

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

_____	X	
TONY SPENCE, et al.)	
)	
Plaintiffs,	)	Case No. 00-CV-003042
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendants.	X	
_____	X	
TOM CAPP,)	
)	
Plaintiff,	)	Case No. 05-CV-011127
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendant.	X	
_____	X	
CANDACE BETTENDORF, et al.,)	
)	
Plaintiffs,	)	Case No. 05 CV 10927
)	
v.)	
)	
MICROSOFT CORPORATION,)	
)	
Defendant.	X	

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into, subject to Court approval, as of September 14, 2006, on behalf of the Wisconsin Class (as defined below), and Microsoft Corporation ("Microsoft"), in *Spence, et al. v. Microsoft Corp.*, No. 00-CV-003042 (Wis. Cir.

Ct.), *Capp v. Microsoft Corp.*, No. 05-CV-011127 (Wis. Cir. Ct.), and *Bettendorf, et al. v. Microsoft Corp.*, No. 05-CV-010927 (Wis. Cir. Ct.) pending in the Circuit Court for Milwaukee County in the State of Wisconsin.

WHEREAS, Plaintiffs have made certain claims against Microsoft based upon alleged violations of Wisconsin antitrust law;

WHEREAS, Plaintiffs contend that they and the members of certain certified classes have suffered damages and other injuries as a result;

WHEREAS, Microsoft denies each and every one of Plaintiffs' allegations of unlawful conduct, damages and other injuries;

WHEREAS, after arm's-length negotiations between Plaintiffs and Microsoft, this Settlement Agreement has been reached;

WHEREAS, Plaintiffs (the proposed class representatives), Co-Lead Settlement Class Counsel, and Settlement Class Counsel, have concluded, after investigation of the facts, and after carefully considering the circumstances, that it would be in the best interests of the Wisconsin Class to enter into this Settlement Agreement; and Plaintiffs (the proposed class representatives), Co-Lead Settlement Class Counsel, and Settlement Class Counsel, consider the Settlement set forth below to be fair, reasonable, adequate and in the best interests of the Wisconsin Class;

WHEREAS, Microsoft has concluded that it will enter into this Settlement Agreement in order to, among other things, avoid the further expense, inconvenience, burden, uncertainty and risk of this litigation;

NOW, THEREFORE, it is agreed by the undersigned on behalf of the Wisconsin Class and Microsoft, that All Claims (as defined below) of the Wisconsin Class against Microsoft be

settled and compromised, and that All Cases (as defined below) against Microsoft be dismissed with prejudice, without costs to any party (except as provided below), on the following terms and conditions:

I. DEFINITIONS

For purposes of this Settlement Agreement, the following terms shall have the meanings set forth below.

A. “All Cases” has been defined as *Spence, et al. v. Microsoft Corp.*, No. 00-CV-003042 (Wis. Cir. Ct.), *Capp v. Microsoft Corp.*, No. 05-CV-011127 (Wis. Cir. Ct.), and *Bettendorf, et al. v. Microsoft Corp.*, No. 05-CV-010927 (Wis. Cir. Ct.), as listed in Appendix A.

B. “All Claims” means all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that any member of the Wisconsin Class ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in any of the cases listed on Appendix A and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application (as defined below) and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.*, and the Wisconsin Antitrust Law, Wisconsin Antitrust Act, Wis. Stat. § 133.01 *et seq.*), (b) unfair competition, (c) unfair practices, (d) price discrimination, (e) trade regulation, (f) trade practices, and/or (g) other federal or state law, regulation or common law similar or analogous to any of the above. “All Claims” does not include (a) claims relating to the acquisition or licensing of

Microsoft Operating System or Microsoft Application software for use outside of Wisconsin, (b) claims arising from purchases directly from Microsoft Corporation of licenses for Microsoft Operating System or Microsoft Application software or (c) claims by competitors of Microsoft in their capacity as competitors. “All Claims” does not include claims relating to Microsoft’s conduct, acts or omissions that take place after April 30, 2003. However, “All Claims” includes any and all claims described above relating to Microsoft’s conduct, acts or omissions that occurred on or prior to April 30, 2003.

C. “Wisconsin Class” means all persons or entities (excluding federal governmental entities) who, from and including December 7, 1993 through April 30, 2003 (the “Class Period”), resided or were located in Wisconsin and indirectly purchased (*i.e.*, purchased from someone other than Microsoft) in the United States a license for Microsoft Operating System and/or Microsoft Applications software for use in Wisconsin and who did not purchase it for the purpose of resale. Excluded from the Wisconsin Class are:

1. Microsoft officers and directors, subsidiaries in which Microsoft has greater than a 50 percent ownership interest and any judges or justices assigned to hear any aspect of this litigation;

2. all persons or entities who have properly excluded themselves from the plaintiff class previously certified by the Court.

D. “Category I products” means all titles of software listed on Appendix B-1.

E. “Category II products” means all titles of software listed on Appendix B-2.

F. “Category III products” means all titles of software listed on Appendix B-3.

G. “Category IV products” means all titles of software listed on Appendix B-4.

H. “Claim Period” means the period beginning with the Notice Commencement Date (defined in Section II.E.3 below) and ending six months after the Notice Ending Date (defined in Section II.E.3 below), provided, however, that the Claim Period shall end no sooner than 30 days after the date on which the Court enters an Order of Approval and Final Judgment as provided in section II.H below. The Claim Period may be extended by agreement of the parties or subsequent order of the Court for good cause shown.

I. “Co-Lead Settlement Class Counsel” means Ben Barnow of Barnow and Associates, P.C., Richard M. Hagstrom of Zelle, Hofmann, Voelbel, Mason & Gette LLP, and Mark A. Maasch of Turner & Maasch, Inc.

J. “Consumer Vouchers” means the vouchers issued to members of the Wisconsin Class pursuant to the terms of this Settlement Agreement.

K. “Court” means the Circuit Court for Milwaukee County in the State of Wisconsin.

L. “Date of Final Approval” means the first date upon which all of the events listed in Section I.O below have occurred.

M. “Effective Date of the Settlement” means 60 days after the Date of Final Approval.

N. “Face Value Amount” means the maximum amount of money available to pay for claims made by members of the Wisconsin Class in accordance with this Settlement Agreement as further defined in Section IV.B below.

O. “Final Approval” means the occurrence of all of the following events:

1. This Settlement is approved in all respects by the Court;
2. The Court enters an Order of Approval and Final Judgment as provided in

Section II.I below;

3. The Court dismisses All Cases with prejudice as provided in Sections II.H and II.K below;

4. The Clerk of the Court for each case listed on Appendix A enters the Final Judgment and serves notice of entry of the Final Judgment upon all named parties to that case; and

5. The time to appeal or seek permission to appeal from the Court's Order of Approval and/or Final Judgment has expired, or, if appealed, the Order of Approval and Final Judgment have been affirmed in their entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

P. The "First *Cy Pres* Amount" is fifty percent (50%) of the difference between the Face Value Amount and the amount of issued Consumer Vouchers.

Q. "First *Cy Pres* Eligible Schools" means those public, tribal and BIA elementary, middle, junior high and high schools (K-12) in Wisconsin at which at least 50% of the attending students are eligible to receive free or reduced-priced meals through the National School Lunch Program (*see* National School Lunch Act, 42 U.S.C. §§ 1751-1769). The determination of whether a public school qualifies as an Eligible School shall be made by the Settlement Administrator based on a review of the school's last publicly available filing with the United States Department of Agriculture (or the relevant state agency responsible for ensuring compliance with the requirements of the National School Lunch Program) between January 1, 2005 and December 31, 2005.

R. The "First *Cy Pres* Period" shall begin on a date no later than the Effective Date

of the Settlement (the “First *Cy Pres* Distribution Date”) and shall end on a date four years after the First *Cy Pres* Distribution Date.

S. “IT Support Services” are services that primarily involve the maintenance of hardware procured through this Settlement and the installation and maintenance of software procured through this Settlement.

T. “Microsoft” means Microsoft Corporation, its successors, assigns and subsidiaries.

U. “Microsoft Application” means the versions of the products listed on Appendices B-2, B-3 and B-4.

V. “Microsoft Operating System” means the versions of the products listed on Appendix B-1.

W. “Microsoft’s End User Data” shall include the following: the Microsoft eOpen database, the Microsoft Volume Licensing Services (“MVLS”) database, the Worldwide Marketing Database (“WWMDB”), the Microsoft Open License Program (“MOLP”) database, the Microsoft LIR database, the Microsoft License (“MSL”) database, and any reasonably accessible data in the MS Sales database that is useful to making or verifying a claim and that is not included in the databases and systems listed above.

X. “Objection Date” means the date by which members of the Wisconsin Class must file with the Court and serve on Co-Lead Settlement Class Counsel and counsel for Microsoft any written objections to the Settlement and any written objections to the request for attorneys’ fees, costs and expenses or the request for incentive awards included in the class notice, along with any supporting documentation.

Y. “Professional Development Services” are: (1) Professional development services directed solely at leadership development for school administrators; (2) Professional development services directed solely at general curriculum development and instructional strategies; (3) Professional development services directed solely at the improvement of technology integration for any software title acquired through this Settlement; and (4) Training in the use of any hardware or software title acquired through this Settlement.

Z. The “Second *Cy Pres* Amount” is one hundred percent (100%) of the difference between the amount of issued Consumer Vouchers and the amount of redeemed Consumer Vouchers at the end of the Settlement Period.

AA. “Second *Cy Pres* Eligible Schools” means those public, tribal and BIA elementary, middle, junior high and high schools (K-12) in Wisconsin which have any attending students eligible to receive free or reduced-priced meals through the National School Lunch Program, as determined in the sole discretion of the Wisconsin Department of Public Instruction.

BB. The “Second *Cy Pres* Period” shall begin on a date no later than 60 days after the end of the Settlement Period (the “Second *Cy Pres* Distribution Date”) and shall end on a date two years after the Second *Cy Pres* Distribution Date.

CC. The “Settlement Claims Administrator” is Rust Consulting, Inc., who is designated to manage specified portions of the notice program, receive requests to opt-out from class members under Section II.F below, process claims, issue Consumer Vouchers and redeem Consumer Vouchers from class members under Sections IV and V below as well as issue and redeem *cy pres* General Purpose Vouchers and Software Vouchers under Section VI below. The Settlement Claims Administrator shall be jointly retained and supervised by Microsoft and Co-

Lead Settlement Class Counsel and copies of all information or correspondence sent to the Settlement Claims Administrator by Microsoft or Co-Lead Settlement Class Counsel shall also be sent simultaneously to the other party. Microsoft will pay all reasonable costs and expenses of the Settlement Claims Administrator relating to this Settlement Agreement.

DD. “Settlement Class Counsel” means Co-Lead Settlement Class Counsel and John L. Cates of Gingras, Cates & Luebke, S.C., Roxanne B. Conlin of Roxanne Conlin & Associates, Andrew T. Phillips of Stadler, Centofanti & Phillips, S.C., John F. Maloney of McNally, Maloney & Peterson, S.C., and James T. Remington of Remington Law Offices.

EE. The “Settlement Period” means four years from the Effective Date of the Settlement.

FF. “Opt-Out Date” means the postmark date by which members of the Wisconsin Class must mail their request to be excluded from the Wisconsin Class in order for that request to be effective.

II. COURT APPROVAL, CLASS NOTICE AND OBJECTION PROCEDURES

A. Best Efforts. Co-Lead Settlement Class Counsel and Microsoft agree that they will: (1) recommend approval of this Settlement Agreement to the Court; (2) use their best efforts to obtain approval of this Settlement Agreement and to carry out its terms; and (3) support the Settlement contemplated by this Settlement Agreement in all public statements, including all statements in court and all statements to the news media.

B. Certification of Settlement Class.

On or before September 30, 2006, Co-Lead Settlement Class Counsel shall file a consolidated and amended Complaint that will make the definition of the classes on whose behalf the suits were brought coextensive with the Wisconsin Class.

For settlement purposes only, Co-Lead Settlement Class Counsel will request, as part of the Order for Preliminary Approval and Conditional Certification of Class, that the Court make preliminary findings and enter an Order granting provisional certification of the Wisconsin Class subject to final findings and ratification in the Final Judgment, appointing Plaintiffs as representatives of the class, appointing Ben Barnow, Richard M. Hagstrom, and Mark A. Maasch as Co-Lead Settlement Class Counsel, and them and John L. Cates, Roxanne B. Conlin, Andrew T. Phillips, John F. Maloney, and James T. Remington as Settlement Class Counsel.

