

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Travis Cheney (“Plaintiff”) and defendant Microsoft Corporation (“Microsoft” or “Defendant”). The Agreement refers to Plaintiff and Microsoft collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Microsoft to be captioned *Travis Cheney v. Microsoft Corporation* in the Superior Court of the State of California, County of Santa Clara.
- 1.2. “Administrator” means JND Legal Administration (“JND”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “PAGA Employee” means Plaintiff and all other individuals who are or were employed by Defendant in California for at least one pay period during the time period from November 22, 2022 through August 25, 2024.
- 1.5. “Class” means Plaintiff and all other individuals who are or were employed by Defendant in California for at least one pay period during the time period from November 22, 2019 through August 25, 2024.
- 1.6. “Class Counsel” means Craig J. Ackermann and Avi Kreitenberg of Ackermann & Tilajef, P.C.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Microsoft’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Months and PAGA Months, which the Administrator shall keep in the strictest confidence upon receipt.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as a PAGA Employee).

- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as **Exhibit C** and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from November 22, 2019 through August 25, 2024.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as the Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Santa Clara.
- 1.16. “Microsoft” or “Defendant” means Defendant Microsoft Corporation.
- 1.17. “Defense Counsel” means Matthew Goldberg and Brittany Sachs of Perkins Coie LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment, or (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment if no appeal is filed; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur and the appeal time period of the appellate decision has expired without further appeal.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$1,275,000.00 which is the total amount

Microsoft agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Months worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the PAGA Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Months worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Microsoft Administration Expenses Payment" means the additional money Microsoft will pay separate and in addition to the Gross Settlement Amount to fund the appointment of JND as the settlement administrator in this Action.
- 1.29. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.31. "Operative Complaint" means the class action and PAGA complaint Plaintiff will file in Santa Clara County Superior Court, attached hereto as **Exhibit B**.
- 1.32. "PAGA Month" means the number of calendar months during which a PAGA Employee worked for Microsoft in California during the PAGA Period, which is computed based on the method set forth in Paragraph 1.47.
- 1.33. "PAGA Period" means the period from November 22, 2022 to August 25, 2024.
- 1.34. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.35. "PAGA Notices" mean Plaintiff's November 22, 2023 letter to Microsoft and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a) as well as Plaintiff's August 14, 2024 "Supplemental Amended PAGA Letter" attached as **Exhibit A**.
- 1.36. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the PAGA Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.
- 1.37. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.38. "Plaintiff" means Travis Cheney, the named plaintiff in the Action.
- 1.39. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.40. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.41. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.
- 1.42. "Released PAGA Claims" means the claims being released as described in Paragraph 6.3 below.
- 1.43. "Released Parties" means: Microsoft Corporation and each of its past, present and future parent companies, subsidiaries, affiliates, divisions, and agents and all of their respective employees, principals, managing agents, members, attorneys, officers, board members, directors, investors, shareholders, owners, partners, tax advisors, legal representatives, accountants, insurers, donors, trustees, administrators, real or alleged alter egos, real or alleged joint employers, predecessors, successors, purchasers, transferees, assigns, affiliates, and all other representatives of Microsoft, individually and in their corporate or other representative capacities.
- 1.44. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.45. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and PAGA Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.46. "Settlement" means the disposition of the Action effected by this Agreement and

the Judgment.

- 1.47. “Month” means a calendar month during which a Class Member worked for Microsoft in California during the Class Period, which is calculated based on the total days Microsoft employed a Class Member in California (not including time inactive or outside California). Class Members who were actively employed by Microsoft in California between one and 30.417 days receive credit for one working Month. In all other instances, total days were converted to calendar months and rounded up when the Class Member worked more than 15.209 days in a month in California.

