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Contract Number
22-403 A-1

SAP Number

Innovation and Technology Department

Department Contract Representative	Jeremiah Thomas
Telephone Number	(909) 388-0641
Contractor	Apple, Inc.
Contractor Representative	N/A
Telephone Number	N/A
Contract Term	1 year, automatically renewing annually
Original Contract Amount	As permitted under County policy
Amendment Amount	N/A
Total Contract Amount	As permitted under County policy
Cost Center	1200604048

Briefly describe the general nature of the contract: Amendment No. 1 to Apple's Business Manager Agreement for software enabling the Innovation and Technology Department to enroll, manage content and support Apple branded devices operating in a Mobile Device Management environment within the Count.

FOR COUNTY USE ONLY

Approved as to Legal Form

► Bonnie Uphold
Bonnie Uphold, Supervising Deputy County Counsel

Date 9/17/2024

Reviewed for Contract Compliance

►
Date _____

Reviewed/Approved by Department

►
Date _____

PLEASE READ THE FOLLOWING APPLE BUSINESS MANAGER TERMS AND CONDITIONS CAREFULLY BEFORE USING THE SERVICE. THESE TERMS AND CONDITIONS CONSTITUTE A LEGAL AGREEMENT BETWEEN INSTITUTION AND APPLE. BY CLICKING ON THE "AGREE" BUTTON, INSTITUTION, THROUGH ITS AUTHORIZED REPRESENTATIVE, IS AGREEING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS AGREEMENT. IF INSTITUTION DOES NOT OR CANNOT AGREE TO THIS AGREEMENT, THEN CLICK THE "CANCEL" BUTTON. IF INSTITUTION DOES NOT AGREE TO THIS AGREEMENT, THEN INSTITUTION IS NOT PERMITTED TO PARTICIPATE.

Apple Business Manager Agreement

Purpose

This Agreement permits You to participate in Apple Business Manager, which allows You to automate enrollment of Apple-branded devices for Apple Business Essentials or other mobile device management ("MDM") within Your Institution, to purchase and manage content for such devices, to create Managed Apple Accounts for Your users, and to access facilitation tools for related services.

Note: In order to utilize the features of this Service, You will need to enable Apple Business Essentials or have an MDM solution (e.g., from a third-party developer) enabled within Your Institution. For more information, see <https://www.apple.com/business/resources/>.

1. Definitions

Whenever capitalized in this Agreement:

"Administrators" means employees or Contract Employees (or Service Providers) of Institution who have been added to the Service for purposes of account management, e.g., administering servers, uploading MDM provisioning settings, adding devices to Your account, purchasing Apple Business Essentials and Content, and performing other related services.

"Agreement" means this Apple Business Manager Agreement.

"Apple" means the following, unless otherwise specified herein: (a) **Apple Inc.**, located at One Apple Park Way, Cupertino, California 95014, U.S.A., for Institutions in the United States, including Puerto Rico; (b) **Apple Canada Inc.**, located at 120 Bremner Blvd., Suite 1600, Toronto ON M5J 0A8, Canada, for Institutions in Canada or its territories and possessions; (c) **Apple Services LATAM LLC**, located at 1 Alhambra Plaza, Ste 700 Coral Gables, Florida, for Institutions in Mexico, Central or South America, or any Caribbean country or territory (excluding Puerto Rico); (d) **iTunes K.K.**, located at Roppongi Hills, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6140, Japan, for Institutions in Japan; (e) **Apple Pty Limited**, located at 20 Martin Place, Sydney NSW 2000, Australia, for Institutions in Australia and New Zealand, including island possessions, territories, and affiliated jurisdictions; (f) **Apple Services Pte. Ltd.**, located at 4F, 504 Teheran-ro (Daechi-dong), Gangnam-gu, Seoul, Republic of Korea for Institutions in South Korea; and (g) **Apple Distribution International Ltd.**, located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland, for Institutions in all other countries or territories not specified above in which the Service is offered.