Microsoft does not consent to consolidation and/or amendment of the Complaints or certification of the Wisconsin Class for any purpose other than to effectuate the settlement of this action. If this Settlement Agreement is terminated pursuant to its terms, or if the settlement is not approved, the Order granting leave to consolidate and/or amend the Complaints and the Order conditionally certifying the Wisconsin Class shall be automatically vacated upon notice to the Court of the termination of the Settlement Agreement, and the matter shall proceed as though the Wisconsin Class had never been conditionally certified and such findings had never been made, without prejudice to the ability of any party thereafter to request or oppose class certification on any basis.

C. Motion for Preliminary Approval. Co-Lead Settlement Class Counsel shall submit to the Court on or before September 30, 2006, a motion for preliminary approval of this

Settlement Agreement on behalf of the Wisconsin Class, together with a proposed preliminary approval order substantially in the form attached as Appendix C. The motion for preliminary approval shall seek approval of the form and manner of notice and opt-out and objection procedures as set forth in Sections II.E-G below. The motion for preliminary approval shall also ask the Court to schedule a hearing date for final approval of this Settlement Agreement. If such settlement is terminated or does not obtain Final Approval, then the status of class certification in this litigation shall be as it existed prior to the execution of this Settlement Agreement. A motion in amendment to the pending Motion for Preliminary Approval, along with appropriate substitute exhibits, is satisfactory.

D. Stay of Proceedings. Upon execution of this agreement, the parties shall notify the Court that the parties have entered into a settlement agreement that will fully resolve the case and shall file pleadings and otherwise take any steps necessary to effect a stay of proceedings in this Court.

E. Notice.

1. In the motion for preliminary approval of this Settlement Agreement (as set forth in Section II.C above) or prior to making such motion, Co-Lead Settlement Class Counsel shall apply to the Court for an order authorizing summary notice by publication to the Wisconsin Class, substantially in the same form that was approved for use in the settlement of the consumer antitrust class action against Microsoft in Minnesota, subject to modification as agreed by the parties and approval by the Court. Such notice shall inform the Wisconsin Class of the terms of the Settlement Agreement, state the date scheduled by the Court for the hearing on final approval of the Settlement, and advise class members of their right to exclude themselves

from the Settlement or to object to the Settlement or to the request for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel or by any other counsel for plaintiffs in any of the cases listed in Appendix A, and to appear at the hearing on final approval. The notice will also contain a stern warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming Consumer Vouchers.

2. Subject to approval of the Court, Co-Lead Settlement Class Counsel and Microsoft agree that notice shall be published in print publications and/or disseminated via electronic media (such as America Online, Hotmail, and/or other Internet Access Providers that can direct notice specifically to Wisconsin customers). Microsoft will bear the reasonable cost of publishing notice in print publications and the cost of disseminating notice via electronic media. Co-Lead Settlement Class Counsel will determine the reasonable allocation of these funds between print publications and electronic media.

a. Postal Mail:

(1) In the motion for preliminary approval of this Settlement Agreement (as set forth in Section II.C above), Co-Lead Settlement Class Counsel shall apply to the Court for an order authorizing mailed written notice (which notice shall include a hard copy of a Claim Form) substantially in the same form that was approved for use in the settlement of the consumer antitrust class action against Microsoft in Minnesota, subject to modification as agreed by the parties and approval by the Court.

(2) Co-Lead Settlement Class Counsel and Microsoft will provide the Settlement Claims Administrator with the information in their possession that is

necessary to facilitate such written notice to be mailed, via the U.S. Postal Service, (a) to those Wisconsin End Users whose mailing addresses are in any of the following databases: MS Sales, MSL, MOLP, WWMDB, and Microsoft product support databases (including the Clarify, PSS Reporting Warehouse and PID Server databases); (b) to those Wisconsin End Users who are subscribers to MSN-Internet Services and whose mailing addresses indicate that they live in Wisconsin; (c) to those Information Technology managers whose mailing address indicates that they are located in Wisconsin or work for companies with operations in Wisconsin, and are included in any database compilation of IT managers maintained by Microsoft, including but not limited to TechNet; (d) to those Wisconsin End Users whose mailing addresses are known by Co-Lead Settlement Class Counsel or other Settlement Class Counsel and provided to the Settlement Claims Administrator within 90 days after preliminary approval of the Settlement; and (e) to those Wisconsin End Users whose mailing addresses can be obtained in discovery by Co-Lead Settlement Class Counsel from third parties and provided to the Settlement Claims Administrator within 90 days after preliminary approval of the Settlement. Nothing contained herein shall preclude Co-Lead Settlement Class Counsel from obtaining data from third-party sources, such as the Harris database, to further identify class members for the purpose of giving them notice.

(3) Information obtained through such third-party discovery shall not be provided to any person or entity other than the Settlement Claims Administrator chosen to administer this Settlement. Such information shall not be used for any purpose other than provision of notice and other information concerning the Settlement to the class, administration of the claims process under this Settlement Agreement and such other purposes as

may be authorized by order of the Court.

(4) The mailed notice to each Wisconsin End User whose mailing address is recorded in WWMDB and who is not a volume licensee will include a printout (to be provided by Microsoft to the Settlement Claims Administrator) sufficient to identify the number and type of licenses when such information is available in each applicable product category found in WWMDB for that Wisconsin End User.

(5) The Settlement Claims Administrator shall utilize the national change of address service through the United States Postal Service to obtain corrected mailing addresses for Wisconsin End Users whose notices are returned because they were sent to incorrect addresses. Microsoft will pay up to an additional ten thousand dollars (\$10,000.00) to allow the Settlement Claims Administrator to utilize other reasonable means to obtain corrected addresses.

(6) All mailed notices will contain a stern warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming Consumer Vouchers. Microsoft will bear the cost of such notice.

b. Email:

(1) In the motion for preliminary approval of this Settlement Agreement (as set forth in Section II.C above), Co-Lead Settlement Class Counsel shall apply to the Court for an order authorizing emailed notice (which notice shall include a link to an electronic copy of a Claim Form) substantially in the same form that was approved for use in the settlement of the consumer antitrust class action against Microsoft in Minnesota, subject to modification as agreed by the parties and approval by the Court.

(2) Co-Lead Settlement Class Counsel and Microsoft will provide the Settlement Claims Administrator with the information in their possession that is necessary to facilitate the issuance of such notice to be emailed, (a) to those Wisconsin End Users whose email addresses are in any of the following databases: MS Sales, MSL, MOLP, WWMDB, and Microsoft product support databases (including the Clarify, PSS Reporting Warehouse and PID Server databases); (b) to those Wisconsin End Users who are subscribers to MSN-Internet Services and whose mailing addresses indicate that they live in Wisconsin; (c) to those Information Technology managers whose mailing address indicates that they are located in Wisconsin or work for companies with operations in Wisconsin, and whose email addresses are included in any database compilation of IT managers maintained by Microsoft, including but not limited to TechNet; (d) to those Wisconsin End Users whose email addresses are known by Co-Lead Settlement Class Counsel or other Settlement Class Counsel and provided to the Settlement Claims Administrator within 90 days after preliminary approval of the Settlement; and (e) to those Wisconsin End Users whose email addresses can be obtained in discovery by Co-Lead Settlement Class Counsel from third parties and provided to the Settlement Claims Administrator within 90 days after preliminary approval of the Settlement. Nothing contained herein shall preclude Co-Lead Settlement Class Counsel from obtaining data from third-party sources, such as the Harris database, to further identify class members for the purpose of giving them notice.

(3) Information obtained through such third-party discovery shall not be provided to any person or entity other than the Settlement Claims Administrator. Such information shall not be used for any purpose other than notice to the class, administration of the claims process under this Settlement Agreement and such other purposes as may be

authorized by order of the Court.

(4) All emailed notices will contain a stern warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming Consumer Vouchers. Microsoft will bear the cost of such notice.

c. Online:

(1) Co-Lead Settlement Class Counsel will also cause the Court-approved notice of the Settlement to be posted, during the entire Claim Period, on an Internet Web site. The Web site will be maintained and managed by the Settlement Claims Administrator. An electronic copy of a Claim Form will be available on the Web site, as well as additional instructions relating to the filing and processing of claims. All notices pursuant to Sections II.E.1 and II.E.2 above shall direct Wisconsin End Users to the Web site. All notices pursuant to Sections II.E.1 and II.E.2 above shall also direct Wisconsin End Users to a toll-free “800” telephone number from which Claim Forms and additional information can be obtained. Microsoft will pay all costs and expenses incurred in connection with the maintenance of the Web site and the toll-free telephone number.

(2) In addition to the Web site described in Section II.E.2.c(1) above, a copy of the notice will be posted on Microsoft’s corporate Web site and will be linked to the “legal issues” tab or some other more descriptive tab name to be agreed upon by Co-Lead Settlement Class Counsel and Microsoft.

3. The written notice sent by mail and by email pursuant to Sections II.E.2.a and II.E.2.b above shall be provided during a period (“Notice Period”), which shall begin on a date within 30 days after the Court enters an order preliminarily approving this Settlement

Agreement (“Notice Commencement Date”), and which shall end in accordance with the approved notice plan filed in conjunction with this Settlement Agreement (“Notice Ending Date”). The Settlement Claims Administrator, Co-Lead Settlement Class Counsel and Microsoft shall use all reasonable efforts to ensure that the notice by publication described in Section II.E.1 and II.E.2 above and the mailed and emailed notice described in Sections II.E.2.a and II.E.2.b above are completed during the Notice Period. If it is not possible to complete the required notice before the end of the Notice Period it shall be completed as soon as possible thereafter, and the parties will seek an Order of the Court relating to the completion of the Notice. Public statements about the Settlement during the Claim Period shall not contradict the content of the notices described in this Section II.E.

4. Microsoft will bear the expenses and costs of notice as provided in this Section II.E, subject to the limitation on the cost of published notice set forth in Section II.E.2 above and the limitation on the cost of obtaining corrected addresses set forth in Section II.E.2.a(5) above, whether or not this Settlement Agreement obtains Final Approval or is otherwise terminated.

F. Opt-Out Procedure

1. Eligibility. Co-Lead Settlement Class Counsel and Microsoft will recommend that the Court approve an Opt-Out Date that is 45 days after the Notice Ending Date. Any member of the Wisconsin Class may request exclusion from (“opt out” of) the settlement on or before the Opt-Out Date through the method described below. Except as otherwise authorized by law, no person may opt out on behalf of any other person, persons, classes or sub-classes.

2. Method of Exercise. Each member of the Wisconsin Class wishing to opt

out of the Wisconsin Class must individually sign and submit timely written notice to a Post Office Box designated by the Settlement Administrator. This written notice must clearly manifest an intent to be excluded from the Wisconsin Class. To be effective, written notice must be postmarked on or before the Opt-Out Date.

G. Procedures for Objecting to the Settlement. Co-Lead Settlement Class Counsel and Microsoft will recommend that the Court approve an Objection Date that is 45 days after the Notice Ending Date. Any member of the Wisconsin Class may appear at the hearing on final approval of the Settlement to present any objections to the Settlement, or to present any opposition to the request for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel or by any other counsel for plaintiffs in any of the cases listed in Appendix A; provided, however, that no member of the Wisconsin Class shall be heard, unless his, her or its objection or opposition is made in writing and is filed, together with copies of all other papers and briefs to be submitted to the Court at the hearing on final approval of the Settlement, with the Court no later than the Objection Date, showing proof of service on Co-Lead Settlement Class Counsel and counsel for Microsoft, as provided for in the notices.