2. RECITALS.

- 2.1. On November 22, 2023, Plaintiff submitted a PAGA letter to the LWDA asserting claims for civil penalties under PAGA against Defendant, namely, that Defendant violated Labor Code section 2802. After some preliminary conversations between counsel, Plaintiff and Defendant entered into a tolling agreement on January 16, 2024 that tolled Plaintiff’s claims against Defendant, in an effort to allow exploration of settlement through mediation after an early exchange of informal discovery.
- 2.2. Prior to mediation, Plaintiff obtained, through informal discovery, relevant documents and class data. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.3. On June 11, 2024, the Parties participated in an all-day mediation presided over by Judge Ronald Sabraw (Ret.) which led to this Agreement to settle the action.
- 2.4. The Parties agree that as a condition of this Agreement, Plaintiff submitted his Supplemental Amended PAGA Letter, attached hereto as **Exhibit A**, to the LWDA on August 14, 2024, and thereafter, Plaintiff will file a class and PAGA complaint in Santa Clara County Superior Court, attached hereto as **Exhibit B**.
- 2.5. Microsoft denies the allegations in the Supplemental Amended PAGA Letter and the Operative Complaint, denies any failure to comply with the laws identified therein and denies any and all liability for the causes of action alleged.
- 2.6. Plaintiff has not previously filed any class or PAGA complaint in court against Microsoft. The Court has not granted class certification.
- 2.7. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Microsoft promises to pay \$1,275,000.00 and no more as the Gross Settlement Amount, unless Microsoft agrees to increase the Gross Settlement Amount if the escalator clause set forth in Paragraph 9 is triggered. Microsoft has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Microsoft.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$5,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Microsoft will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, such decision will not be a basis for Plaintiff to invalidate the Settlement, and the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment. Plaintiff agrees to indemnify and hold Defendant harmless for any penalties assessed against Microsoft in connection with the payment of the Class Representative Service Payment on Form 1099.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$425,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Microsoft will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Microsoft harmless, and

indemnifies Microsoft, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$88,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$88,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Months worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Months. Each Month worked by a Class Member from March 2020 through July 2021 will be counted as four months for purposes of the settlement allocation formula. This multiplier and allocation shall have no impact on the escalator clause.

3.2.4.1. Tax Allocation of Individual Class Payments. 100% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for reimbursement, interest, and penalties, are not subject to wage withholdings, and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and PAGA Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments. The Court may award a greater amount in PAGA Penalties from the Gross Settlement Amount without ordering an increase to the overall Gross Settlement Amount. If the Court orders that a greater portion of the Gross Settlement Amount be allocated as PAGA Penalties, such decision will not be a basis for Plaintiff to invalidate the Settlement.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Employees' 25% share of PAGA Penalties by the total number of PAGA Months worked by all PAGA Employees during the PAGA Period and (b) multiplying the result by each PAGA Employee's PAGA Months. PAGA Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.3. Microsoft Administration Expenses Payment: Microsoft maintains extensive and strict protocols to ensure the protection of its confidential information and data, including, but not limited to, data pertaining to current and former employees. As a result, Microsoft has a vested interest in ensuring that the settlement administrator appointed to administer the Settlement in this Action complies with Microsoft's security protocols. The Parties reviewed bids from multiple settlement administrators and Microsoft expressed a preference to use JND although its bid was higher than other providers. To cover the additional cost of appointing JND in this Action, Microsoft agrees to pay up to \$42,000.00 to cover JND's not to exceed price of \$130,000.00 to administer this Settlement. If JND's settlement administration expenses come in at less than \$130,000.00, Microsoft will be required to cover any expenses over \$88,000.00 but less than \$130,000.00. The up to \$42,000.00 Microsoft agrees to pay is separate from and in addition to the Gross Settlement Amount. None of the Microsoft Administration Expenses Payment will be included in the Net Settlement Amount and any unused portion will revert to Microsoft. The Microsoft Administration Expenses Payment will be paid at the same time as Microsoft pays (and under the same conditions), as the Gross Settlement Amount. The Parties do not believe that this payment has any impact on the Class Members.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Months and PAGA Months. Based on a review of its records to date, Microsoft estimates there are 12,729 Class Members who collectively worked a total of 322,142 Months between November 22, 2019 and June 11, 2024, and 9,206 PAGA Employees who worked a total 129,595 of PAGA Months between November 22, 2022 and May 21, 2024.

4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Microsoft will deliver the Class Data to the Administrator, in the form of a password protected Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in the strictest confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. No other person or entity (including Plaintiff and/or Class Counsel) will receive access to the Class Data. Microsoft has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Microsoft must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of Gross Settlement Amount. Microsoft shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Microsoft funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Employees including Non-Participating Class Members who qualify as PAGA Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
 - 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after one hundred and eighty (180) calendar days from the date the check is issued, such check(s) will be voided by the Administrator, and the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
 - 4.4.4. The payment of Individual Class Payments and Individual PAGA