"Apple Business Essentials" or "Business Essentials" means the subscription service that enables You to configure, deploy, and manage Apple-branded devices, including the Business Essentials App, allocate iCloud storage to Authorized Users, and provide AppleCare+ for Business Essentials to Your users and devices.

“Apple Business Essentials Plans” mean Apple Business Essentials Employee Plans and Apple Business Essentials Device Plans that may be purchased through Apple Business Essentials.

“Apple Services” means the App Store, Apple Books, Apple Online Store, AppleCare, iCloud, and other Apple services as available to Your Authorized Users under this Agreement.

“Apple Software” means the iOS, iPadOS, macOS, tvOS, visionOS, and watchOS operating system software, or any successor versions thereof.

“Authorized Devices” means Apple-branded devices that are owned or controlled by You, have been designated for use by Authorized Users or Permitted Users only, and that are eligible for use in the Service. For the avoidance of doubt, devices that are personally-owned by an individual (e.g., “BYOD” devices) are not permitted to be enrolled in supervised device management (e.g., configured with Device Enrollment Settings) as part of the Service, unless otherwise agreed by Apple in writing, and not all devices are eligible to be added to the Service.

“Authorized Users” means employees and Contract Employees (or Service Providers) of (i) Your Institution and/or (ii) Your Institution’s directly or indirectly wholly-owned subsidiaries, if applicable. If You are a hospital, the term “Authorized Users” also includes credentialed physicians, referring physicians and clinicians). For clarity, You may request, and Apple may approve, in its sole discretion, other similar users to be included as “Authorized Users”; however, no other parties shall be included in this definition without Apple’s prior written consent.

“Content” means any material or information that may be licensed or acquired as part of the Service pursuant to Apple’s Volume Content Terms (e.g., Apps from the App Store).

“Contract Employees” means individuals who perform work or provide services on behalf of an entity on a non-piece-rate basis and who have internal use access to the entity’s private information technology systems (e.g., VPN) and/or secured physical premises (e.g., badge access to corporate facilities).

“Device Enrollment Settings” means settings for an Apple-branded device that can be configured and managed as part of the Service, including but not limited to the initial enrollment flow for a device, and settings to supervise a device, make configuration mandatory, or lock an MDM profile.

“Documentation” means the technical or other specifications or documentation that Apple may provide to You for use in connection with the Service.

“End User License Agreement” or “EULA” means the software license agreement terms and conditions for the Apple Software.

“Managed Apple Account(s)” means a user account (including but not limited to storage, calendar, notes, and contacts) that You create and deploy through the use of the Service.

“MDM Server(s)” means computers owned or controlled by You (or a Service Provider acting on Your behalf) that have been designated to communicate with the Service.

“Permitted Entity(ies)” means: (a) if You are a vehicle manufacturer, Your authorized vehicle dealerships and certified service partners; (b) if You are a hotel holding company, hotel properties operating under Your name, trademark or brand (or a name, trademark or brand it owns or controls); or (c) if You deploy an app on Authorized Devices in Restricted App Mode (e.g., a point-of-sale provider who deploys its app-based payment system on iPads), Your customers who are using such app in Restricted App Mode on the Authorized Device. Further, any such app must be

developed and distributed in accordance with the terms of the Apple Developer Program License Agreement (e.g., distribution of a Custom App). For clarity, You may request, and Apple may approve, other entities similar to those identified in subsections (a) and (b) above; however, no other entity shall be included in this definition without Apple's prior written consent.

"Permitted Users" means employees and Contract Employees of Your Permitted Entity.

"Personal Data" means data that can be reasonably used to identify an individual that is under the control of the Institution under this Agreement.

"Restricted App Mode" means when an Apple-branded device is supervised and configured through the Service such that (a) the device automatically launches and is locked into a single application upon activation and no other operating system functionality can be accessed; or (b) the device cannot be personalized by an end-user (e.g. the device settings prohibit the Mail app from configuration with personal credentials, Content cannot be acquired from the App Store with a personal Apple Account, etc.).

