (including making payments under the  
15 Settlement) will be suspended until such time as their appeal is finally resolved and the Judgment  
16 becomes final.

17 **12. NO OTHER KNOWN POTENTIAL PLAINTIFFS.**

18 **12.1. Plaintiffs' Counsel is Unaware of Other Potential Plaintiffs.** Plaintiffs'  
19 Counsel represent and warrant on behalf of themselves, and all others in their employ or otherwise  
20 acting on their behalf, that they: (i) have not been retained by any other individuals or entities with  
21 claims against Defendant; (ii) have not encouraged any other individuals or entities to bring claims  
22 against Defendant; (iii) are unaware of and have not been informed of any other individuals or entities  
23 who have or may have claims against Defendant; and (iv) are not aware of, nor have they been informed  
24 of, any other HPE employee, or former HPE employee, potential plaintiff, Settlement Class Member, or  
25 attorney who intends to bring litigation against Defendant, including, but not limited to, based on the  
26 subject matter of this Action.

27 **12.2. Plaintiffs Are Unaware of Other Potential Plaintiffs.** Plaintiffs represent and  
28 warrant that they: (i) are unaware of, nor have they been informed of, any other individual or entity who

1 has or may have a claim against Defendant; (ii) are not aware of, nor have they been informed of, any  
2 other HPE employee, or former HPE employee, potential plaintiff, Settlement Class Member, or  
3 attorney who intends to bring litigation against Defendant; and (iii) have not encouraged and will not  
4 encourage or provide assistance to any other person or entity to assert or bring a claim against  
5 Defendant.

6 **13. PUBLICITY.**

7 Plaintiffs and Plaintiffs' Counsel will not publicize the settlement in any way, except as follows:  
8 nothing shall prevent Plaintiffs' Counsel from communicating with members of the Eligible Settlement  
9 Class after preliminary approval, and after preliminary approval Plaintiffs' Counsel is permitted to post  
10 court-filed documents on their website for viewing solely by the Eligible Settlement Class. Class  
11 Counsel has not and shall not publicize the settlement in their marketing materials, website, or other  
12 advertising media. However, nothing in this paragraph shall prevent Plaintiffs' Counsel from  
13 communicating with members of the Settlement Class after preliminary approval, and after preliminary  
14 approval Plaintiffs' Counsel is permitted to post Court-filed documents on their website for viewing  
15 solely by the Settlement Class. Plaintiffs' Counsel further agrees to ensure that all documents relating to  
16 the Action are available for viewing solely by the Settlement Class.

17 **14. MISCELLANEOUS**

18 **14.1. Interim Stay Of Proceedings.** The Parties agree to refrain from further  
19 litigation, except such proceedings necessary to implement and to obtain a Preliminary Approval Order  
20 and Final Approval Order of the terms of the Agreement. If the Settlement is not finally approved, or if  
21 more than five percent of the Settlement Class Members choose exclusion or object to the settlement,  
22 Defendant retains the option to withdraw from the MOU and this Agreement. No agreements set forth in  
23 this Agreement or any documents generated or orders issued related to the Settlement will be admissible  
24 in any future proceeding in this or any other action.

25 **14.2. Parties' Authority.** The signatories hereto represent that they are fully  
26 authorized to enter into this Agreement and are fully authorized to bind the Parties to all terms stated  
27 herein. It is agreed that Settlement Class Members are so numerous that it is impossible or impractical  
28

1 to have each Settlement Class Member execute this Agreement. It is agreed that this Agreement may be  
2 executed on behalf of Settlement Class Members by the Plaintiffs and Class Counsel.

3 **14.3. Entire Agreement.** This Agreement, which includes the Definitions, Procedural  
4 History and Recitals (with the exception of Section 2.5) and all Exhibits attached hereto, constitutes the  
5 entire agreement between the Parties with regard to the subject matter contained herein, and all prior and  
6 contemporaneous negotiations and understandings between the Parties shall be deemed merged into this  
7 Agreement. The Parties and their counsel shall not offer any evidence of the negotiation history or  
8 terms that were proposed and/or rejected during the negotiation of this Agreement. Any such prior  
9 negotiations are protected from disclosure by the mediation privilege and cannot be offered into  
10 evidence. Only the terms set forth in this Agreement shall be binding.

11 **14.4. Materiality Of Terms.** The Parties have arrived at this Agreement as a result of  
12 arm's-length negotiations. Where stated in this Agreement, certain terms are material and revision of  
13 these material terms will allow HPE the option to void this Agreement.

14 **14.5. Counterparts.** This Agreement may be executed in counterparts, and when each  
15 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an  
16 original, and when taken together with other signed counterparts, shall constitute one signed Agreement,  
17 which shall be binding upon and effective as to all Parties.