Payments shall not obligate Microsoft to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **CONFIRMATORY DISCOVERY.** The Parties will meet and confer regarding information Plaintiff needs to support his motion for preliminary and final approval of the settlement. Microsoft will provide information regarding Microsoft's office closures and re-openings including specific dates of such office closures and re-openings. The Parties will further meet and confer regarding additional information relating to the number of Months worked by Class Members during stages 1-3 and 4-6 as it pertained to COVID-19, as well as reimbursements made to Class Members regarding home internet expenses.
6. **RELEASES OF CLAIMS.** Effective on the date when Microsoft fully funds the entire Gross Settlement Amount, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. Plaintiff and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) any and all claims, rights, demands, liabilities and causes of action, whether statutory, in tort, contract or otherwise, known or unknown, that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and/or PAGA Notices sent to the LWDA (including, but not limited to the Supplemental Amended PAGA Letter); (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notices; and (c) any claim for damages, fees, costs, equitable relief, restitution, or for any other kind of remedy, arising out of Plaintiff's employment with Defendant and Plaintiff's separation from employment, including, without limitation, claims arising under and/or derivative of Labor Code section 2802, including, but not limited to Business & Professions Code section 17200. ("Plaintiff's Release") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF 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.

6.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, obligations, demands, rights, causes of action, and liabilities, against Defendant and the Released Parties during the Class Period, that have been asserted or that could have been asserted in Plaintiff's PAGA Notices (including the Supplemental Amended PAGA Letter), the Operative Complaint, and/or ascertained in the course of the Action, based on the facts, claims and/or allegations therein, including for failure to provide timely and/or complete reimbursement for necessary business-related expenditures (for example, and without limitation, reimbursement of remote work expenses (including during COVID-19), cell phones and cell phone-related data), and includes all such claims for recovery of expenses and/or all penalties under California Labor Code section 2802, California Business & Professions Code section 17200, *et seq.*, and California's Wage Orders, during the Class Period and PAGA Period. Except as set forth in Paragraph 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by PAGA Employees: The State of California and all PAGA Employees, including Non-Participating Class Members who are PAGA Employees, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notices (including, but not limited to, the Supplemental Amended PAGA Letter) for failure to provide timely and/or complete reimbursement for necessary business-related expenditures under California Labor Code section 2802.

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval"). Class counsel will provide Defense Counsel with a copy of the preliminary approval motion for review and comment at least one week prior to filing. Microsoft will not oppose Plaintiff's motion for preliminary approval to the extent it comports with this Agreement.

7.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from Plaintiff confirming

willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement or as soon thereafter as reasonably possible based on the Court's schedule and/or the time Plaintiff files the Operative Complaint; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

8.1 Selection of Administrator. The Parties have jointly selected JND to serve as the Administrator and verified that, as a condition of appointment, JND agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements and as set forth herein.

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury

Regulation section 468B-1.

8.4 Notice to Class Members.

- 8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Months, and PAGA Months in the Class Data.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit C**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Months and PAGA Months (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 8.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 8.4.4 The deadlines for Class Members’ written objections, Challenges to Months and/or PAGA Months, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 8.4.5 If the Administrator, Microsoft or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Months. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Months and PAGA Months (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Months contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Months and/or

PAGA Months shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Months and/or PAGA Months to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish, and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Website will not be accessible to the public and will be accessible only to Class Members who receive unique log-in credentials. In the Class Notice, the Administrator will provide each Class Member a unique log-in ID and password to access the Website. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and

Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Months and/or PAGA Months received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 8.8.4 Month and/or PAGA Month Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Months and/or PAGA Months. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 8.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 8.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. ESCALATOR CLAUSE. This Agreement was entered into based on Microsoft’s

representation that there are 316,744 Months worked between November 22, 2019 and May 21, 2024. The total Months between November 22, 2019 and June 11, 2024 is 322,142. If the total number of Months conveyed to the Administrator during the Class Period is 10% more than 322,142 (i.e., more than 354,357 Months), the Parties will meet and confer and Microsoft will have the option of increasing the Gross Settlement Amount proportionally for any Months above 354,357 or advance the end date of the Class Period and PAGA Period to correspond to the last date on which the total number of Months was not in excess of 354,357.

10. MICROSOFT'S RIGHT TO WITHDRAW. Microsoft may withdraw from the Settlement if: (a) 5% or more of the Class Members opt out of the Settlement (Microsoft pays any administrative costs incurred by the Administrator); (b) the Court does not certify the Class or does not certify a class releasing the claims set forth in this Agreement, or otherwise makes an order inconsistent with any of the terms of this Agreement; or (c) Plaintiff or his counsel materially breach any term of this Agreement.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this Paragraph.