"Service" means the Apple Business Manager service (and any components, functionality or features thereof) for automated mobile device management enrollment, the use of Apple Business Essentials, acquisition and management of Content, the creation, use, and management of Managed Apple Accounts, iCloud storage connected to a Managed Apple Account, the use of Administrator accounts, and other related services as contemplated in this Agreement, including the web portal and any services or tools provided hereunder.

"Service Provider" means a third-party who provides a service on Your behalf in accordance with the terms of this Agreement.

"Server Token" means the combination of Your public key, Apple Account and a token provided by Apple that permits Your MDM Server(s) to be registered with the Service.

"Sub-processor" means a third party that performs certain tasks on Apple's behalf, such as processing or storing data and providing customer service, in connection with Apple's provision of the Service.

"You," "Your," and "Institution" means the institution entering into this Agreement. For the avoidance of doubt, the Institution is responsible for compliance with this Agreement by its employees, Contract Employees, and Service Providers who are authorized to exercise rights under this Agreement on its behalf.

Note: If you are a Service Provider, you need to have the Institution with whom you are working enter into this Agreement and add you as an Administrator since the entity that owns the Authorized Devices and plans to distribute such Devices to its Authorized Users must enroll in the Service.

2. Service Requirements

2.1 Use of the Service

As a condition to using the Service, Institution acknowledges and agrees that:

- (a) Institution is permitted to use the Service only for the purposes and in the manner expressly permitted by this Agreement and in accordance with all applicable laws and regulations, and the Documentation;
- (b) Institution is not permitted to use the Service (or any part thereof) for any unlawful, improper, inappropriate, or illegal activity;
- (c) Institution is permitted to use the Service to manage Authorized Devices for use only by Authorized Users and Permitted Users and not for general deployment to third parties (except as

otherwise expressly permitted herein), and Institution will be responsible for all use of the Authorized Devices by such users, including but not limited to obtaining consents and providing appropriate information to users about the managed features of such devices;

(d) Institution will be responsible for all use of the Service by its Permitted Entities (and any Permitted Users of the Permitted Entity), and any actions undertaken by its Permitted Entity shall be deemed to have been taken by Institution, and Institution (in addition to its Permitted Entity) shall be responsible to Apple for all such actions.

(e) Institution will obtain all necessary rights and consents from its Authorized Users and Permitted Users to deploy its Authorized Devices as permitted hereunder;

(f) Institution will have the rights to purchase and manage Content as may be permitted through the Service and will comply with all applicable terms for the use of Content;

(g) Institution will obtain all necessary rights and consents from its Authorized Users where necessary to create Managed Apple Accounts and to allow Apple to provide the Service for Managed Apple Accounts (including using and maintaining Personal Data);

(h) Institution may add Administrators to the Service, but only if such individuals are employees or Contract Employees of Institution or are Service Providers acting on Institution's behalf, and Institution may add such parties only for account management purposes; and

(i) Institution is permitted to use the Service only for its own (and its Permitted Entity's) internal business operations and information technology purposes and is not permitted to provide a device or service to third parties (other than to a Permitted Entity that is covered under subsection (c) of the "Permitted Entity" definition) that integrates with or leverages services or information provided by the Service or uses the Service in any way, or as otherwise agreed by Apple in writing.