18 **14.6. Facsimile, DocuSign Or Scanned Signatures For This Agreement.** Any party  
19 may sign and deliver this Agreement by signing on the designated signature block and transmitting that  
20 signature page via facsimile, DocuSign or an equivalent e-signature plan, or as an attachment to an e-  
21 mail to counsel for the other party. Any signature made and transmitted by facsimile, DocuSign or an  
22 equivalent e-signature plan, or as an attachment to an e-mail for the purpose of executing this  
23 Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding  
24 upon the party who transmits the signature page.

25 **14.7. Binding Effect.** This Agreement shall be binding upon the Parties and, with  
26 respect to the Plaintiffs, Participating Settlement Class Members, their spouses, children,  
27 representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys, and assigns.  
28

1           **14.8. Waivers And Modifications To Be In Writing.** No waiver, modification, or  
2 amendment of the terms of this Agreement, whether purportedly made before or after the Court’s  
3 approval of this Agreement, shall be valid or binding, unless in writing, signed by or on behalf of all  
4 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject  
5 to any required Court approval. Any failure by any Party to insist upon the strict performance by the  
6 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future  
7 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,  
8 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of  
9 any and all of the provisions of this Agreement. The time periods and dates provided in this Agreement  
10 with respect to giving of notices and hearings are subject to Court approval and modification by the  
11 Court or by written stipulation of Class Counsel and HPE’s Counsel.

12           **14.9. Notices.** Any notice to be given pursuant to this Agreement shall be made by  
13 email and overnight delivery to Class Counsel or HPE’s Counsel. If Participating Settlement Class  
14 Members have questions about this Agreement or their Individual Settlement Payments, they must  
15 contact Class Counsel, rather than HPE. HPE shall have no obligation to respond to communications by  
16 Participating Class Members.

17           **14.10. Construction.** The determination of the terms and conditions of this Agreement  
18 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this  
19 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,  
20 construed against any party by virtue of draftsmanship.

21           **14.10.1 Exhibits Incorporated By Reference.** The terms of this  
22 Agreement include the terms set forth in any attached exhibit, which are incorporated by this reference  
23 as though fully set forth herein. Any exhibit to this Agreement is an integral part of the Settlement.

24           **14.10.2 Captions.** The captions or headings of the sections and paragraphs  
25 of this Agreement have been inserted for convenience of reference only and shall have no effect upon  
26 the construction or interpretation of any part of this Agreement.

27           **14.10.3 Invalidity Of Any Provision.** Before declaring any provision of  
28 this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent



1 possible consistent with applicable precedents so as to render all provisions of this Agreement valid and  
2 enforceable. In the event any non-material provision of this Agreement is deemed invalid by the Court,  
3 it shall be struck and severed, and the remainder of the Agreement shall be enforced to the fullest extent  
4 possible.

5 **14.11. Further Acts And Cooperation Between The Parties.** The Parties shall  
6 cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this  
7 Agreement and all of its terms. Each of the Parties, upon the request of another, agrees to perform such  
8 further acts and to execute and to deliver such other documents as are reasonably necessary to carry out  
9 the provisions of this Agreement.

10 **14.12. No Prior Assignments Or Undisclosed Liens.** The Plaintiffs and Class Counsel  
11 represent and warrant that they have not assigned, transferred, conveyed, or otherwise disposed of, or  
12 purported to assign, transfer, convey, or otherwise dispose of, any Released Claims or the attorneys' fees  
13 and costs award to be paid pursuant to this Agreement. The Plaintiffs and Class Counsel further  
14 represent and warrant that there are not any liens or claims against any of the amounts to be paid by HPE  
15 pursuant to this Agreement.

16 **14.13. Waiver Of Right To Object By The Plaintiffs.** Except as otherwise set forth  
17 herein, by signing this Agreement, the Plaintiffs are thereby bound by the terms of this Agreement. The  
18 Plaintiffs further agree that they shall not object to any of the terms of this Agreement.

19 **14.14. No Solicitation Of Objections.** The Parties further represent and warrant that  
20 they have not and will not solicit, encourage, or assist in any fashion any effort by any entity or person  
21 to object to or to seek exclusion from the Settlement set forth in this Agreement.

22 **14.15. Discovery of Confidential Documents and Information.** Class Counsel further  
23 agrees that none of the documents and information provided to them by HPE shall be used for any  
24 purpose other than prosecution of this Action or the defense or prosecution of a malpractice action.

25 **14.16. Continuing Jurisdiction.** The Court shall retain jurisdiction over the  
26 implementation of this Agreement as well as any and all matters arising out of, or related to, the  
27 implementation of this Agreement and Settlement. The Court shall not have jurisdiction to modify the  
28 material terms of the Agreement without the consent of all of the Parties.

1                   **14.17. Disputes.** If the Parties have a dispute with regard to the language of this  
2 Agreement, they agree to first attempt to resolve the dispute informally through good-faith negotiations,  
3 but if those efforts are unsuccessful, they agree to mediate any such dispute before Mediator Tripper  
4 Ortman, III, or, if he is not available, another mutually agreeable mediator. The Parties will split the  
5 costs of the mediator, and all parties will bear their own fees and costs.