11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this Paragraph, as long as the Gross Settlement Amount remains unchanged.

12. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. ADDITIONAL PROVISIONS.

13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Microsoft that any of the allegations in the PAGA Notices or the Operative Complaint have merit or that Microsoft has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Microsoft's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Microsoft reserves the right to contest certification of any class for any reasons, and Microsoft reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Microsoft's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). Further, the Parties agree that the Settlement shall not be deemed a finding or determination that any of

Microsoft's policies or practices were unlawful in this action or any other action.

- 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Microsoft and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; (5) in response to an inquiry or subpoena issued by a state or federal government agency; or (6) with respect to Microsoft, to provide information with respect to resolution to employees/managers/board members and/or to comply with any other reporting obligations regarding the status and fact of the settlement. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Microsoft and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This Paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members. The Parties and their attorneys shall not make any public announcements (including press releases, press interviews, internet postings, or social media posts), concerning the settlement other than seeking the court's approval of settlement through a motion for preliminary approval and Final Approval.
- 13.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this Paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Microsoft, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6 Cooperation. The Parties and their counsel will cooperate with each other and use

their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Microsoft nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Microsoft in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Microsoft unless, prior to the Court's discharge of the Administrator's obligation, Microsoft makes a written request to Class

Counsel for the return, rather than the destructions, of Class Data.

- 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:
Craig J. Ackermann
cja@ackermanntilajef.com
Avi Kreitenberg
ak@ackermanntilajef.com
Ackermann & Tilajef, P.C.
315 South Beverly Drive, Suite 504
Beverly Hills, CA 90212

To Microsoft:
Matthew Goldberg
mgoldberg@perkinscoie.com
[Perkins Coie LLP](#)
[505 Howard Street, Suite 1000](#)
[San Francisco, CA 94015](#)

Brittany A. Sachs
bsachs@perskinscoie.com
Perkins Coie LLP
1888 Century Park East, Suite 1700
Los Angeles, CA 90067

- 13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

- 13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement

the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Signed by:



D1AD565C0C06453...

Travis Cheney
Plaintiff

Signed by:



CE2DEA3738FF487...

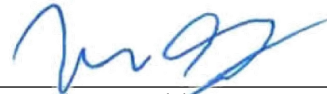
Microsoft Corporation
Defendant

Signed by:



FE2E074B23624E5...

Craig J. Ackermann
Avi Kreitenberg
Ackermann & Tilajef, P.C.
Counsel for Plaintiff



Matthew Goldberg
Brittany A. Sachs
Perkins Coie LLP
Counsel for Microsoft

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Travis Cheney v. Microsoft Corporation

Santa Clara County Superior Court, Case No. 24CV449060

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Microsoft Corporation (“Microsoft”) for alleged wage and hour violations. The Action was filed by a former Microsoft employee Travis Cheney (“Plaintiff”) and seeks reimbursement of work-related expenses for a class of employees (“Class Members”) who worked for Microsoft in the state of California during the Class Period (November 22, 2019 through August 25, 2024); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all employees who worked for Microsoft in the state of California during the PAGA Period (November 22, 2022 through August 25, 2024) (“PAGA Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Microsoft to fund Individual Class Payments, and (2) a PAGA Settlement requiring Microsoft to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Microsoft’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$___ and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Microsoft’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Microsoft’s records showing that **you worked ___ months in California** during the Class Period and **you worked _____ months in California** during the PAGA Period. If you believe that you worked more months in California during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Microsoft to make payments under the Settlement and requires Class Members and PAGA Employees to give up their rights to assert certain claims against Microsoft.

If you worked for Microsoft during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period reimbursement claims and PAGA Period penalty claims against Microsoft.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period reimbursement claims against Microsoft, and, if you are a PAGA Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.
- (3) **Object to the Settlement.** All Class Members who do not Opt Out of the Class Settlement ("Participating Class Members") can object to any aspect of this proposed Settlement. *See* Section 7 of this Notice for more information.

Microsoft will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Microsoft that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Microsoft must pay Individual PAGA Payments to all PAGA Employees and the PAGA Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Months/ PAGA Months Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many months you worked during the Class Period and how many months you worked during the PAGA Period, respectively. The number Class Period Months and number of PAGA Period Months you worked according to Microsoft’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Microsoft employee. The Action accuses Microsoft of violating California labor laws by failing to pay reimbursable expenses (for example, and without limitation, failing to pay remote work expenses (including during COVID-19) and failing to pay cell-phone related expenses). Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Craig J. Ackermann and Avi Kreitenberg of Ackermann & Tilajef, P.C. (“Class Counsel.”)