2.2 No Other Permitted Uses

Institution agrees not to exploit the Service in any unauthorized way whatsoever, including, but not limited to, by trespass, burdening network capacity, or uploading malicious code. Any attempt to do so is a violation of the rights of Apple and its licensors. Institution may not license, sell, share, rent, lease, assign, distribute, host, permit timesharing or service bureau use, or otherwise make the Service (or any components thereof) available to any third-party, except as expressly permitted in this Agreement. Institution agrees not to use the Service to upload, download, post, email, transmit, store or otherwise make available: (i) any Content that is unlawful, harassing, threatening, harmful, defamatory, obscene, invasive of another's privacy, hateful, racially or ethnically offensive or otherwise objectionable; (ii) any Content that infringes any copyright or other intellectual property, or violates any trade secret, or contractual or other proprietary right; (iii) any unsolicited or unauthorized email message, advertising, promotional materials, junk mail, spam, or chain letters; and/or (iv) any Content that contains viruses or any computer code, files or programs designed to harm, interfere with or limit the normal operation of the Service or any other computer software or hardware. Institution further agrees that it will not use the Service to stalk, harass, mislead, abuse, threaten or harm or pretend to be anyone other than the entity that has enrolled, and Apple reserves the right to reject or block any accounts that could be deemed to be an impersonation or misrepresentation of another entity or person's name or identity. Institution will not interfere with the Service, or with any security, digital signing, digital rights management, verification or authentication mechanisms implemented in or by the Service or by the Apple Software or any other related Apple software or technology, or enable others to do so. If Institution is a covered entity, business associate, representative of a covered entity or business associate (as those terms are defined at 45 C.F.R § 160.103), or otherwise a health care provider or entity, Institution agrees that it will not use any component, function or other facility of the Service to create, receive, maintain or transmit any "protected health information" (as such term is defined at 45 C.F.R § 160.103) or equivalent health data under applicable law, or use the Service in any manner that would make Apple a business associate of Institution or any third-party or otherwise directly subject Apple to applicable health privacy laws. All rights not expressly granted in this Agreement are reserved and no other licenses, immunity or rights, express or implied are granted by Apple, by implication, estoppel, or otherwise.

2.3 Server Token Usage

Institution agrees to use the Server Token only for purposes of enrolling Institution's MDM Server into the Service and uploading Device Enrollment Settings that will be sent to Authorized Devices when they are initially activated by Authorized Users and Permitted Users. Institution agrees not to provide or transfer its Server Token to any other entity or share it with any other entity, excluding its Service Provider. Institution agrees to take appropriate measures to safeguard the security and privacy of such Server Token and to revoke it if it has been compromised or Institution has reason to believe it has been compromised. Apple reserves the right to revoke or disable Server Tokens at any time in its sole discretion. Further, Institution understands and agrees that regenerating the Server Token will affect Institution's ability to use the Service until a new Server Token has been added to the MDM Server.

2.4 EULAs Term and Conditions

As part of the Service, Institution may elect to have its Authorized Users and Permitted Users accept the terms and conditions for the Apple Software outside of the normal initial activation process on a device. Institution may use this feature of the Service as long as Institution agrees to the following requirements:

- (a) Institution's authorized representative must accept the EULAs for the Apple Software on the Service web portal prior to deploying Authorized Devices running such Apple Software to Authorized Users and Permitted Users;
- (b) If the EULAs for the Apple Software have changed, Institution agrees to have its authorized representative return to the Service web portal and accept such EULAs promptly upon notice from Apple in order to continue using the Service. Institution acknowledges that it will not be able to use the Service, including associating additional Authorized Devices with its MDM Server, until such EULAs have been accepted;
- (c) Institution is responsible for ensuring that such EULAs are provided to Authorized Users and Permitted Users, and that each Authorized User and Permitted User is aware of and complies with the terms and conditions of the EULAs for the Apple Software; and
- (d) Institution agrees to be responsible for obtaining any required consents for Authorized Users' and Permitted Users' use of the Apple Software.

2.5 Device Transfer

Institution will not resell any Authorized Devices with Device Enrollment Settings enabled and agrees to remove such Devices from the Service prior to reselling them or transferring them to third parties in any way.

2.6 Purchasing Content

Acquisition of Content is automatically disabled in the Service, and Your use is subject to the restrictions of this Agreement and the terms governing the use of Apps and Books in the Service ("Volume Content Terms"). You may choose to enable Your Administrators to access Content through the Service by granting them purchasing authority and allowing them to access Content. Subject to the Volume Content Terms and the restrictions of this Agreement, the Service enables You to allocate Content to Authorized Devices using device assignment or to Authorized Users or Permitted Users using user assignment and Apple Accounts. You may assign (or revoke and re-assign) apps to Authorized Users and Authorized Devices in any country where such app is commercially available on the App Store or otherwise, subject to change at any time. With respect to books, You understand and agree that once You have assigned a book to an Authorized User or a Permitted User, such book is non-transferable, and You will not be able to revoke or re-assign the book. Books purchased through the Volume Content Service may not be assigned through Apple Business Essentials to devices enrolled in an Apple Business Essentials Plan. You are solely responsible for all such purchases and compliance with the applicable terms. You agree that You have the authority to and will accept such applicable terms on behalf of Your Authorized