6                   **14.18. Governing Law.** This Settlement and Agreement was made and entered into in  
7 the State of California. All terms of this Agreement shall be governed by and interpreted according to  
8 the substantive laws of the State of California and the procedural laws of the United States of America.  
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28

1 **SO AGREED AND STIPULATED:**

2 ZIMMERMAN REED LLP

3  
4 DATED: September <sup>09/23/2022</sup>\_\_\_\_, 2022

By: \_\_\_\_\_


5 Caleb Marker  
6 Flinn T. Milligan  
7 Arielle Canepa  
8 6420 Wilshire Blvd., Suite 1080  
9 Los Angeles, CA 90048  
10 (877) 500 8780 Telephone

11 LOCKRIDGE GRINDAL NAUEN PLLP

12 Susan E. Ellingstad  
13 Kristen G. Marttila  
14 Kailey C. Mrosak  
15 100 Washington Ave. S., Suite 2200  
16 Minneapolis, MN 55401  
17 (612) 339-6900 Telephone

18 *Attorneys for Plaintiffs*

19 DATED: September <sup>09/21/2022</sup>\_\_\_\_, 2022

By: \_\_\_\_\_  
Plaintiff Rocio Ross

20 DATED: September \_\_\_\_, 2022

By: \_\_\_\_\_  
Plaintiff Claudia Rogus

21 SEYFARTH SHAW LLP

22 Dated: September \_\_\_\_, 2022

By: \_\_\_\_\_

23 Camille A. Olson  
24 Richard B. Lapp  
25 Annette Tyman  
26 Robin E. Devaux  
27 560 Mission Street, 31st Floor  
28 San Francisco, CA 94105  
Telephone: (415) 397-2823  
*Attorneys for Defendant*

1 **SO AGREED AND STIPULATED:**

2 ZIMMERMAN REED LLP

3  
4 DATED: September \_\_, 2022

5 By: \_\_\_\_\_  
6 Caleb Marker  
7 Flinn T. Milligan  
8 Arielle Canepa  
9 6420 Wilshire Blvd., Suite 1080  
10 Los Angeles, CA 90048  
11 (877) 500 8780 Telephone

12 LOCKRIDGE GRINDAL NAUEN PLLP


13 Susan E. Ellingstad  
14 Kristen G. Marttila  
15 Kailey C. Mrosak  
16 100 Washington Ave. S., Suite 2200  
17 Minneapolis, MN 55401  
18 (612) 339-6900 Telephone

19 *Attorneys for Plaintiffs*

20 DATED: September \_\_, 2022

21 By: \_\_\_\_\_  
22 Plaintiff Rocio Ross

23 DATED: September <sup>9/22/2022</sup> \_\_, 2022

24 By:   
25 Plaintiff Claudia Rogus

26 SEYFARTH SHAW LLP

27 Dated: September \_\_, 2022

28 By: \_\_\_\_\_  
Camille A. Olson  
Richard B. Lapp  
Annette Tyman  
Robin E. Devaux  
560 Mission Street, 31st Floor  
San Francisco, CA 94105  
Telephone: (415) 397-2823  
*Attorneys for Defendant*

1 **SO AGREED AND STIPULATED:**

2 ZIMMERMAN REED LLP

3  
4 DATED: September \_\_\_\_, 2022

5 By: \_\_\_\_\_  
6 Caleb Marker  
7 Flinn T. Milligan  
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16 100 Washington Ave. S., Suite 2200  
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18 (612) 339-6900 Telephone

19 *Attorneys for Plaintiffs*

20 DATED: September \_\_\_\_, 2022

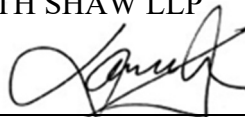
21 By: \_\_\_\_\_  
22 Plaintiff Rocio Ross

23 DATED: September \_\_\_\_, 2022

24 By: \_\_\_\_\_  
25 Plaintiff Claudia Rogus

26 SEYFARTH SHAW LLP

27 Dated: September 22, 2022

28 By:  \_\_\_\_\_  
Camille A. Olson  
Richard B. Lapp  
Annette Tyman  
Robin E. Devaux  
560 Mission Street, 31st Floor  
San Francisco, CA 94105  
Telephone: (415) 397-2823  
*Attorneys for Defendant*