H. Motion for Court Approval and Entry of Final Judgment. Co-Lead Settlement Class Counsel and Microsoft will request that the Court set the hearing on final approval of the settlement for a date that is approximately 30 days after the Opt-Out Date and Objection Date. At least 14 days prior to the date the Court sets for the hearing on final approval of the Settlement, Co-Lead Settlement Class Counsel will submit a motion for an Order of Approval and Final Judgment, substantially in the forms attached as Appendices D and E, respectively, and:

1. Certifying the Wisconsin Class, appointing Plaintiffs as class representatives, appointing Co-Lead Settlement Class Counsel, and Settlement Class Counsel, as above noted, of and for the Wisconsin Class;
2. Determining that Microsoft and the Wisconsin Class have submitted to the jurisdiction of the Court for purposes of this Settlement, that the Court has personal jurisdiction over Microsoft and all members of the Wisconsin Class and that the Court has jurisdiction to approve this Settlement Agreement as fair, reasonable and adequate;
3. Finding that the notice provided in this Settlement Agreement (a) constitutes reasonable and the best practicable notice; (b) constitutes notice that is reasonably calculated, under the circumstances, to apprise members of the Wisconsin Class of the pendency of this action, the terms of this Settlement, the right to object to or exclude themselves from this Settlement, and the right to appear at the hearing on final approval; (c) constitutes due, adequate and sufficient notice to all persons or entities entitled to receive such notice; and (d) meets the requirements of due process, and other applicable law or rules of the Court;
4. Directing that All Cases (as listed on Appendix A) be dismissed with prejudice and, except as provided for below, without costs;
5. Reserving for the Court exclusive jurisdiction over this Settlement, including the administration, consummation and enforcement of this Settlement, and including all proceedings both before and after the Final Judgment becomes final and is no longer subject to appeal;
6. Determining that there is no just reason for delay and directing that the Final Judgment shall be final and appealable;

7. Directing that, for a period of four years from the Effective Date of the Settlement, the Clerk of the Court shall maintain a record of those members of the Wisconsin Class who have timely excluded themselves from the Wisconsin Class and that a certified copy of such records shall be provided to Microsoft at Microsoft's expense; and

8. Incorporating the release set forth in Section III below and forever discharging Microsoft from All Claims.

I. Entry of Final Judgment. If the Court executes the Order of Approval and Final Judgment, the parties will take all necessary steps to ensure that, the Final Judgment is entered by all of the courts in which the cases listed on Appendix A are pending.

J. Effect of Disapproval. If the Court for any reason (1) determines not to approve an amendment agreed to by the parties hereto to the existing Complaints; (2) determines not to approve this Settlement Agreement; (3) does not enter the Final Judgment substantially in the form described in Section II.H above and Appendix E; or (4) if the Court's approval is modified, reversed or set aside on appeal, then this Settlement Agreement terminates and becomes null and void except as otherwise provided in this Settlement Agreement.

K. Dismissal With Prejudice. Upon final approval of this Settlement, Co-Lead Settlement Class Counsel, the other Settlement Class Counsel and Microsoft shall join in seeking dismissal with prejudice of All Cases to the extent that the Court does not dismiss All Cases with prejudice in its Order of Approval and Final Judgment.

III. RELEASE

A. Release. Upon Final Approval, each member of the Wisconsin Class hereby expressly and irrevocably waives and fully, finally and forever settles and releases all claims,

demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that any member of the Wisconsin Class ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in any of the cases listed on Appendix A and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. §§ 1 et seq., and the Wisconsin Antitrust Act, Wis. Stat. § 133.01 *et seq.*), (b) unfair competition, (c) unfair practices, (d) price discrimination, (e) trade regulation, (f) trade practices, and/or (g) other federal or state law, regulation or common law similar or analogous to any of the above. This Release does not include (a) claims relating to the acquisition or licensing of Microsoft Operating System or Microsoft Application software for use outside of Wisconsin, (b) claims arising from purchases directly from Microsoft Corporation of licenses for Microsoft Operating System or Microsoft Application software or (c) claims by competitors of Microsoft in their capacity as competitors. This Release does not include claims relating to Microsoft's conduct, acts or omissions that take place after April 30, 2003. However, class members hereby release any and all claims described above relating to Microsoft's conduct, acts or omissions that occurred on or prior to April 30, 2003.

B. Waiver of Release Limitations. In addition to the provisions of Section III.A above, each member of the Wisconsin Class hereby expressly and irrevocably waives and fully, finally and forever settles and releases, upon Final Approval, any and all defenses, rights and

benefits that the class member may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in Section III.A above.

IV. CONSUMER VOUCHERS

A. Consideration. As part of the consideration for the agreement to dismiss All Claims with prejudice, and for entry of the Final Judgment as provided for in the Settlement Agreement, on the Effective Date of the Settlement, Microsoft shall make the Consumer Vouchers described in this Section available to all members of the Wisconsin Class in accordance with the procedures set forth below.

B. Face Value Amount. The Face Value Amount of this Settlement is \$223,896,000.

C. Consumer Voucher Amounts. Upon presentation of a satisfactory proof of claim as set forth in Section V.A below, each member of the Wisconsin Class who acquired a Category I, Category II, or Category III or Category IV software license for use in Wisconsin during the period from and including December 7, 1993 through April 30, 2003 may obtain a Consumer Voucher as follows:

1. Members of the Wisconsin Class who acquired a license for a Category I product [OS] during the period from and including December 7, 1993 through April 30, 2003 for use in Wisconsin will receive a Consumer Voucher worth \$15.00 for each such license.

2. Members of the Wisconsin Class who acquired a license for a Category II [Office] product during the period from and including December 7, 1993 through April 30, 2003 for use in Wisconsin will receive a Consumer Voucher worth \$23.00 for each such license.

3. Members of the Wisconsin Class who acquired a license for a Category III

[Excel] product during the period from and including December 7, 1993 through April 30, 2003 for use in Wisconsin will receive a Consumer Voucher worth \$23.00 for each such license.

4. Members of the Wisconsin Class who acquired a license for a Category IV [Word, Works Suite and Home Essentials] product in Wisconsin during the period from and including December 7, 1993 through April 30, 2003 for use in Wisconsin will receive a Consumer Voucher worth \$10.00 for each such license.

5. For purposes of determining the appropriate number of vouchers to be awarded, a Wisconsin Class member shall be considered to have a separate license for each desktop or laptop computer that is authorized for use in conjunction with the licensed software under the terms of the Wisconsin Class member's license agreement. For example, if the Wisconsin Class member's license agreement authorizes installation of the software on up to 100 computers, the Wisconsin Class member is entitled to 100 vouchers, regardless of whether the software is actually installed on 100 computers, as long as the Wisconsin Class member has paid for 100 licenses. For Enterprise Agreement licenses, the Wisconsin Class member shall be considered to have a separate license for the initial licenses purchased under the agreement and not for automatic upgrade licenses which they are eligible to receive and install under their Enterprise Agreement. For all other types of licensing arrangements the initial license and each upgrade license shall be counted as separate licenses.

D. Products Covered By The Settlement Agreement. The parties have used their best efforts to ensure that Appendices B-1, B-2, B-3 and B-4 to this Settlement Agreement contain complete lists of the following software products at issue in this litigation: (1) versions of MS-DOS and Windows operating system software (other than operating system software for servers)

that were available for purchase during the period from and including December 7, 1993 through April 30, 2003; and (2) versions of the following types of applications software that were licensed for use with either MS-DOS or Windows and that were available for purchase during the period from and including December 7, 1993 through April 30, 2003: (a) Word processing applications, either standalone or included in productivity suite applications other than Office, including Works Suite and Home Essentials; (b) Excel spreadsheet applications; and (c) Office productivity suite applications that include both Word and Excel. If a claimant submits a claim for a product version that falls within one of the categories of software described in this Section IV.D but that is not included on Appendices B-1 through B-4, the Settlement Claims Administrator and the parties will agree to consider the claim, and determine whether the product version will be deemed to be a Category I, Category II, Category III or Category IV product (whichever is appropriate) for purposes of making claims under this Settlement Agreement. If a product version not listed on Appendices B-1 through B-4 is deemed to be a Category I, Category II, Category III or Category IV product (whichever is appropriate) for purposes of making a claim, that product version will also be deemed to be a Microsoft Operating System or a Microsoft Application (whichever is appropriate) for purposes of the release contained in Sections III.A and III.B of this Settlement Agreement, the release will apply, and the claimant will be bound by the release.

E. Consumer Voucher Restrictions. The Consumer Vouchers may be aggregated by any claimant possessing a number of any such Consumer Vouchers. The Consumer Vouchers are not redeemable for cash and may not be presented directly to a retailer or computer manufacturer for redemption upon the purchase of the hardware or software described in Section IV.G below.

The Consumer Vouchers issued to members of the Wisconsin Class shall expire at the end of the Settlement Period, except as provided hereunder. Consumer Vouchers will be printed with security features, will be serialized and, if possible, will be printed with the name of the Consumer Voucher recipient on the face of the Consumer Voucher.

F. Transfer of Consumer Vouchers. A claimant may transfer up to \$650.00 of the value of any Consumer Vouchers awarded to that claimant. Each Consumer Voucher may be transferred only once. A transferee may redeem no more than \$10,000 in transferred Consumer Vouchers. When transferees submit Consumer Vouchers for redemption, they must declare under penalty of perjury that they intend to use the products purchased with the transferred Consumer Vouchers for their own personal or business use, and that they will not directly, indirectly or in concert with others redeem more than \$10,000 of transferred Consumer Vouchers. Neither claims nor Consumer Vouchers are transferable under any other circumstances.

G. Redemption. Claimants may present the Consumer Vouchers to the Settlement Claims Administrator during the Settlement Period, together with satisfactory proof of purchase (described in Section V.B.1 below) of any of the following hardware and/or software purchased after the date of preliminary approval of this Settlement Agreement, to receive the face value of the Consumer Vouchers. Otherwise valid Consumer Vouchers will be accepted by the Settlement Claims Administrator if they are postmarked on or before the last day of the Settlement Period and are received by the Settlement Claims Administrator within 14 days of the last day of the Settlement Period.

1. Hardware. Claimants may redeem the Consumer Vouchers from the

Settlement Claims Administrator during the Settlement Period by presenting satisfactory proof of purchase(s) made after the date of preliminary approval of this Settlement Agreement of any new desktop, laptop or tablet computer for any operating system platform (“Qualifying Hardware”). The definition of Qualifying Hardware excludes servers, personal digital assistants (“PDAs”) and other hand-held devices. The definition of Qualifying Hardware includes the following devices or components (“Peripheral Devices”): printers, scanners, monitors, keyboards and pointing devices (e.g., mouse, trackball, etc.). A member of the Wisconsin Class whose total claim is less than \$950 may use his or her Consumer Vouchers to purchase Peripheral Devices regardless of whether or not the class member also purchases a computer. All other members of the Wisconsin Class may use Consumer Vouchers to purchase Peripheral Devices only in connection with the purchase of a computer. The definition of Qualifying Hardware excludes all other devices and components (including, but not limited to, cables, speakers or other external devices, internal or external storage units, internal or external CD-Rom, DVD or other read/write devices, zip drives, tape backup or storage units, memory, video or audio cards, motherboards or CPUs).

2. Software. Claimants may redeem the Consumer Vouchers from the Settlement Claims Administrator during the Settlement Period by presenting satisfactory proof of purchase after the date of preliminary approval of this Settlement Agreement of any non-custom software title, including any software title not published by Microsoft, that (a) is designed for use on any Qualifying Hardware described in Section IV.G.1 above, and (b) is not software designed to operate on a server (“Qualifying Software”).

V. PROCESSES FOR CLAIMING AND REDEEMING CONSUMER VOUCHERS

A. Step 1. Members of the Wisconsin Class may claim the Consumer Vouchers described in Section IV.C above by mailing a completed Claim Form, together with satisfactory proof of qualification as specified below, to the Settlement Claims Administrator prior to the close of the Claim Period. Completion of this first step (submission of a Claim Form and satisfactory proof of qualification) shall entitle the claimant to receive only a Consumer Voucher and nothing more. Claimants should retain copies of their completed Claim Forms and copies of all other documentation that they submit to the Settlement Claims Administrator with their Claim Forms.

1. Claim Forms. The mailed notice provided pursuant to Section II.E.2.a above will include a Claim Form to be used by members of the Wisconsin Class. The emailed notice provided pursuant to Section II.E.2.b above will include a link to an electronic copy of the Claim Form. In addition, an electronic copy of the Claim Form will be available on the Internet Web site described in Section II.E.2.c above, which will also contain information on how to make claims. Members of the Wisconsin Class may also obtain Claim Forms by calling a toll free “800” telephone number established by the Settlement Claims Administrator. The Claim Form will contain a stern warning regarding the possibility of audit and the penalties for the submission of false information in connection with claiming and/or redeeming Consumer Vouchers.

a. All Claim Forms to be completed by members of the Wisconsin Class that are not Volume Licensees will require a sworn declaration under penalty of perjury

that sets forth the claimant's name, street address, telephone number, either a photocopy of a valid driver's license or the last four digits of a social security number or a taxpayer identification number, email address (optional), and the quantity acquired of each of the four categories of software licenses at issue in this litigation (Category I products, Category II products, Category III products and Category IV products). The Claim Form will also call for the year in which each purchase was made and the identity of the seller. In addition, claims submitted by businesses must include a sworn declaration under penalty of perjury that the software covered by the claim was used in Wisconsin.

b. All Claim Forms to be completed by members of the Wisconsin Class that are Volume Licensees will require a sworn declaration under penalty of perjury that sets forth the claimant's name, street address, telephone number, taxpayer identification number, email address (optional), and the quantity acquired of each of the four categories of software licenses at issue in this litigation (Category I products, Category II products, Category III products and Category IV products). In addition, claims must include a sworn declaration under penalty of perjury that the software covered by the claim was used in Wisconsin.