Microsoft strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Microsoft or Plaintiff is correct on the merits. In the meantime, Plaintiff and Microsoft hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations

were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Microsoft have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Microsoft does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Microsoft has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and PAGA Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Microsoft Will Pay \$1,275,000.00 as the Gross Settlement Amount (Gross Settlement). Microsoft has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Microsoft will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$425,000.00 (one-third of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$88,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the PAGA Employees based on their PAGA Months.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Months.
4. Taxes Owed on Payments to Class Members. Plaintiff and Microsoft are asking the Court to approve an allocation of 100% to reimbursements, penalties, and interest. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report all payments on IRS 1099 Forms.

Although Plaintiff and Microsoft have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue reimbursement claims against Microsoft.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Microsoft based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Microsoft have agreed that, in either case, the Settlement will be void: Microsoft will not pay any money and Class Members will not release any claims against Microsoft.
8. Administrator. The Court has appointed a neutral company, JND Legal Administration (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Months, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Microsoft has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Microsoft or related entities for reimbursement based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, obligations, demands, rights, causes of action, and liabilities, against Defendant and the Released Parties during the Class Period that have been asserted or that could have been asserted in Plaintiff’s PAGA Notices (including the Supplemental Amended PAGA Letter), the Operative Complaint, and/or ascertained in the course of the Action, based on the facts, claims and/or allegations therein, including for failure to provide timely and/or complete reimbursement for necessary business-related expenditures (for example, and without limitation, reimbursement of remote work expenses (including during COVID-19), cell phones and cell phone-related data), and includes all such claims for recovery of expenses and/or all penalties under California Labor Code section 2802, California Business & Professions Code section 17200, *et seq.*, and California’s Wage Orders, during the Class Period and PAGA Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. PAGA Employees’ PAGA Release. After the Court’s judgment is final, and Microsoft has paid the Gross Settlement, all PAGA Employees will be barred from asserting

PAGA claims against Microsoft, whether or not they exclude themselves from the Settlement. This means that all PAGA Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Microsoft or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The PAGA Employees' Releases for Participating and Non-Participating Class Members are as follows:

The State of California and all PAGA Employees, including Non-Participating Class Members who are PAGA Employees, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notices (including, but not limited to, the Supplemental Amended PAGA Letter) for failure to provide timely and/or complete reimbursement for necessary business-related expenditures under California Labor Code section 2802.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Months worked by all Participating Class Members, and (b) multiplying the result by the number of Months worked by each individual Participating Class Member. Each Month worked by a Class Member from March 2020 through July 2021 will be counted as four months for purposes of the settlement allocation formula.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Months worked by all PAGA Employees and (b) multiplying the result by the number of PAGA Months worked by each individual PAGA Employee.
3. Month/PAGA Month Challenges. The number of Class Months you worked during the Class Period and the number of PAGA Months you worked during the PAGA Period, as recorded in Microsoft's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Months and/or PAGA Months credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Microsoft's calculation of Months and/or PAGA Months based on Microsoft's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Months and/or PAGA Months challenges based on your submission and on input from Class Counsel

(who will advocate on behalf of Participating Class Members) and Microsoft's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as PAGA Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every PAGA Employee who opts out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Cheney v. Microsoft Corporation*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Microsoft are asking the Court to approve. At least _____ days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) _____ or the Court's website www.sccourt.org. Your unique login credentials to access the Administrator's Website are:

Username: _____

Password: _____

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. 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 (*Travis Cheney v. Microsoft Corporation*, Case Number 24CV449060), (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 firm identified in Section 9 below; and (d) be filed or postmarked on or before _____, 2024.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) in Department ____ of the Santa Clara County Superior Court, located at 191 North First Street, San Jose, California 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via Microsoft Teams (<https://santaclara.courts.ca.gov/online-services/video-hearings-microsoft-teams>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website www.sccscourt.org beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator

DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THE SETTLEMENT OR TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:
Craig J. Ackermann

cja@ackermanntilajef.com
Avi Kreitenberg
ak@ackermanntilajef.com
Ackermann & Tilajef, P.C.
315 South Beverly Drive, Suite 504
Beverly Hills, CA 90212
Telephone: (310) 277-0614

Settlement Administrator:

Name of Company: JND Legal Administration

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.