# **EXHIBIT A**

## Exhibit A - Jobs In Settlement Class

- Account Delivery Manager III, IV
- Account Delivery Manager V
- Account Operations Manager II - IV
- Appl Mgmt Svc Del Cons I - IV
- Assistant IV
- Bus Development Consultant III - V
- Bus Operations Analyst II
- Business Analyst I - V
- Business Consulting II - V
- Business Operations Manager I
- Business Operations Mgr II, III
- Business Planning Analyst II
- Business Planning Manager I - III
- Business Strategy Manager II, III
- C&B Advisor IV, V
- Clerk II, III
- Client Manager III - V
- Communications Manager II, III
- Cust Engmt Mgmt Advisor II and III
- Cust Exp Mktg Manager II
- Customer Proj/Prgm Mgr I - V
- Customer Solutions Rep V
- Cybersecurity Analysis & Response Professional IV, V
- Cybersecurity Design & Engineering Professional I, IV, V
- Data Engineer II - IV
- Dir Client Management II
- Dir Engineering I - II
- Dir Finance I, II
- Dir HR Business Partner I
- Dir ITO Svc Delivery I
- Dir Marketing Comm II, III
- Dir PSS GTM Programs I
- Dir PSS Life Cycle Mktg I, II
- Dir Service Segment I, II
- Dir Strategic Development I
- Dir Strategic Procurement I
- Dir, Account Executive II
- Dir. Strategy & Planning I, II
- Director Bus Operations I
- Director Info Technology I - III
- Director Sales Operations I, II
- Dist Tech-Research Engr
- Dist Tech-SW Engr (Firmware)
- Dist. Tech. - SW Designer
- Dist. Tech. - SW Operating Sys
- Editor III (inactive)
- Electrical/Hdwr Engineer V - VII
- Engagement Consultant III, IV
- Engineer I, II, V, VI
- Engr Program Mgr I - III
- Executive Assistant II, III
- Experience Design Engr I
- Facilities Svcs Specialist III
- Field Technical Spt Cons III, IV
- Field Technical Spt Rep III - V
- Financial Analyst II, III
- Global Equity Plan Spec II
- HR Business Partner V
- Indus/Cust Segmt MktgMgr III
- Info Systems Architect III - V
- Information Developer I - V
- Information Testing I - IV
- Insurance/Healthcare Cons II - V
- Insurance/Healthcare Rep III, IV
- Interactive/Web Mktg Mgr I - III
- Intern Tech - 3rd Yr Complete
- IT Business Consultant I, IV, V
- IT Developer/Engineer I - V
- IT Ops/Support Analyst IV, V
- ITO Svc Delivery Cons I - IV
- ITO Svc Delivery Cons V
- ITO Svc Delivery Rep I - V
- L&D Program Manager II, IV, V
- Legal Counsel I, III, V
- Manager Communications II
- Manager Cust Exp Mktg II
- Manager Info Technology I, II
- Manager Tech Publications II
- Manager, Account Delivery I
- Manager, Account Operations Management II
- Manager, Business Planning II
- Manager, Business Strategy I, II
- Manager, CSC- Technical I
- Manager, Finance I, II

- Manager, Product Management II
- Manager, Sales Operations Management II
- Material & Dist Mgr II
- Mechanical/Hdwr Engineer V
- Media/Ana Relations Mgr I - III
- Mgr Business Operations II
- Mgr Consulting I, II
- Mgr Developer/Engineer I, II
- Mgr Engineering II, IV
- Mgr Engr Program II, IV
- Mgr Interactive/Web Mktg II
- Mgr ITO Svc Delivery I, II
- Mgr Marcom Programs II
- Mgr Media/Ana Relations II
- Mgr Process & Capabilities I, II
- Mgr PSS GTM Programs I, II
- Mgr PSS Life Cycle Mktg I, II
- Mgr Research Engr II
- Mgr Strategic Development II
- Mgr Strategic Procurement II
- Mgr SW Engr (Apps) I, II
- Mgr SW Engr Firmware I, II
- Mgr SW Engr QA I, II
- Mgr Systems/Software Engr II, IV
- Mgr, Account Executive II
- Mgr, Client Management I, II
- Mgr, Field Technical Spt I
- Mgr, Practice Principal I, II
- Mgr, Prgm Mgt Office I, II
- Mgr, Service Segment I, II
- Mgr. Application Mgmt I
- Mktg Ana / Ops Mgr II, III
- Operational Procs Mgmt Ana II - V
- Partner Marketing Mgr II, III
- Post-Doctoral
- Process & Capabilities Mgr I - III
- Procurement Engineer V
- Product Engineer IV
- Product Manager IV, V
- Project Manager I - V-Internal
- PSS GTM Programs Mgr I - III
- PSS GTM Programs Prof II
- PSS Life Cycle Mktg Mgr I - III
- PSS Life Cycle Mktg Prof II
- Qua Project Program Mgr III - V
- Research Engr III – V
- Sales Compensation Operations Analyst IV, V
- Sales Operations Analyst III - V
- Sales Processing Analyst III, IV
- Sales Support Analyst III
- Sales Supt Mgmt Analyst III
- Security Analyst III
- Senior Fin Sys Analyst II
- Senior Financial Analyst I, II
- Senior Treasury Analyst II
- Service Segment Mgr III - V
- Software Designer II, V - VII
- Specialist Legal Counsel III, IV
- Staffing Advisor IV, V
- Strategic Development Mgr I - III
- Strategic Procurement Mgr I - III
- Strategist, Specialist Legal Counsel VI
- Supv, ITO Service Delivery II
- Svc Info Developer II - IV
- SW Eng Support Specialist IV
- SW Engr Firmware II – V
- SW Engr QA II – IV
- Systems/Software Engr I, II, V - VII
- Technical Solutions Cons I - V
- Technical Solutions Rep III, IV
- Technology Consultant I - V
- Test Engineer IV
- VLSI Engineer III
- WFP Program Manager I