2. Proof of Qualification (Claims For Up To Five Licenses). A member of the Wisconsin Class that is not a Volume Licensee may submit up to five (5) license claims not to exceed a total of \$100 supported only by the sworn declaration under penalty of perjury described in Section V.A.1.a above. If a member of the Wisconsin Class that is a Volume Licensee wishes to submit up to five (5) license claims not to exceed a total of \$100 without submitting the documentation specified in Section V.A.5 below, that class member must support its submission with the declaration under penalty of perjury described in Section V.A.1.b above.

The Settlement Claims Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent or otherwise improper. Any additional license claims will require documentation. A claimant who submits more than five license claims may submit: (a) five license claims not to exceed a total of \$100 supported only by the sworn declaration under penalty of perjury described in Section V.A.1.a above; and (b) any additional license claims supported by the documentation described below.

3. Online Claims Submission: In lieu of the process described in Section V.A.2 above, a member of the Wisconsin Class that is not a Volume Licensee may submit up to five (5) license claims through an online claims submission process established and administered by the Settlement Claims Administrator. Such claims must be supported by: (1) a sworn declaration under penalty of perjury as described in Section V.A.1.a. above, except that members of the Wisconsin Class shall swear to this declaration in the process of submitting their claim online rather than by providing a handwritten signature as is otherwise required; and (2) the Product Identification (“PID”) number for each license. The Settlement Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent or otherwise improper. Members of the Wisconsin Class that do not know or cannot find the PIDs for their licenses may submit their claims in the other ways provided for by this Settlement Agreement, and the Web site established for the online claims submission process will have a link to the forms required to submit claims pursuant to Section V.A.2 above. Members of the Wisconsin Class may not submit claims online by any other means or through any party other than the Settlement Claims Administrator. Claims submitted

through any online process other than that described in this paragraph or by any person other than the claimant will be rejected. Claims submitted online will thereafter be processed in the normal manner.

4. Proof of Qualification (Customers Other Than Volume Licensing Customers). A member of the Wisconsin Class who submits claims for additional licenses (other than volume licenses) beyond the five license claims described in Sections V.A.2 or V.A.3 above must support such claims by providing, prior to the close of the Claim Period, for each license: (1) a sworn declaration under penalty of perjury as described in Section V.A.1.a above; and (2) **one** of the following:

- a. the Product Identification (“PID”) number;
- b. the Product Key number that is found on the computer hardware (for preinstalled Microsoft Operating Systems) or printed on the Certificate of Authenticity (“COA”) obtained with the Microsoft Operating System and/or Microsoft Application or that is located on the back of the case for the CD-ROM containing such software;
- c. the original COA;
- d. printed information obtained from Microsoft’s End User Data; or
- e. receipts reflecting the purchase of bona fide Microsoft products that are eligible for settlement benefits.

The Claim Form will clearly explain where the PID, Product Key or COA can be found on the products at issue. The Settlement Claims Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is

fraudulent or otherwise improper. In the absence of the information listed in Sections V.A.4.a through V.A.4.e above, claimants may support their claims with such other proof of qualification as the parties and the Settlement Claims Administrator shall agree to accept, or, in the absence of such an agreement, such other proof of qualification as the Special Master(s) described in Section V.A.7 may accept.

5. Proof of Qualification (Volume Licensing Customers). A member of the Wisconsin Class who licensed a Microsoft Operating System and/or Microsoft Application through Microsoft's volume licensing programs (including Open, Select and Enterprise Agreement programs) ("Volume Licensees") must support such claims by providing, prior to the close of the Claim Period, for each license: (1) a sworn declaration under penalty of perjury as described in Section V.A.1.b above; and (2) **one** of the following proofs of licensing:

- a. the claimant's license agreement;
- b. license confirmations;
- c. Enterprise Agreement enrollment forms;
- d. interim true-up orders;
- e. eOpen documentation or MVLS documentation;
- f. printed information obtained from Microsoft's End User Data; or
- g. receipts reflecting the purchase of bona fide Microsoft products that are eligible for settlement benefits.

The Settlement Claims Administrator shall approve such claims without requiring further documentation unless there is reasonable cause to suspect that the claim is fraudulent or otherwise improper.

6. Requesting Microsoft to Search End User Data. Instead of or in addition to attaching the types of documentation set forth in Section V.A.5 above, a member of the Wisconsin Class may check a box prominently displayed on the first page of its Claim Form that will require Microsoft (with the active supervision of the Settlement Claims Administrator) to search Microsoft's End User Data to determine whether there is license information in Microsoft's End User Data that the claimant can use to further document the claim. A representative of Co-Lead Settlement Class Counsel may, at its option, monitor the search process. Microsoft shall provide the Settlement Claims Administrator with copies of the necessary portions of Microsoft's End User Data and the assistance necessary to facilitate access to the claimant's license information and will communicate that information to the claimant for use in making a claim. The Settlement Claims Administrator shall authorize otherwise valid claims documented by the claimant as further supplemented by the license records found in Microsoft's End User Data.

7. Other Written Evidence. If a member of the Wisconsin Class is unable to attach the types of documentation that will automatically authorize the full amount of its claims (as set forth in Sections V.A.4 and V.A.5 above), it may submit other credible written evidence (along with a sworn declaration under penalty of perjury as described in Section V.A.1 above) to prove its claim. The parties will jointly select one or more Special Masters to review such additional written evidence. The Special Master(s) may approve the claim based on the additional written evidence if such evidence is clear and convincing. The parties will jointly meet with the Special Master(s) to explain the purpose of the clear and convincing evidence standard. If a claimant only has a sworn declaration or the full amount of a claimant's claim is not

approved based on the submitted written documentation, the claimant must appear at a hearing before the Special Master(s) if it wishes to attempt to meet the standard of clear and convincing evidence. The Special Master(s) shall hold hearings throughout the State of Wisconsin so that no claimant must travel more than 125 miles to appear. Co-Lead Settlement Class Counsel and Microsoft shall have the right to present evidence and contest claims at such hearings. The ruling of the Special Master(s) may be appealed to the Court.

8. Approval. The Settlement Claims Administrator will promptly review each claim and make a determination of the number and amount of Consumer Vouchers to be issued to each claimant. The Settlement Claims Administrator shall mail the Consumer Voucher(s) for each claimant whose claim is approved to the address provided by the claimant. The Settlement Claims Administrator shall not be responsible for ensuring that the claimant actually receives the Consumer Voucher.

B. Step 2. To redeem any Consumer Voucher for its face value, a claimant must submit the Consumer Voucher, together with satisfactory proof of purchase of Qualifying Hardware and/or Qualifying Software (as defined in Section IV.G above), to the Settlement Claims Administrator. The claimant must have purchased the Qualifying Hardware and/or Qualifying Software after the date of preliminary approval of this Settlement Agreement. Consumer Vouchers and proofs of purchase must be postmarked on or before the last day of the Settlement Period and must be received by the Settlement Claims Administrator within 14 days of the last day of the Settlement Period. Claimants should retain copies of their Consumer Vouchers and all other documentation submitted to the Settlement Claims Administrator as proof of purchase of Qualifying Hardware and/or Qualifying Software.

1. Proof of Purchase. The proof of purchase must include (a) the original receipt for the purchase of Qualifying Hardware and/or Qualifying Software or (b) a box top or other original packing material with a U.P.C. bar code or a proof-of-purchase mark. Subject to Section V.D.1 below, the Settlement Claims Administrator will be responsible for determining whether the information submitted is sufficient. The claimant should retain copies of all submitted materials. The claimant must have purchased the Qualifying Hardware and/or Qualifying Software after the date of preliminary approval of this Settlement Agreement. If the amount of the Consumer Vouchers submitted with the proof(s) of purchase exceeds the purchase price of the Qualifying Hardware and/or Qualifying Software, the Settlement Claims Administrator will process such submissions in a manner to be agreed upon by the parties, in consultation with the Settlement Claims Administrator. The parties agree in principle that claimants who make such submissions for less than the full amount of their Consumer Vouchers will be permitted to make multiple submissions of their Consumer Vouchers. The parties, in consultation with the Settlement Claims Administrator, will agree as to the details, rules and procedures for processing such submissions.

2. Limits On Transferability. Except as provided in Section IV.F above, once issued, Consumer Vouchers are not transferable to, and may not be redeemed by, any person or entity other than the member of the Wisconsin Class to whom such Consumer Vouchers were issued, and, as to members of the Wisconsin Class that are business entities, their legal successors in interest.

3. Approval. Consumer Vouchers, together with all necessary supporting documentation, must be postmarked on or before the last day of the Settlement Period and must

be received by the Settlement Claims Administrator within 14 days of the last day of the Settlement Period. If the Settlement Claims Administrator approves the submission, the Settlement Claims Administrator shall mail to the claimant a check for the appropriate amount to the address provided by the claimant. The Settlement Claims Administrator is not responsible for ensuring that the claimant actually receives the check.

C. Combined Claims. A member of the Wisconsin Class may, at his or her option, submit a Claim Form and satisfactory proof of qualification (as described in Section V.A above) and satisfactory proof of purchase of Qualifying Hardware and/or Qualifying Software (as described in Section V.B above) at the same time. The claimant must have purchased the Qualifying Hardware and/or Qualifying Software after the date of preliminary approval of this Settlement Agreement. If all of the submitted documentation is satisfactory, and the Settlement is approved and becomes final, the Settlement Claims Administrator shall issue a check to the member of the Wisconsin Class for the appropriate amount. However, it is possible that (a) some or all of the class member's submitted documentation may not be approved by the Settlement Claims Administrator and that the class member's claims may not be approved, or (b) the Settlement may not be approved or become final and the class member's claims may not be approved.

D. Settlement Claims Administration.

1. The Settlement Claims Administrator shall process claims under this Settlement Agreement and administer this Settlement generally in substantially the same way as it did the claims in and settlement of the consumer antitrust class action against Microsoft in California. In the event that new issues arise, the Settlement Claims Administrator, Co-Lead

Settlement Class Counsel and Microsoft will endeavor to agree on the appropriate rules and procedures. If the Settlement Claims Administrator and the parties are unable to agree on any such rules or procedures, the parties shall submit their disagreement to the Court or to a referee appointed by the Court with the consent of the parties for resolution.

2. The Settlement Claims Administrator shall review the Claim Forms and proofs of purchase described in Sections V.A, V.B and V.C above to determine whether they contain the required documentation and whether the claims are duplicative or otherwise invalid, and shall reject any invalid claims unless Co-Lead Settlement Class Counsel and Microsoft otherwise direct. Co-Lead Settlement Class Counsel and Microsoft may work with the Settlement Claims Administrator to verify the validity of claims through Microsoft's End User Data or other reliable information. If Co-Lead Settlement Class Counsel or Microsoft disputes any claim, the Settlement Claims Administrator may request additional documentation from the claimant.

3. In the event a Claim Form or proof of purchase described in Sections V.A, V.B or V.C above is rejected by the Settlement Claims Administrator, the Settlement Claims Administrator shall send mailed written notice to the claimant at the address included on the Claim Form, clearly informing the claimant of the deficiency, with copies to Co-Lead Settlement Class Counsel and Microsoft. The written notice shall clearly inform the claimant concerning the details of any deficiency and shall provide instructions concerning what must be done to cure any deficiency.

4. The decision concerning the validity of any particular claim or redemption shall be made by the Settlement Claims Administrator, subject to appeal by the claimant, Co-

Lead Settlement Class Counsel or Microsoft to the Court, whose decision is final for accepted claims. Before appealing a decision of the Settlement Claims Administrator to the Court, Co-Lead Settlement Class Counsel and counsel for Microsoft shall attempt to resolve informally any disputes over the Settlement Claims Administrator's decision. To the extent such appeals to the Court must be made, the parties will endeavor to present appeals to the Court in batches, to avoid, to the extent practicable, burdening it with multiple appeals.