Users and Permitted Users if You (or Your Administrators) purchase or access Content as part of the Service. You understand and agree that Content may not be available in all countries or regions. You agree not to export Content for use outside of the country in which You are domiciled nor represent that You have the right or ability to do so. You agree not to circumvent the laws of any country or restrictions set forth by providers of the Content.

2.7 Administrator Accounts

You may create Administrator accounts for Your Administrators to use in administering the Service, subject to limits Apple may impose on the number of Administrator accounts. These Administrator accounts will be a combination of a unique user name and password, which will be owned by You. When You create Administrator accounts, all features and functionality of the Service that You select to be available will be enabled for such accounts, and You are responsible for appropriately enabling these Administrator accounts and for all activity in connection with these accounts (e.g., permitting Content purchases). You acknowledge and agree that these Administrator accounts may be used only to access and manage the Service for account management purposes. If You delete any Administrator accounts, then neither You nor the Administrator will have access to such Administrator accounts, and You acknowledge and agree that this action may not be reversible.

2.8 Managed Apple Accounts

You may create Managed Apple Accounts for Your Authorized Users to access and use as part of the Service in accordance with this Agreement and the Documentation. You are responsible for deciding which features and functionality of the Service to enable for Your Authorized Users and for the creation, use, and management of Managed Apple Accounts.

To create a Managed Apple Account for use by an Authorized User the following information, which may include Personal Data, is needed: name, proposed role, password, email address (for contact purposes), and phone number. In order to protect the security of Authorized Users' accounts and preserve Your ability to easily reset Your Authorized Users' passwords online, You should keep this information confidential. You agree to deploy Managed Apple Accounts only for Your own internal business or information technology purposes and only to Your Authorized Users. You agree not to share, sell, resell, rent, lease, lend, or otherwise provide access to Managed Apple Accounts to anyone other than Your Authorized Users. You may disable, suspend, or delete Managed Apple Accounts (e.g., if an Authorized User leaves the Institution) in the Service. Apple reserves the right to limit the number of Managed Apple Accounts that may be created for Your Authorized Users and the number of Authorized Devices associated with an account. Additional information, including Personal Data, may be needed for certain features and functionality of the Service You enable for Your Authorized Users, such as a directory.

If You make available other Apple Services for Your Administrators, managers or staff to sign into, You agree to allow the Apple Services to store data in the accounts associated with those Authorized User's Managed Apple Accounts, and for Apple to collect, store and process such data in association with Your and/or Your Authorized User's use of the Apple Service. You are responsible for ensuring that You and Your Authorized Users are in compliance with all applicable laws for each Managed Apple Account based on the Apple Service You allow Your Authorized Users to access. If Your Administrators, managers or staff access certain Apple Services, Apple may communicate with Your Authorized Users about their use of the Apple Service.

2.9 Permitted Entities and Permitted Users

Subject to the terms of this Agreement, Permitted Entities and Permitted Users may access the Service under Your account, excluding the use and deployment of Managed Apple Accounts (unless otherwise separately approved in advance and in writing by Apple). You shall be responsible for compliance with the terms of this Agreement by the Permitted Entities and Permitted Users and shall be directly liable to Apple for any breach of this Agreement by Your Permitted

Entities and Permitted Users. If You (or Service Provider acting on Your behalf) add Apple-branded devices to the Service that are owned by a Permitted Entity, You represent and warrant to Apple that the Permitted Entity has authorized You to add such devices, that You have control of such devices, and that You have the authority to accept EULAs on behalf of the Permitted Entity (and its Permitted Users, if applicable). Apple reserves the right to: set limitations on the Service features or functionality that Institution may allow its Permitted Entity (or Permitted Users) to access or use, and to require You to remove any Permitted Entities or Permitted Users from Your account at any time, in its sole discretion.