# **EXHIBIT B**

## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*R. Ross & C. Rogus v. Hewlett Packard Enterprise Company,*  
Santa Clara County Superior Court Case No. 18 CV 337830

**Records indicate that you are a woman who was actively employed in California by Hewlett Packard Enterprise Company between November 1, 2015 and [DATE, 2022] in one of the job codes set forth on the attached Exhibit A.**

**Please read this Class Notice carefully. This Class Notice relates to a proposed settlement of a case brought as a class action.** Your legal rights are affected whether or not you act. The full Settlement Agreement can be found at [equalpaysettlement.com](http://equalpaysettlement.com).

You have received this Class Notice because Hewlett Packard Enterprise Company (“Defendant” or “HPE”)’s records show that you are a “Settlement Class Member,” and therefore entitled to a payment. Settlement Class Members include all:

Women (as identified in Defendant’s Human Resources Information System, Workday) actively employed in California by Defendant at any point from November 1, 2015 through the date of Preliminary Approval, and who were employed in one of the job codes set forth on Exhibit A to the [Settlement Agreement].

The Class does not include any individual who: (1) executed a waiver and release; (2) executed an arbitration agreement with respect to their employment upon hire or otherwise; or (3) were a college hire as defined by being hired within two (2) years of internship, age at hire is 23 or below with a Bachelor’s degree, age at hire is 27 below with a Master’s degree, or age at hire is 30 or below with a Ph.D degree.

**Based on this Settlement’s Plan of Allocation and HPE’s records, your estimated individual settlement payment is \$##,###.##.**

- The settlement resolves a case that was brought as a class-action lawsuit, *R. Ross & C. Rogus v. Hewlett Packard Enterprise Company*, Santa Clara County Superior Court Case No. 18 CV 337830 (the “Action”), in which Plaintiffs Rocio Ross and Claudia Rogus (“Plaintiffs”) allege causes of action related to unequal pay practices for: (1) violation of the California Equal Pay Act (“EPA”), Cal. Lab. Code §§ 1197.5, 1194.5 (including violation of the Fair Employment Housing Act, Gov. Code §12940(a)); (2) failure to pay all wages due to discharged and quitting employees, Cal. Lab. Code §§ 201-20, 1194.5; (3) unfair business practices, Cal. Bus. & Prof. Code § 17200 (“UCL”) (including violation of the Fair Employment Housing Act)); and (4) declaratory relief, Cal. Civ. Proc. Code § 1060 *et seq.*;
- On \_\_ 2022, the Santa Clara County Superior Court granted preliminary approval of this Settlement and ordered that all Settlement Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Action. Defendant vigorously denies the claims in the Action and contends that it fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the Settlement of the Action.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement. In such an instance, you get no payment from the Settlement, and will retain your legal rights to pursue individual claims that would otherwise be released by the Settlement.

**OBJECT TO THE  
SETTLEMENT**

If you do not opt out, you may write to the Settlement Administrator, Atticus Administration, LLC (“Settlement Administrator”), about why you object to the Settlement and they will forward your concerns to Class Counsel, and they will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. If you timely object, you or your attorney may also address the Court during the Final Fairness Hearing scheduled for [date], at [time], in Dept. 1 of the Downtown Superior Court of Santa Clara Superior Court, located at 191 North First Street, San Jose, CA 95113 (though as explained below, appearances are remote due to COVID-19).

The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 1:30 p.m. on April 27, 2023, in Dept. 1 of the Downtown Superior Court of Santa Clara Superior Court, located at 191 North First Street, San Jose, CA 95113 (however, appearances are remote through CourtCall as explained below). You are not required to attend the Final Fairness Hearing, but you are welcome to do so.

### **Why Am I Receiving This Notice?**

HPE's records indicate that you are a woman who is or was actively employed in California by Hewlett Packard Enterprise Company between November 1, 2015 and [date, 2022], the date this Settlement was preliminarily approved, in one of the job codes set forth on the attached Exhibit A, and that you were not a recent college hire, and have not entered into a waiver and release or an arbitration agreement with respect to your employment with Hewlett Packard Enterprise Company.