5. Microsoft will advise its sales team and PSS team that all inquiries from members of the Wisconsin Class regarding claims procedures shall be redirected to the Settlement Claims Administrator. Microsoft shall not attempt to induce members of the Wisconsin Class to give up their claims under this Settlement. Information on Claim Forms will not be made available to Microsoft or any other entity for any purpose other than administration of the claims process under this Settlement Agreement.

E. Costs of Settlement Claims Administration. The Settlement Claims Administrator shall send Microsoft periodic invoices for the costs of claims administration under this Settlement Agreement. Except as otherwise provided in this Section V.E, Microsoft shall pay such costs within 30 days of invoice. If Microsoft believes the amount charged on any invoice is excessive, Microsoft may submit its objections to the Court for resolution and need not pay the disputed amount until the Court has resolved the objections.

VI. *CY PRES*

A. Cy Pres Remedy. The parties will provide a form of *cy pres* remedy, which will be available to Eligible Schools ("Eligible Schools" when not further qualified includes First *Cy Pres* Eligible Schools and Second *Cy Pres* Eligible Schools). The *cy pres* remedy will involve

the distribution of vouchers (“General Purpose Vouchers” and “Software Vouchers”) to Eligible Schools. The *cy pres* distribution of General Purpose Vouchers and Software Vouchers to Eligible Schools will occur in two phases: the “First *Cy Pres* Distribution” (described in Section VI.C below) and the “Second *Cy Pres* Distribution” (described in Section VI.D below).

B. Platform Neutrality and Purpose of *Cy Pres* Program. The *cy pres* program is intended to be platform neutral. The General Purpose Vouchers and Software Vouchers distributed in the *cy pres* program may be used for any platform that the school districts choose. The purpose of the *cy pres* program is to benefit public schools in Wisconsin at which a substantial percentage of the attending students come from low income households.

C. The First *Cy Pres* Distribution. In the event that the total amount of Consumer Vouchers issued pursuant to Sections IV.C and V.A above does not exhaust the Face Value Amount, the remaining portion of the Face Value Amount shall be used as follows:

1. Consumer Voucher Totals. Within 30 days of the close of the Claim Period, the Settlement Claims Administrator shall identify the total value of the Consumer Vouchers issued pursuant to Sections IV.C and V.A above to members of the Wisconsin Class. This amount shall be deducted from the Face Value Amount. Fifty percent (50%) of the difference between the Face Value Amount and the total amount of issued Consumer Vouchers shall be designated as the “First *Cy Pres* Amount.” The other fifty percent (50%) of the difference between the Face Value Amount and the total amount of issued Consumer Vouchers shall be not paid out by Microsoft, but shall instead be retained by it.

2. *Cy Pres.* Fifty percent (50%) of the First *Cy Pres* Amount shall be in the form of General Purpose Vouchers, and fifty percent (50%) of the First *Cy Pres* Amount shall be

in the form of Software Vouchers.

3. Distribution. The First *Cy Pres* Distribution shall be made no later than the Effective Date of the Settlement subject to further provisions of this paragraph. The Settlement Claims Administrator will identify, no later than 45 days after the close of the Claim Period, those school districts in Wisconsin that have First *Cy Pres* Eligible Schools under section I.Q above. The Settlement Administrator shall notify the school districts having First *Cy Pres* Eligible Schools that they may be entitled to receive General Purpose Vouchers and Software Vouchers according to the terms of this settlement and shall confirm with the school districts that such First *Cy Pres* Eligible Schools are still in operation. The Settlement Claims Administrator shall estimate the total number of students attending First *Cy Pres* Eligible Schools in each district based upon the schools' publicly-available National School Lunch Program filings as described in section I.Q above. School districts having First *Cy Pres* Eligible Schools shall be eligible to receive a pro-rata share (based on the Settlement Claims Administrator's estimation of the total number of students attending certified First *Cy Pres* Eligible Schools) of the First *Cy Pres* Amount in General Purpose Vouchers and Software Vouchers. The Settlement Claims Administrator shall distribute to the school districts having certified First *Cy Pres* Eligible Schools the General Purpose Vouchers and Software Vouchers in the amounts defined above no later than the Effective Date of the Settlement, except as may be otherwise agreed upon by the parties or ordered by the Court for good cause shown, and all General Purpose Vouchers and/or Software Vouchers shall expire at the end of the Settlement Period, except as provided for hereunder.

4. General Purpose Vouchers. General Purpose Vouchers distributed in the

First *Cy Pres* Distribution may be redeemed during the First *Cy Pres* Period for any Qualifying Hardware (as defined in Section IV.G.1 above), any non-custom software that could be used with Qualifying Hardware, “Professional Development Services” (as defined in Section I.Y above) and/or “IT Support Services” (as defined in Section I.S above) used in connection with the hardware or software acquired through use of the General Purpose Vouchers and/or Software Vouchers. First *Cy Pres* Eligible Schools may also use General Purpose Vouchers to purchase:

- a. equipment needed for networking and infrastructure (e.g., routers, servers, wireless network cards, or wireless access points);
- b. hardware for accessing the internet through television sets (e.g., MSNTV units or comparable technologies in the market) and internet access for such hardware for students’ homes;
- c. certification training for software and networking;
- d. tablet computers or comparable technology that may become available;
- e. non-custom assistive technology devices and non-custom software designed for use by students with special needs; and
- f. evaluation tool(s) to assist participating schools in monitoring their use of the General Purpose Vouchers and Software Vouchers, as well as to assist the Wisconsin Department of Public Instruction in gathering evaluation data on this *cy pres* program.

5. Software Vouchers.

- a. Software Vouchers distributed in the First *Cy Pres* Distribution may be redeemed during the First *Cy Pres* Period for current or future Microsoft operating

system software (e.g., Microsoft Windows), word processing software (e.g., Microsoft Word), spreadsheet software (e.g., Microsoft Excel), presentation software (e.g., Microsoft PowerPoint), desktop relational database software oriented towards single users and typically residing on a standard personal computer (e.g., Microsoft Access), web-authoring software (e.g., Microsoft Front Page), productivity suite software (e.g., Microsoft Office or Microsoft Works Suite), and encyclopedia software (e.g., Microsoft Encarta) for either personal computers or Macintosh computers, and server software including client access licenses.

b. The Software Vouchers distributed in the First *Cy Pres* Distribution may also be redeemed during the First *Cy Pres* Period for non-custom software titles produced by other companies that compete with and/or have substantially similar functionality to the above identified Microsoft software titles or their successors, and can be used with Qualifying Hardware employing either a Microsoft operating system or another operating system.

c. The Software Vouchers distributed in the First *Cy Pres* Distribution may also be used to cover the cost of the software described in this Section VI.C.5 when such software is bundled with a computer purchased with the General Purpose Vouchers. In such circumstances, Software Vouchers may be applied to the bundled operating system software included in the hardware purchase price in an amount equal to the standard academic upgrade price for the operating system software.

d. When any of the other software categories described in this Section is bundled with a computer purchased with the General Purpose Vouchers, the Software Vouchers may be applied in an amount no greater than the standard academic price or, if an

academic price is not available, in an amount not to exceed the normal or standard price established by the manufacturer for such software.

e. First *Cy Pres* Eligible Schools will have reasonable access to the Microsoft Help Desk for assistance in using Microsoft software obtained using the Software Vouchers, subject to parameters on the scope of such access that will be agreed on by the parties and the Wisconsin Department of Public Instruction and consistent with the level of support given to retail purchasers. However, if such software was pre-installed, then the party originally responsible for providing support for the product will continue to be responsible.

D. The Second *Cy Pres* Distribution. In the event that the total amount of Consumer Vouchers redeemed during the Settlement Period pursuant to Sections IV.G and V.B above is less than the total amount of Consumer Vouchers issued pursuant to Sections IV.C and V.A above, the unredeemed amounts shall be used as follows:

1. Consumer Voucher Totals. Within 45 days after the close of the Settlement Period, the Settlement Claims Administrator shall identify the total value of the Consumer Vouchers redeemed pursuant to Sections IV.G and V.B above by members of the Wisconsin Class. This amount shall be deducted from the total value of the Consumer Vouchers issued pursuant to Sections IV.C and V.A above. One hundred percent (100%) of the difference between the total amount of issued Consumer Vouchers and the total amount of redeemed Consumer Vouchers shall be designated as the “Second *Cy Pres* Amount.”

2. *Cy Pres.* Fifty percent (50%) of the Second *Cy Pres* Amount shall be in the form of General Purpose Vouchers, and fifty percent (50%) of the Second *Cy Pres* Amount shall be in the form of Software Vouchers. These vouchers shall expire upon the close of the

Second *Cy Pres* Period, which shall begin 30 days after the Settlement Claims Administrator makes the calculation described in Section VI.D.1 above (“the Second *Cy Pres* Distribution Date”) and end two years thereafter.

3. Distribution. Within 30 days after the Settlement Claims Administrator makes the calculation described in Section VI.D.1 above, the Settlement Claims Administrator shall distribute the General Purpose Vouchers and Software Vouchers made available in the Second *Cy Pres* Distribution to the Wisconsin Department of Public Instruction to be distributed as the Department deems appropriate in its sole discretion to Second *Cy Pres* Eligible Schools under section I.AA above.

4. General Purpose Vouchers. General Purpose Vouchers distributed in the Second *Cy Pres* Distribution may be redeemed during the Second *Cy Pres* Period for any Qualifying Hardware (as defined in Section IV.G.1 above), any non-custom software that could be used with Qualifying Hardware, “Professional Development Services” (as defined in Section I.Y above) and/or “IT Support Services” (as defined in Section I.S above) used in connection with the hardware or software acquired through use of the General Purpose Vouchers and/or Software Vouchers. Second *Cy Pres* Eligible Schools may also use General Purpose Vouchers to purchase: (1) equipment needed for networking and infrastructure (e.g., routers, servers, wireless network cards, or wireless access points); (2) hardware for accessing the internet through television sets (e.g., MSNTV units or comparable technologies in the market) and internet access for such hardware for students’ homes; (3) certification training for software and networking; (4) tablet computers or comparable technology that may become available; (5) non-custom assistive technology devices and non-custom software designed for use by students with special needs;

and (6) evaluation tool(s) to assist participating schools in monitoring their use of the General Purpose Vouchers and Software Vouchers, as well as to assist the Wisconsin Department of Public Instruction in gathering evaluation data on this *cy pres* program.

5. Software Vouchers. Software Vouchers distributed in the Second *Cy Pres* Distribution may be redeemed during the Second *Cy Pres* Period for current or future Microsoft operating system software (e.g., Microsoft Windows), word processing software (e.g., Microsoft Word), spreadsheet software (e.g., Microsoft Excel), presentation software (e.g., Microsoft PowerPoint), desktop relational database software oriented towards single users and typically residing on a standard personal computer (e.g., Microsoft Access), web-authoring software (e.g., Microsoft Front Page), productivity suite software (e.g., Microsoft Office or Microsoft Works Suite), and encyclopedia software (e.g., Microsoft Encarta) for either personal computers or Macintosh computers, and server software including client access licenses. The Software Vouchers distributed in the Second *Cy Pres* Distribution may also be redeemed during the Second *Cy Pres* Period for non-custom software titles produced by other companies that compete with and/or have substantially similar functionality to the above identified Microsoft software titles or their successors, and can be used with Qualifying Hardware employing either a Microsoft operating system or another operating system. The Software Vouchers distributed in the Second *Cy Pres* Distribution may also be used to cover the cost of the software described in this Section VI.D.5 when such software is bundled with a computer purchased with the General Purpose Vouchers. In such circumstances, Software Vouchers may be applied to the bundled operating system software included in the hardware purchase price in an amount equal to the standard academic upgrade price for the operating system software. When any of the other

software categories described in this Section VI.D.5 is bundled with a computer purchased with the General Purpose Vouchers, the Software Vouchers may be applied in an amount no greater than the standard academic price or, if an academic price is not available, in an amount not to exceed the normal or standard price established by the manufacturer for such software. In addition, Second *Cy Pres* Eligible Schools will have reasonable access to the Microsoft Help Desk for assistance in using the Microsoft software obtained using the Software Vouchers, subject to parameters on the scope of such access that will be agreed on by the parties and the Wisconsin Department of Public Instruction and consistent with the level of support given to retail purchasers. However, if such software was pre-installed, then the party originally responsible for providing support for the product will continue to be responsible.