You were sent this Class Notice because you have a right to know about a proposed Settlement of this Action, and about all of your options before the Court decides whether to finally approve the Settlement. If the Court approves the Settlement and then any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments described in this Notice. This Notice explains the Action, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

### **What Is This Case About?**

Rocio Ross and Claudia Rogus ("Plaintiffs") were employed by HPE in California in jobs listed on the attached Exhibit A. They are suing on behalf of themselves and Settlement Class Members for Defendant's alleged failure to provide equal pay (1) in violation of the California Equal Pay Act ("EPA"), Cal. Lab. Code §§ 1197.5, 1194.5 (including violation of the Fair Employment Housing Act, Gov. Code §12940(a)); (2) failure to pay all wages due to discharged and quitting employees, Cal. Lab. Code §§ 201-20, 1194.5; (3) unfair business practices, Cal. Bus. & Prof. Code § 17200 ("UCL") (including violation of the Fair Employment Housing Act); and (4) declaratory relief, Cal. Civ. Proc. Code § 1060 *et seq.*

HPE denies all of the allegations made by Plaintiffs and denies that it violated any law. The Court has made no ruling on the merits of Plaintiffs' claims. The Court has only preliminarily approved this Settlement. The Court will decide whether to give final approval to the Settlement at the Final Fairness Hearing.

### **Summary of the Settlement Terms**

Plaintiffs and Defendant have agreed to settle this case on behalf of themselves and the Settlement Class Members for the Gross Fund Value of \$8,500,000. The Gross Fund Value includes: (1) Settlement Administration Costs up to \$35,000; (2) a service payment of \$15,000 to each Plaintiff for their time and effort in pursuing this case; (3) a \$5,000 payment to each Plaintiff and in exchange for a broader release of claims against Defendant; (4) up to \$2,833,333.33 in attorneys' fees and actual verified litigation costs to Class Counsel; (5) the Participating Class Members' share of any required payroll taxes, (6) HPE's share of payroll taxes as required by law; and (7) the \$400,000 Settlement Dispute Fund (defined below). After deducting these sums, a total of approximately \$5,191,666.67 (less Participating Class Members' share of payroll taxes and HPE's portion of employer payroll taxes) will be available for distribution to Participating Class Members ("Net Settlement Amount"). Class Counsel's estimated litigation costs at the time of preliminary approval are approximately \$###,###.00 (\$297,000.00 for ZR).

### **Distribution to Participating Settlement Class Members**

The Net Settlement Amount will be distributed to Participating Class Members (Settlement Class Members who do not elect to opt out of the Settlement) on a *pro rata* basis based on their proportionate share of wages, bonuses and equity defined by HPE from November 1, 2015 to September 1, 2022 in a job code listed on the attached Exhibit A ("Individual Settlement Payments") as determined by dates of employment in the relevant job classification codes and other qualifying information agreed upon by the Parties. This amount is called the "Total Compensation."

The Settlement Administrator will be provided with the Total Compensation for each Participating Class Member who worked in a job code listed in the attached Exhibit A during the period November 1, 2015 to September 1, 2022 as an HPE employee in California. The Settlement Administrator will also be provided with the "Class Total Compensation," which is the wages, bonuses and equity as defined by HPE paid to all Participating Settlement Class Members for work performed during the period of November 1, 2015 – September 1, 2022, within a job code classification attached in Exhibit A, as determined by dates of employment in the relevant job classification codes and other qualifying information agreed upon by the Parties.

To calculate the Individual Settlement Payments, each Participating Settlement Class Member's Total Compensation will be divided by the aggregate Class Total Compensation, and then multiplied by the Net Settlement Amount. Under this

formula, each Participating Settlement Class Member will receive their pro rata share of the Net Settlement Amount based on their relative compensation during the time period. Defendant's share of taxes and the Participating Settlement Class Members' employee share of payroll taxes and withholdings will be withheld from the Individual Settlement Payment. The entire Individual Settlement Payment will be classified as wages.

In addition, a \$400,000 sum will be set aside as a Settlement Dispute Fund ("Dispute Fund") to address any objections raised by a Participating Settlement Class Member for an enhancement of her Individual Settlement Payment. Participating Settlement Class Members shall submit their requests for a monetary enhancement directly to the Settlement Administrator using the Settlement Administrator's website: [equalpaysettlement.com](http://equalpaysettlement.com) by [date]. Any request for an enhancement must be accompanied by documentary evidence and include the last four digits of the Participating Settlement Class Member's social security number. The Settlement Administrator will review requests for enhancements and make recommendations to approve or deny to Plaintiffs' Counsel. Any request for enhancement shall be evaluated pursuant to the criteria set forth in Labor Code section 1197.5(a). Counsel for the Parties shall confer and approve any requests. Should approved requests for enhancement exceed the allocation for the Dispute Fund, all approved requests will be reevaluated *pro rata* so as not to exceed the total allocation of the Dispute Fund. Any unused, residual funds of the Dispute Fund will be distributed *pro rata* to Participating Settlement Class Members.

Participating Settlement Class Members will have 120 days from the date on which the Individual Settlement Payment check is issued to cash or negotiate their checks. For any check not cashed, the Settlement Administrator will tally the sum value of all unclaimed checks and distribute the amount *pro rata* to Participating Settlement Class Members.

Defendant's records indicate that your Total Compensation as an HPE employee in one or more of the job codes listed in the attached Exhibit A in California during the period November 1, 2015 to September 1, 2022 was \$ \_\_\_\_\_. Based on these records, your estimated payment as a Participating Settlement Class Member would be approximately [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, or if you believe you are entitled to an enhanced settlement payment due to your individual circumstances, you must submit your dispute to the Settlement Administrator no later than [date]. Please include any documentation you have that you contend supports your dispute.

### **Tax Reporting**

The Individual Settlement Payment will be allocated as wages and reported on an IRS Form W-2. This Notice is not intended to provide legal or tax advice on your Individual Settlement Payment.

### **Your Options Under the Settlement**

#### **Option 1 – Do Nothing and Receive Your Payment**

If you do not opt out, you are automatically entitled to your settlement check because you are a Participating Settlement Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Participating Settlement Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Settlement Class Members who do not submit a valid and timely opt out (pursuant to Section 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims she may have or had upon final approval of this Settlement, entry of judgment, and payment by Defendant to the Settlement Administrator.

Upon entry of the Final Approval Order and Judgment and payment by HPE to the Settlement Administrator, and except as to such rights or claims as may be created by this Agreement, each Participating Settlement Class Member, and each of their respective executors, administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians, will release each of the Released Parties of and from any and all claims, debts, liabilities, demands, obligations, statutory or civil penalties, wages, other compensation, benefits, liquidated damages, interest, premium pay, guarantees, restitution, disgorgement, preliminary or permanent injunctive relief, declaratory relief, costs, expenses, attorneys' fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that were or reasonably could have been pled based on the same facts alleged in the Action, including, but not limited to (1) claims under federal, state and local laws for violation of federal, state and local equal pay laws (except for claims under the Federal Equal Pay Act, which shall be released according to the provisions in Section 10.2); (2) unequal pay or pay discrimination claims based on employment by Defendant; (3) unequal pay under the California Fair Pay Act; (4) violation of California's Unfair Competition Law; (5) the Civil Rights Act of 1964 and 1999, as amended; (6) the California Government Code, specifically including, but not limited to, the Fair Employment and Housing Act pursuant to Government Code Section 12900, et seq.; (7) the California Labor Code (including claims for waiting time penalties under Sections 201, 202 and 203

as well as claims under Section 1194.5). The Participating Settlement Class Members agree not to sue or otherwise make a claim against any of the Releasees for any of the released claims in this paragraph. (Settlement Agreement, § 10.1.)

In addition, each Participating Settlement Class Member, by not opting out and further cashing or negotiating their settlement award check, will also be deemed to have opted into the Action for purposes of the federal Equal Pay Act, 29 U.S.C § 206 (d) *et seq.* (“Federal EPA”) and their released claims will include a release under the Federal EPA. The Participating Settlement Class Members who have opted into the Action for the purposes of the Federal EPA agree not to sue or otherwise make a claim against any of the Releasees for the Federal EPA claims released in this paragraph. (Settlement Agreement, § 10.2.)

“Releasees” or “Released Parties” refers to Defendant and its present and former affiliates and all of their present and former officers, directors, owners, partners, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

In addition, the named Plaintiffs (Ross and Rogus) will, pursuant to Section 10.3 of the Settlement Agreement, execute a general release includes any and all claims arising from their employment relationship with HPE. This general release by the Plaintiffs also includes a waiver of California Civil Code Section 1542, which only applies to the named Plaintiffs.

### **Option 2 – Opt Out of the Settlement**

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name (former names, if any). If you would like to be excluded, you may use the form attached as Exhibit B. Sign, date, and mail your written request for exclusion by U.S. Mail to the address below.

Atticus Administration, LLC  
PO Box 64053  
Saint Paul, MN 55164

The written request to be excluded from the Settlement must be postmarked or received by the Settlement Administrator not later than **[date]**.

If you exclude yourself from the Settlement then you will get no payment under the Settlement, and retain your legal rights to pursue individual claims that would otherwise be released by the Settlement.

### **Option 3 – Mail an Objection to the Settlement to the Settlement Administrator**

If you wish to object to the Settlement, you may mail your written objection to the Settlement Administrator, which should state why you object to the Settlement. Your written objection must provide the case name and number, your full name, address, your reasons why you think the Court should not approve the Settlement, along with any evidence and legal authority, if any, you assert supports your objection, and your signature. Your written objection must be mailed to the Settlement Administrator no later than **[date]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your Individual Settlement Payment.

### **Final Fairness Hearing**

You may, if you wish, also appear at the Final Fairness Hearing set for [date], in Dept. 1 of the Downtown Superior Court of Santa Clara Superior Court, located at 191 North First Street, San Jose, CA 95113, and raise or discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Final Fairness Hearing at your own expense. You do not need to object in writing to appear at, or make a verbal objection at, the Final Fairness Hearing.

All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number (*R. Ross & C. Rogus v. Hewlett Packard Enterprise Company*, Santa Clara County Superior Court Case No. 18 CV 337830), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified below; and (d) be filed or postmarked on or before \_\_\_\_\_, 2022.