E. Administrative Expenses. The Wisconsin Department of Public Instruction may use up to \$100,000 to pay for administrative support, including staff and operating expenses incurred in connection with the *cy pres* program. The percentage of these administrative costs to be paid from the funds allocated to the First *Cy Pres* General Purpose Vouchers, and the percentage of the administrative costs to be paid from the funds allocated to the First *Cy Pres* Software Vouchers shall be determined by the Wisconsin Department of Public Instruction after considering the expected needs of the Eligible Schools for the benefits provided by each of the voucher funds. These funds shall be available to the Wisconsin Department of Public Instruction only to the extent that they are used to supplement, rather than supplant, other State funding for the operation of the Wisconsin Department of Public Instruction that would have been available in the absence of this Settlement Agreement.

F. Compliance. The Wisconsin Department of Public Instruction will not assume

responsibility for auditing the Eligible Schools' compliance with the *cy pres* program and/or expenditures in connection with the *cy pres* program, nor will it assume fiscal responsibility for either the General Purpose Vouchers or the Software Vouchers, nor will it provide a guarantee that Eligible Schools will make full or appropriate use of the General Purpose Vouchers and/or Software Vouchers they receive.

G. “Approved Providers” of Professional Development Services and IT Support Services. The Wisconsin Department of Public Instruction may develop a process for determining how providers become “approved providers” for the Professional Development Services and IT Support Services available under the General Purpose Voucher program. However, the list of “approved providers” developed by the Department must be platform neutral and must include some providers that will offer PC-based services and Microsoft software services. The Department will take steps to ensure that this process promotes high-quality professional development aligned with State efforts to improve education.

H. Excess General Purpose Vouchers And/Or Software Vouchers. Neither the Wisconsin Department of Public Instruction nor any school district is authorized to resell any excess General Purpose Vouchers and/or Software Vouchers that are not used by Eligible Schools. In the event there remain available General Purpose Vouchers and/or Software Vouchers that have not been used at the end of the First *Cy Pres* Period, Co-Lead Settlement Class Counsel and Microsoft will agree to either (1) extend the First *Cy Pres* Period to allow First *Cy Pres* Eligible Schools to redeem the remaining available General Purpose Vouchers and/or Software Vouchers or (2) offer the remaining available General Purpose Vouchers and/or Software Vouchers to Second *Cy Pres* Eligible Schools or other needy organizations in

Wisconsin, to be jointly selected (with Court approval) by the parties. In the event there remain available General Purpose Vouchers and/or Software Vouchers that have not been used or distributed at the end of the Second *Cy Pres* Period, Co-Lead Settlement Class Counsel and Microsoft will agree to either (1) extend the Second *Cy Pres* Period to allow the Wisconsin Department of Public Instruction to distribute the remaining available General Purpose Vouchers and/or Software Vouchers to Second *Cy Pres* Eligible Schools or (2) offer the remaining available General Purpose Vouchers and/or Software Vouchers to other needy organizations in Wisconsin, to be jointly selected (with Court approval) by the parties.

I. Vendor Invoices And Certification for Software. When software that is acquired by Eligible Schools under this *cy pres* program is not pre-installed on Qualifying Hardware, the General Purpose Vouchers and Software Vouchers may be used to pay for such software only if the vendor provides an invoice with a separate price for software that can be purchased with General Purpose Vouchers and/or Software Vouchers, and certifies that the price charged for such software is no greater than its standard academic price or, if an academic price is not available, is the normal or standard price charged by the vendor for such software. When computer hardware, Professional Development Services or IT Support Services are acquired by Eligible Schools under this *cy pres* program, the General Purpose Vouchers may be used to pay for such products and services only if the vendor provides an invoice with separate prices for such products and services and certifies that these prices are no greater than its standard academic prices or, if academic prices are not available, are the normal or standard prices charged by the vendor for such products and services. The Settlement Claims Administrator shall verify by audit or otherwise such certifications and the use of the General Purpose Vouchers and

Software Vouchers under this program generally. As part of the verification process, the Settlement Claims Administrator may request assistance or information from the parties to this Settlement Agreement.

J. Non-Displacement of Other Charitable and Educational Activities. Microsoft undertakes its obligations under this Settlement Agreement in addition to its existing corporate charitable giving. Microsoft does not intend to reduce below fiscal year 2003 levels its national charitable giving of cash for a period of 6 years after this Settlement is approved because of the Settlement in this case. This provision does not relate to Microsoft's program of matching employees' gifts. If Microsoft reduces its national charitable giving below fiscal year 2003 levels in any year covered by this provision, it will provide Co-Lead Settlement Class Counsel with a sworn declaration by an officer of Microsoft that Microsoft did not discriminate against Wisconsin with respect to any such reduction and that the reduction was not made because of the Settlement in this case.

VII. OTHER PROVISIONS

A. No Admission. By entering into this Settlement Agreement, neither party admits the truth of any of the assertions, claims or allegations made by the other party in any of the cases listed in Appendix A. Microsoft specifically denies each and every one of the allegations of liability, wrongdoing, unlawful conduct and damages in All Cases. It is expressly understood and agreed that this Settlement Agreement is being entered into solely for the purpose of amicably resolving All Claims between Microsoft and the Wisconsin Class. The Settlement does not, in any way, embody, reflect, or imply any wrongdoing on the part of Microsoft or any of its directors, officers, employees, attorneys, insurers or agents, and the parties may not represent

that it does in any public statement and may not use it for that purpose in any subsequent legal proceeding.

B. Microsoft and Settlement Class Counsel agree that no aspect of this settlement shall have any bearing in any other litigation. Settlement Class Counsel and Microsoft shall not take the position in any litigation in which the other is involved that the settlement terms herein or subsequently agreed to should guide the courts in such other litigations in any way as to such matters.

C. Attorneys' Fees, Costs and Expenses.

1. Microsoft agrees that the case was settled solely as a result of efforts of Co-Lead Settlement Class Counsel and the other Settlement Class Counsel.

2. Microsoft agrees to pay the reasonable attorneys' fees, costs and expenses as petitioned for by Co-Lead Settlement Class Counsel.

3. All fee, cost and expense payments by Microsoft shall be made to Co-Lead Settlement Class Counsel. Said monies shall be allocated by a fee committee composed of Ben Barnow and Richard M. Hagstrom. It is acknowledged that Messrs. Barnow and Hagstrom are very familiar with the contributions of plaintiffs' counsel in this litigation and, accordingly, that they should make said allocations in their discretion to be reasonably applied. Any dispute concerning said allocations shall be a separate and severable matter from the final judgment in this litigation and shall come under the jurisdiction of the Court to enforce this settlement agreement.

D. Incentive Awards to Class Representatives. In recognition of the commitment of the class representatives on behalf of the Wisconsin Class in All Cases, Microsoft shall pay to

each a sum of \$5,000 within 30 days of Final Approval.

E. Binding Effect. This Settlement Agreement shall be binding upon, and inure to the benefit of, each member of the Wisconsin Class, Microsoft, and their respective successors, assigns and subsidiaries.

F. Choice of Law. This Settlement Agreement shall be governed by and interpreted according to the substantive laws of the State of Wisconsin without regard to its choice of law or conflict of laws principles.

G. Discovery Materials.

1. All discovery materials and information (including but not limited to documents; responses to interrogatories, document requests, subpoenas or other oral or written requests; transcripts (including but not limited to deposition transcripts) of any kind and in any medium; privilege logs; and all data furnished or stored by electronic means (including but not limited to CDs, computer files, emails and attachments and tape storage units)) produced or provided by any of the parties or non-parties either before, on or after the date of this Settlement Agreement, whether produced or provided informally or pursuant to discovery requests, shall be governed by all Confidentiality/Protective Orders in force as of the date of this Settlement Agreement, subject to such modifications, if any, that the Court may make to such Confidentiality/Protective Orders as the result of any agreements between Co-Lead Settlement Class Counsel and Microsoft or as the result of any future motions or proceedings.

2. Notwithstanding the above, each of Co-Lead Settlement Class Counsel may retain, subject to all applicable confidentiality orders, one file copy each of any pleadings, motions, briefs or affidavits that have been filed with the Court or any special master appointed

by the Court.

H. Execution in Counterparts. The signatories to this Settlement Agreement may execute this Settlement Agreement in counterparts, and the execution of counterparts shall have the same effect as if all counsel had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date of this Settlement Agreement, but the original signature pages shall subsequently be appended to this Settlement Agreement and filed with the Court.

I. Integrated Agreement. This Settlement Agreement (with its appendices and expressly incorporated documents) contains the entire, complete and integrated statement of each and every term and provision agreed to by Co-Lead Settlement Class Counsel and the other Settlement Class Counsel and Microsoft, and is not subject to any condition not provided for in this Settlement Agreement. This Settlement Agreement shall not be modified in any respect except by a writing executed by all signatories to the Settlement Agreement. In entering into this Settlement Agreement, neither Co-Lead Settlement Class Counsel, Settlement Class Counsel, nor Microsoft has made or relied on any warranty or representation not specifically set forth in the document.

J. Jurisdiction. The Circuit Court of Wisconsin, County of Milwaukee, shall have exclusive jurisdiction over all provisions of this Settlement Agreement and over any and all disputes of any kind relating in any way to, or arising in any way out of, this Settlement Agreement.

K. Notice. Any notice, request, instruction or other document to be given by Microsoft to Co-Lead Settlement Class Counsel, or vice versa, shall be in writing and (a)

delivered personally, or (b) sent by any overnight service, such as Federal Express, facsimile and by Certified Mail, Return Receipt Requested.

If to Microsoft:

Richard J. Wallis
MICROSOFT CORPORATION
One Microsoft Way
Redmond, Washington 98052

David B. Tulchin
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004
(212) 558-4000

If to Co-Lead Settlement Class Counsel:

Ben Barnow
BARNOW and ASSOCIATES, P.C.
One North LaSalle Street, Suite 4600
Chicago, IL 60602
(312) 621-2000

Richard M. Hagstrom, Esq.
ZELLE, HOFMANN, VOELBEL, MASON & GETTE, LLP
500 Washington Avenue South, Suite 4000
Minneapolis, MN 55415
(612) 339-2020

Mark A. Maasch
TURNER & MAASCH, INC.
550 West C Street, Suite 1150
San Diego, CA 92101
(619) 237-1212

IN WITNESS WHEREOF, Co-Lead Settlement Class Counsel, Settlement Class Counsel) and Microsoft have duly executed this Settlement Agreement on this 14th day of September 2006.

AGREED to this 14th day of September 2006.

Counsel for Microsoft Corporation



David B. Tulchin
SULLIVAN & CROMWELL
125 Broad Street
New York, NY 10004
(212) 558-4000

Richard Wallis
Thomas W. Burt
Steven J. Aeschbacher
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Co-Lead Settlement Class Counsel

Ben Barnow
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Richard M. Hagstrom, Esq.
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(612) 339-2020

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Counsel for Microsoft Corporation

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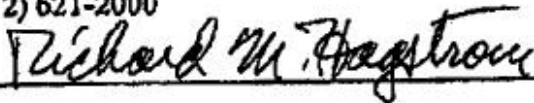
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Mark A. Maasch by BB with permission

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Other Settlement Class Counsel

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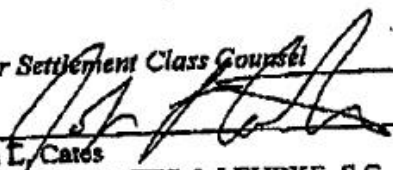
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From: McNALLY MALONEY PETERSON

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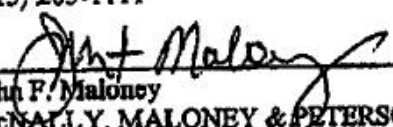
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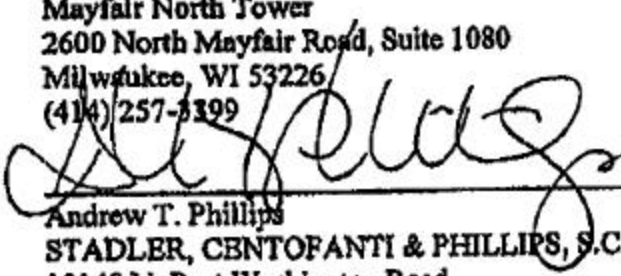
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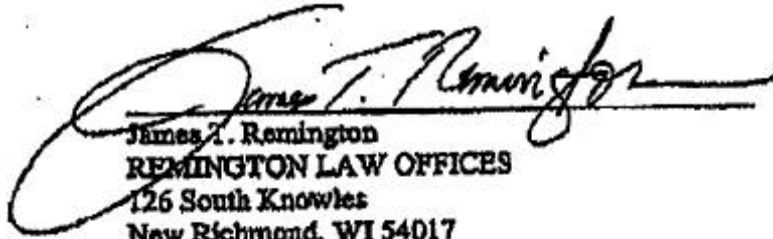
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(262) 241-1900

A handwritten signature in black ink, appearing to read "James T. Remington", is written over a horizontal line. The signature is fluid and cursive, with a large initial "J" and "R".

James T. Remington
REMINGTON LAW OFFICES
126 South Knowles
New Richmond, WI 54017
(715) 246-3422

APPENDIX A

<i>Case Name</i>	<i>Case Number</i>	<i>Court</i>
<i>Spence, et al. v. Microsoft Corp.,</i>	No. 00-CV-003042	Wisconsin Circuit Court, Milwaukee County
<i>Capp v. Microsoft Corp.,</i>	No. 05-CV-011127	Wisconsin Circuit Court, Milwaukee County
<i>Bettendorf, et al. v. Microsoft Corp.,</i>	No. 05-CV-010927	Wisconsin Circuit Court, Milwaukee County

APPENDIX B-1

Versions of MS-DOS and Windows operating system software (other than operating system software for servers) that were available for purchase during the period from December 7, 1993 through April 30, 2003, including:

<i>Product Title/Edition</i>	<i>Version</i>
MS-DOS	1.0
MS-DOS	2.0
MS-DOS	2.11
MS-DOS	3.1
MS-DOS	3.2
MS-DOS	3.21
MS-DOS	3.22
MS-DOS	3.3
MS-DOS	3.5
MS-DOS	4.0
MS-DOS	4.01
MS-DOS	4.2
MS-DOS	5.0
MS-DOS	6.0
MS-DOS	6.2
MS-DOS	6.21
MS-DOS	6.22
Windows	1.0
Windows	2.0
Windows	2.1
Windows	2.11
Windows	3.0
Windows	3.1
Windows	3.11
Windows	3.2
Windows for Workgroups	1.0
Windows for Workgroups	3.0
Windows for Workgroups	3.1
Windows for Workgroups	3.11
Windows 95	
Windows 98	
Windows 98 Second Edition	
Windows Millennium	
Windows 2000	
Windows 2000 Professional	
Windows NT Workstation	1.0
Windows NT Workstation	3.1
Windows NT Workstation	3.11
Windows NT Workstation	3.4
Windows NT Workstation	3.5
Windows NT Workstation	3.51
Windows NT Workstation	4.0
Windows NT Workstation	4.21
Windows XP Professional	
Windows XP Home Edition	

APPENDIX B-2

Versions of Office productivity suite applications that include both Word and Excel, that were licensed for use with either MS-DOS or Windows and that were available for purchase during the period from December 7, 1993 through April 30, 2003, including:

<i>Product Title/Edition</i>	<i>Version</i>
Office	1.0
Office	1.5
Office	1.6
Office	2.0
Office	2.5
Office	3.0
Office	3.2
Office	4.0
Office	4.1
Office	4.2
Office	4.21
Office	4.3
Office	4.5
Office	7.0
Office 95	
Office 97	
Office 2000	
Office XP	
Office Professional	1.0
Office Professional	3.0
Office Professional	4.0
Office Professional	4.1
Office Professional	4.2
Office Professional	4.21
Office Professional	4.3
Office Professional	7.0
Office 95 Professional	
Office 97 Professional	
Office 2000 Professional	
Office 2002 Professional	
Office XP Professional	
Office XP Professional Special Edition	
Office 2000 Premium	
Office Small Business	7.0
Office 97 Small Business	
Office 97.2 Small Business	
Office 2000 Small Business	
Office XP Small Business	

APPENDIX B-3

Standalone versions of Excel spreadsheet applications that were licensed for use with either MS-DOS or Windows and that were available for purchase during the period from December 7, 1993 through April 30, 2003, including:

<i>Product Title/Edition</i>	<i>Version</i>
Excel	1.0
Excel	1.1
Excel	2.0
Excel	2.1
Excel	2.2
Excel	2.21
Excel	3.0
Excel	4.0
Excel	5.0
Excel	6.0
Excel	7.0
Excel 95	
Excel 97	
Excel 2000	
Excel 2002	

APPENDIX B-4

Standalone versions of Word word processing applications and productivity suite applications other than Office including Word word processing software that were licensed for use with either MS-DOS or Windows and that were available for purchase during the period from December 7, 1993 to April 30, 2003, including:

<i>Product Title/Edition</i>	<i>Version</i>
Word	1.0
Word	1.1
Word	1.15
Word	1.2
Word	2.0
Word	2.01
Word	3.0
Word	3.1
Word	4.0
Word	5.0
Word	5.1
Word	5.5
Word	6.0
Word	6.01
Word	7.0
Word	7.1
Word 95	
Word 97	
Word 98	
Word 2000	
Word 2002	
Home Essentials 97	
Home Essentials 98	
Works Suite 99	
Works Suite 2000	
Works Suite 2001	
Works Suite 2002	

APPENDIX C

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

TONY SPENCE, et al.	X	
)	
Plaintiffs,	)	Case No. 00-CV-003042
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendants.	X	
TOM CAPP,	X	
)	
)	
Plaintiff,	)	Case No. 05-CV-011127
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendant.	X	
CANDACE BETTENDORF, et al.,	X	
)	
)	
Plaintiffs,	)	Case No. 05 CV 10927
)	
v.)	
)	
MICROSOFT CORPORATION,)	
)	
Defendant.	X	

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

WHEREAS, Co-Lead Settlement Class Counsel (as defined in the Settlement Agreement dated _____, 2006), acting on behalf of and with full authority from counsel for all Plaintiffs in the above-captioned cases, have applied for an order preliminarily approving the terms and conditions of the Settlement as set forth in the Settlement Agreement together with the

APPENDIX C

Appendices attached to the Settlement Agreement, approving the form and manner of notice, and scheduling a hearing on final approval of the Settlement; and

WHEREAS, the Settlement requires, among other things, that All Claims (as defined in the Settlement Agreement) against Microsoft be settled and compromised; and

WHEREAS, Co-Lead Settlement Class Counsel have identified the maximum amount of attorneys' fees, costs and expenses it will seek on behalf of itself and other counsel for plaintiffs in this litigation, and will file a motion in support of that request in accordance with the schedule specified in paragraph 7 of this Order; and

WHEREAS, this Court having considered the Settlement Agreement and the Appendices attached to the Settlement Agreement;

NOW, THEREFORE, pursuant to Rule 803.08 of the Wisconsin Rules of Civil Procedure, it is hereby ORDERED that:

1. The terms defined in the Settlement Agreement are incorporated in this Order.
2. The Court appoints Rust Consulting, Inc. as the Settlement Claims Administrator.
3. The Court conditionally certifies the Wisconsin Class, and appoints Tony Spence, Atterbury & Kammer, S.C., Tom Capp, Candace Bettendorf, Bettendorf Transfer, Inc., Dunn County, Jackson County, School District of Hudson, and Wisconsin Counties Association as class representatives of the Wisconsin Class.
4. The Court appoints Ben Barnow of Barnow and Associates, P.C., Richard M. Hagstrom of Zelle, Hofmann, Voelbel, Mason & Gette LLP, and Mark A. Maasch of Turner & Maasch, Inc., as Co-Lead Settlement Class Counsel.
5. The Court appoints, in addition to Co-Lead Settlement Class Counsel, John L. Cates of Gingras, Cates & Luebke, S.C., Roxanne B. Conlin of Roxanne Conlin & Associates,

APPENDIX C

John F. Maloney of McNally, Maloney & Peterson, S.C., Andrew T. Phillips of Stadler, Centofanti & Phillips, S.C., and James T. Remington of Remington Law Offices, as Settlement Class Counsel.

6. The Court preliminarily approves the Settlement as set forth in the Settlement Agreement, subject to the right of any member of the Wisconsin Class (as defined in the Settlement Agreement) to challenge the fairness, reasonableness or adequacy of the Settlement Agreement, to opt out from the Settlement, to present any opposition to the request(s) for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel or by any other counsel for Plaintiffs in these coordinated proceedings, and to show cause, if any exists, why a final judgment dismissing All Claims should not be ordered after due and adequate notice to the Wisconsin Class as set forth in the Settlement Agreement and after a hearing on final approval.

7. The Court, having considered the forms of notice proposed by the parties, approves the Forms of Notice and manner of notice and finds that the Forms of Notice attached to this Order fairly and adequately inform the members of the Wisconsin Class of their rights regarding the Settlement, including their right to opt out from or object to the Settlement, to oppose the request(s) for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel and by other counsel for Plaintiffs in these coordinated proceedings, and to appear at the hearing on final approval of the Settlement. The Court finds that the notice (including, but not limited to the Forms of Notice and the methods of giving notice to the class) is the best notice practicable under the circumstances and fully satisfies the requirements of due process, the Wisconsin Rules of Civil Procedure and any other applicable law or rules of the Court.

8. As of the date of this Order, all proceedings in this litigation, including trial, shall

APPENDIX C

be stayed and suspended until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Settlement Agreement.

9. The Court hereby schedules a hearing to occur on _____, 2006, at _____ a.m. in Courtroom _____ at _____, to determine whether:

(a) the proposed Settlement, as set forth in the Settlement Agreement, should be finally approved as fair, reasonable and adequate pursuant to Rule 803.08 of the Wisconsin Code of Civil Procedure; (b) an Order of Approval approving the Settlement Agreement and a Final Judgment should be entered; and (c) the application of Co-Lead Settlement Class Counsel and any other counsel for Plaintiffs in these coordinated cases for an award of attorneys' fees, costs and expenses of litigation and class representative incentive awards should be approved. No later than 35 days before the hearing, all relevant briefs of counsel for any plaintiffs, including Co-Lead Settlement Class Counsel, in support of their application for an award of attorneys' fees, costs and expenses of litigation shall be filed. No later than 21 days before the hearing, all relevant briefs and papers shall be filed and served by objectors to the Settlement or those opposing the request for attorneys' fees, costs and expenses included in the class notice. No later than 14 days before the hearing, all relevant briefs in support of the Settlement shall be filed. In addition, no later than 14 days before the hearing, Microsoft shall file any briefs and papers in opposition to the application for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel or by any other plaintiffs' counsel. No later than 7 days before the hearing, all relevant reply briefs and papers shall be filed and served by Co-Lead Settlement Class Counsel and any other plaintiffs' counsel in support of their application for attorneys' fees, costs or expenses.

10. Neither this Order, the Settlement Agreement, the Settlement reflected in the

APPENDIX C

Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement is or may be used as an admission or evidence: (a) of the validity of any claims, alleged wrongdoing or liability of Microsoft; or (b) of any fault or omission of Microsoft in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

11. The Court may, for good cause, extend any of the deadlines set forth in this Order and/or adjourn the date of the hearing on final approval of this Settlement without further notice to the members of the Wisconsin Class.

IT IS SO ORDERED.

DATED this ____ day of _____, 2006.

APPENDIX D

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

_____	X	
TONY SPENCE, et al.)	
)	
Plaintiffs,	)	Case No. 00-CV-003042
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendants.	X	
_____	X	
TOM CAPP,)	
)	
Plaintiff,	)	Case No. 05-CV-011127
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendant.	X	
_____	X	
CANDACE BETTENDORF, et al.,)	
)	
Plaintiffs,	)	Case No. 05 CV 10927
)	
v.)	
)	
MICROSOFT CORPORATION,)	
)	
Defendant.	X	

ORDER APPROVING SETTLEMENT

WHEREAS, on _____ this Court entered an Order preliminarily approving the terms and conditions of this Settlement (as reflected in the Settlement Agreement dated August 23, 2006, together with the Appendices to the Settlement Agreement);

APPENDIX D

WHEREAS, the Settlement requires, among other things, that All Claims (as defined in the Settlement Agreement) against Microsoft be settled and compromised;

WHEREAS, this matter has come before this Court on a motion by Co-Lead Settlement Class Counsel, acting on behalf of and with full authority from counsel for all plaintiffs in the litigation, for final approval of the Settlement Agreement;

WHEREAS, Microsoft has separately joined in the motion; and

WHEREAS, this Court, having considered all papers filed and proceedings held in connection with said motion, having held a hearing on _____, notice of the hearing having duly been given in accordance with this Court's Order dated _____, and finding no just reason for delay in entry of this Order Approving Settlement ("Order of Approval");

NOW, THEREFORE, pursuant to Rule 803.08 of the Wisconsin Rules of Civil Procedure, it is hereby ORDERED that:

1. The terms defined in the Settlement Agreement are incorporated in this Order.
2. The Court has jurisdiction over the subject matter of this proceeding and all parties in this proceeding, including all members of the Wisconsin Class (as defined in the Settlement Agreement).
3. The Court certifies the Wisconsin Class, and appoints Tony Spence, Atterbury & Kammer, S.C. and Tom Capp, Candace Bettendorf, Bettendorf Transfer, Inc., Dunn County, Jackson County, School District of Hudson, and Wisconsin Counties Association, as class representatives of the Wisconsin Class.