**Hearings before the judge overseeing the case will be conducted remotely. (As of August 15, 2022., the Court’s remote platform is Microsoft Teams.) Class members who wish to appear should contact class**

**counsel at least three days before the hearing if possible. Instructions for appearing remotely are provided at [https://www.sccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml) and should be reviewed in advance. Class members may appear remotely using the Microsoft Teams link for Department 1 (Afternoon Session) or by calling the toll free conference call number for Department 1.**

### **Notice of Judgment**

Should the Settlement be finally approved by the Court, the Settlement Administrator shall post online the Judgment entered by the Court for a period of one (1) year after its entry for viewing by Settlement Class Members. For more information about how to view the Judgment in the event the Settlement is finally approved, please contact the Settlement Administrator, the contact information for which appears below.

### **Additional Information**

This Class Notice is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you call the Settlement Administrator at (800) XXXX or Class Counsel:

CALEB MARKER

Email: [caleb.marker@zimmreed.com](mailto:caleb.marker@zimmreed.com)

FLINN T. MILLIGAN

Email: [flinn.milligan@zimmreed.com](mailto:flinn.milligan@zimmreed.com)

ARIELLE M. CANEPA

Email: [arielle.canepa@zimmreed.com](mailto:arielle.canepa@zimmreed.com)

ZIMMERMAN REED, LLP

6420 Wilshire Blvd., Suite 1080

Los Angeles, CA

Telephone: (877) 500-8780

Facsimile: (877) 500-8781

SUSAN E. ELLINGSTAD

Email: [seellingstad@locklaw.com](mailto:seellingstad@locklaw.com)

KRISTEN G. MARTTILA

Email: [kgmarttila@locklaw.com](mailto:kgmarttila@locklaw.com)

KAILEY C. MROSAK

Email: [kcmrosak@locklaw.com](mailto:kcmrosak@locklaw.com)

LOCKRIDGE GRINDAL NAUEN PLLP

100 Washington Ave. S., Suite 2200

Minneapolis, MN 55401

Telephone: (612) 339-6900

Facsimile: (612) 339-0981

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be found (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at [www.sceffiling.org](http://www.sceffiling.org), or (b) in person at the Office of the Clerk of the Santa Clara Superior Court, located at 191 North First Street, San Jose, CA 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

Additional information regarding the case is available on the Court's electronic filing and service website at [www.sceffiling.org](http://www.sceffiling.org) and additional information is also available on the Court's website at [www.sccourt.org](http://www.sccourt.org).

Due to COVID-19, the Court has enacted health and safety protocols, which include the following:

- Do not enter the courthouse if:
  - You have tested positive for COVID-19 within the last 10 days AND have not been fever free without fever-reducing medications for 24 hours.
  - You have been ordered or otherwise required to quarantine.
  - You are experiencing COVID-19 symptoms.
- Individuals entering the courthouse must wear facial coverings over the mouth and nose while in the courthouse. Paper, disposable masks will be provided to persons who do not have one and who request to enter the courthouse. ADA exceptions may apply.
- The court has provided employees and judicial officers with public health-compliant facial coverings to use while working in courthouses.
- Additional information regarding the Court's COVID-19 protocols may be found here: [https://www.sccourt.org/general\\_info/news\\_media/covid19.shtml](https://www.sccourt.org/general_info/news_media/covid19.shtml)

All inquiries by Settlement Class Members regarding this Class Notice and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, THE DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.**

# **EXHIBIT C**



**REQUEST FOR EXCLUSION**

**R. Ross & C. Rogus v. Hewlett Packard Enterprise Company**  
**Santa Clara County Superior Court Case No. 18 CV 337830**

**TIMELY SUBMIT THIS REQUEST FOR EXCLUSION *ONLY IF YOU DO NOT WISH TO BE INCLUDED IN THE SETTLEMENT AND IF YOU DO NOT WISH TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT.***

**INSTRUCTIONS:**

You must timely complete, sign, and mail this Request for Exclusion if you want to “opt-out” of the Settlement and do not want to receive an Individual Settlement Payment. If you choose to continue to pursue a claim and not participate in this Settlement, you will have to find new counsel at your own expense.

**IDENTIFYING INFORMATION**

Please verify and/or complete any missing identifying information:

NAME AND FORMER NAMES (IF ANY): \_\_\_\_\_  
LAST FOUR DIGITS OF  
SOCIAL SECURITY NUMBER: \_\_\_\_\_

If you want to be excluded from the Settlement and not receive an Individual Settlement Payment, you must timely mail this Request for Exclusion (or a similar letter containing your name and a statement that you request exclusion and do not wish to participate in the Settlement) by United States Mail to [INSERT SETTLEMENT ADMINISTRATOR INFORMATION] to be postmarked no later than [INSERT DATE]. Responses sent by facsimile, email, or other forms of electronic transmission will not be considered.

**If you fail to timely complete and return this Request for Exclusion (or a similar letter described above), you will be bound by the Settlement if the Settlement is approved by the Court.**