APPENDIX D

4. The Court appoints Ben Barnow of Barnow and Associates, P.C., Richard M. Hagstrom of Zelle, Hofmann, Voelbel, Mason & Gette LLP, and Mark A. Maasch of Turner & Maasch, Inc., as Co-Lead Settlement Class Counsel.

5. The Court approves the Settlement set forth in the Settlement Agreement and finds that the Settlement is, in all respects, fair, reasonable, and adequate to the Wisconsin Class under Rule 803.08 of the Wisconsin Rules of Civil Procedure.

6. The Court finds and concludes that the notice given to the members of the Wisconsin Class complied with this Court's Order dated _____, and that the notice (including, but not limited to, the forms of notice and methods of identifying and giving notice to the class) was the best notice practicable under the circumstances and fully satisfies the requirements of due process, the Wisconsin Rules of Civil Procedure and any other applicable law or rules of the Court.

7. The Court dismisses, with prejudice, All Cases pending before the Court as listed on Exhibit A to this Order.

8. By this Order, Microsoft is expressly and irrevocably, fully and finally, released and forever discharged from All Claims by members of the Wisconsin Class as provided in the release contained in sections III.A and III.B of the Settlement Agreement. The release is attached to this Order as Exhibit B.

9. Each and every member of the Wisconsin Class, as well as those acting in concert with them, are permanently barred and enjoined from instituting, maintaining, prosecuting or enforcing, either directly or indirectly, all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or

APPENDIX D

agents, whether known or unknown, asserted or unasserted, that are released under paragraph 8 above.

10. All persons or entities who have properly excluded themselves from the Wisconsin Class are not bound by the release contained in the Settlement Agreement and in paragraphs 8 and 9 above. A list of those persons and entities who have filed valid requests for exclusion is attached to this Order as Exhibit C.

11. Without affecting the finality of this judgment, the Court reserves and retains continuing and exclusive jurisdiction over all matters relating to the administration, consummation, and enforcement of the terms of the Settlement Agreement and the Settlement embodied in the Settlement Agreement, including the *cy pres* program and all proceedings both before and after the Final Judgment becomes final and is no longer subject to appeal. If the Settlement Agreement is reversed or overturned on appeal, then this Order of Approval and the Settlement Agreement shall have no force or effect, and all negotiations, proceedings and statements made in connection with the Settlement Agreement shall be without prejudice to the right of any persons or entities, and the parties to the proceeding shall be restored to their respective positions existing as of the date of execution of the Settlement Agreement. The Wisconsin Class and Microsoft shall remain subject to the Court's jurisdiction for purposes of enforcing the provisions of this paragraph.

12. Upon consideration of the application of Co-Lead Settlement Class Counsel, acting on behalf of and with full authority from counsel for all Plaintiffs in All Cases, for an award of attorneys' fees, costs and expenses for all counsel in All Cases, and all papers in favor of and in opposition to the application for fees, costs and expenses, Co-Lead Settlement Class Counsel on behalf of counsel for all Plaintiffs in this litigation, are awarded fees in the

APPENDIX D

amount of \$_____ and costs and expenses of litigation in the amount of \$_____ and each of the class representatives are awarded as their respective incentive award the amount of \$_____. Said amounts are to be paid by Microsoft to Co-Lead Settlement Class Counsel within 30 days after the Date of Final Approval (as defined in the Settlement Agreement). Co-Lead Settlement Class Counsel Ben Barnow and Richard M. Hagstrom are responsible for allocating, in their discretion to be reasonably applied, and distributing the payment for attorneys' fees, costs and expenses among plaintiffs' counsel and for distributing the incentive awards. After making the payments as required by this paragraph, Microsoft and Co-Lead Settlement Class Counsel Ben Barnow and Richard M. Hagstrom shall have no further obligation to pay attorneys' fees, costs or expenses of this litigation to counsel for any Plaintiffs or any other counsel or to pay any further amount for incentive awards to the class representatives. Any of the following parties may request that the Court make formal findings in connection with this award of attorneys' fees, costs and expenses: (1) any member of the Wisconsin Class that has properly objected in this Court to the application(s) for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel on behalf of Settlement Class Counsel or by other counsel for Plaintiffs in these coordinated proceedings; (2) Co-Lead Settlement Class Counsel or other counsel (if any) that have submitted separate application(s) for attorneys' fees, costs and expenses; and (3) Microsoft.

IT IS SO ORDERED.

DATED this ____ day of _____, 2006.

APPENDIX E

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

TONY SPENCE, et al.)	
)	
Plaintiffs,	)	Case No. 00-CV-003042
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendants.)	

TOM CAPP,)	
)	
Plaintiff,	)	Case No. 05-CV-011127
)	
v.)	
)	
MICROSOFT CORPORATION)	
)	
Defendant.)	

CANDACE BETTENDORF, et al.,)	
)	
Plaintiffs,	)	Case No. 05 CV 10927
)	
v.)	
)	
MICROSOFT CORPORATION,)	
)	
Defendant.)	

FINAL JUDGMENT

This Final Judgment is entered upon motion for approval of a settlement presented in this proceeding (“Settlement”) as stated in the Settlement Agreement dated September ____, 2006 (“Settlement Agreement”), and the Appendices attached to the Settlement Agreement, by Co-Lead Settlement Class Counsel, and other Settlement Class Counsel (as defined below), acting

APPENDIX E

on behalf of and with full authority from counsel for all plaintiffs in the litigation, after a hearing on notice.

1. For purposes of this Final Judgment, the following terms shall have the meaning set forth below:

(A.) “All Cases” means *Spence, et al. v. Microsoft Corp.*, No. 00-CV-003042 (Wis. Cir. Ct.), *Capp v. Microsoft Corp.*, No. 05-CV-011127 (Wis. Cir. Ct.), and *Bettendorf, et al. v. Microsoft Corp.*, No. 05-CV-010927 (Wis. Cir. Ct.), as listed in Appendix A to this Final Judgment.

(B.) “All Claims” means all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that any member of the Wisconsin Class ever had, could have had, now has or hereafter can, shall or may have, relating in any way to any conduct, act or omission which was or could have been alleged in any of the cases listed on Appendix A and which arise from or relate to the purchase, use and/or acquisition of a license for a Microsoft Operating System and/or Microsoft Application (as defined below) and where the claims, demands, actions, suits or causes of action concern or relate to any of the following: (a) antitrust (including without limitation the Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.*, and the Wisconsin Antitrust Act, Wis. Stat. § 133.01 *et seq.*), (b) unfair competition, (c) unfair practices, (d) price discrimination, (e) trade regulation, (f) trade practices, and/or (g) other federal or state law, regulation or common law similar or analogous to any of the above. “All Claims” does not include (a) claims relating to the acquisition or licensing of Microsoft Operating System or Microsoft Application software for use outside of Wisconsin, (b) claims arising from purchases directly from Microsoft Corporation of licenses for Microsoft Operating System or Microsoft Application software or (c) claims by competitors of Microsoft in their capacity as competitors. “All Claims” does not include claims relating to Microsoft’s conduct, acts or omissions that take place after April 30, 2003. However, “All Claims” includes any and all claims described above relating to Microsoft’s conduct, acts or omissions that occurred on or prior to April 30, 2003.

(C.) “Wisconsin Class” means all persons or entities (excluding federal governmental entities) who, from and including December 7, 1993 through April 30, 2003 (the “Class Period”), resided in or were located in Wisconsin and indirectly purchased (*i.e.*, purchased from someone other than Microsoft) in the United States a license for Microsoft Operating System and/or Microsoft Applications software for use in Wisconsin and who did not purchase it for the purpose of resale. Excluded from the Wisconsin Class are:

(c)(i) Microsoft officers and directors, subsidiaries in which Microsoft has greater than a 50 percent ownership interest and any judges or justices assigned to hear any aspect of this litigation;

(c)(ii) All persons or entities who have properly excluded themselves from the plaintiff classes previously certified by the Court.

(D.) “Co-Lead Settlement Class Counsel” means Ben Barnow of Barnow and Associates, P.C., Richard M. Hagstrom of Zelle, Hofmann, Voelbel, Mason & Gette, LLP, and Mark A. Maasch of Turner & Maasch, Inc. “Settlement Class Counsel” means, Co-Lead Settlement Class

APPENDIX E

Counsel and John L. Cates of Gingras, Cates & Luebke, S.C., Roxanne B. Conlin of Roxanne Conlin & Associates, John F. Maloney of McNally, Maloney & Peterson, S.C., Andrew T. Phillips of Stadler, Centofanti & Phillips, S.C., and James T. Remington of Remington Law Offices.

(E.) “Microsoft” means Microsoft Corporation, its successors, assigns and subsidiaries.

(F.) “Microsoft Application” means the versions of the products listed on Exhibits B-2, B-3 and B-4 to this Final Judgment.

(G.) “Microsoft Operating System” means the versions of the products listed on Exhibit B-1 to this Final Judgment.

2. All Cases are dismissed with prejudice.

3. By this Final Judgment, Microsoft is expressly and irrevocably, fully and finally, released and forever discharged from All Claims by members of the Wisconsin Class as provided in the release contained in sections III.A and III.B of the Settlement Agreement. The release is attached to this Final Judgment as Exhibit C.

4. All counsel of record in All Cases, and all members of the Wisconsin Class, as well as those acting in concert with them, are permanently barred and enjoined from instituting, maintaining, prosecuting or enforcing, either directly or indirectly, all claims, demands, actions, suits and causes of action against Microsoft and/or its directors, officers, employees, attorneys, insurers or agents, whether known or unknown, asserted or unasserted, that are released under paragraph 3 above.

5. Each party to the Settlement shall bear its own costs and the fees and expenses of its counsel, except as directed in this Court’s Order Approving Settlement, dated _____, 2006. Co-Lead Settlement Class Counsel, on behalf of counsel for Plaintiffs in All Cases, are awarded fees in the amount of \$_____, and costs and expenses of litigation in the amount of \$_____. Co-Lead Settlement Class Counsel Ben Barnow and Richard M. Hagstrom are responsible for allocating, in their discretion to be reasonably applied, and distributing the payment among such plaintiffs’ counsel as described in its application for an

APPENDIX E

award of attorneys' fees, costs and expenses. Each class representative is awarded the amount of \$_____ to be paid by Microsoft as their respective incentive award. Co-Lead Settlement Class Counsel shall also distribute said awards upon payment by Microsoft. After making the payments as required by this paragraph, Microsoft and Co-Lead Settlement Class Counsel shall have no further obligation to pay attorneys' fees, costs or expenses of this litigation to counsel for any plaintiffs or any other counsel or incentive awards. Any of the following parties may request that the Court make formal findings in connection with this award of attorneys' fees, costs and expenses: (1) any member of the Wisconsin Class that has properly objected in this Court to the application(s) for attorneys' fees, costs and expenses submitted by Co-Lead Settlement Class Counsel on behalf of Settlement Class Counsel or by other counsel for plaintiffs (if any) in these coordinated proceedings; (2) Co-Lead Settlement Class Counsel or other counsel (if any) that have submitted separate application(s) for attorneys' fees, costs and expenses; and (3) Microsoft.

6. The terms of the Settlement Agreement are not merged into this Final Judgment and remain binding upon the parties to the Settlement Agreement, who are directed to implement its provisions.

7. The Court retains jurisdiction over the parties to enforce the terms of this Final Judgment and the terms of the Settlement Agreement, including all proceedings both before and after this Final Judgment is no longer subject to appeal. However, there being no just reason for delay, this Final Judgment is final and appealable.

IT IS SO ORDERED.

DATED this ___ day of _____, 2006.