2.10 Updates; No Support or Maintenance

Apple may extend, enhance, suspend, discontinue, or otherwise modify the Service (or any part thereof) provided hereunder at any time without notice, and Apple will not be liable to You or to any third-party should it exercise such rights. Apple will not be obligated to provide Institution with any updates to the Service. If Apple makes updates available, the terms of this Agreement will govern such updates, unless the update is accompanied by a separate agreement in which case the terms of that agreement will govern. Should an update be made available, it may have features, services or functionality that are different from those found in the Service. Apple is not obligated to provide any maintenance, technical or other support for the Service.

2.11 Third-Party Service Providers

You are permitted to use a Service Provider only if the Service Provider's access to and use of the Service is done on Your behalf and in accordance with these terms, and is subject to a binding written agreement between You and the Service Provider with terms at least as restrictive and protective of Apple as those set forth herein. Any actions undertaken by any such Service Provider in relation to the Service and/or arising out of this Agreement shall be deemed to have been taken by You, and You (in addition to the Service Provider) shall be responsible to Apple for all such actions (or any inactions). In the event that any actions or inactions by the Service Provider could constitute a violation of this Agreement or otherwise cause any harm, Apple reserves the right to require You to cease using such Service Provider.

3. Institution's Obligations

Institution represents and warrants that:

- (a) Institution's authorized representative has the right and authority to enter into this Agreement on its behalf and to legally bind Institution to the terms and obligations of this Agreement;
- (b) All information provided by Institution to Apple (or to its Authorized Users or Permitted Users) in connection with this Agreement or use of the Service (including the Apple Software) will be current, true, accurate, supportable and complete; and, with regard to information Institution provides to Apple, Institution will promptly notify Apple of any changes to such information;
- (c) Institution will monitor and be responsible for its authorized representatives', Administrators', Service Providers', Authorized Users', Permitted Users', and Permitted Entities' use of the Service and their compliance with the terms of this Agreement;
- (d) Institution will be solely responsible for all costs, expenses, losses and liabilities incurred, and activities undertaken by Institution, its authorized representatives, Administrators, Service Providers, Authorized Users, Permitted Users, Permitted Entities, and Authorized Devices, in connection with the Service;
- (e) Institution is solely liable and responsible for ensuring compliance with all privacy and data protection laws (e.g., Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data, and repealing directive 95/46/EC ("GDPR")) regarding the use of the Service and use or collection of data, including Personal Data, and information through the Service;
- (f) Institution is responsible for its activity related to Personal Data (e.g., safeguarding, monitoring, and limiting access to Personal Data, preventing and addressing inappropriate activity, etc.); and

(g) Institution will comply with the terms of and fulfill Institution's obligations under this Agreement.

4. Changes to Service Requirements or Terms

Apple may change the Service or the terms of this Agreement at any time. In order to continue using the Service, Institution, through its authorized representative, must accept and agree to the new requirements or terms of this Agreement. If You do not agree to the new requirements or terms, Your use of the Service, or any part thereof, may be suspended or terminated by Apple. You agree that Your acceptance of such new Agreement terms may be signified electronically, including without limitation, by checking a box or clicking on an "agree" or similar button.

5. Indemnification

To the extent permitted by applicable law, You agree to indemnify and hold harmless, and upon Apple's request, defend, Apple, its directors, officers, employees, affiliates, independent contractors and authorized representatives (each an "Apple Indemnified Party") from any and all claims, losses, liabilities, damages, expenses and costs, including without limitation attorneys' fees and court costs, (collectively, "Losses") incurred by an Apple Indemnified Party and arising from or related to any of the following: (a) Your breach of any certification, covenant, obligation, representation or warranty made in this Agreement; (b) Your use (including but not limited to Your Service Provider's, Administrators', Authorized Users', Permitted Users', and/or Permitted Entity's use) of the Service; (c) any claims, including but not limited to any end user claims, about Your use, deployment or management of Authorized Devices, Device Enrollment Settings, and/or MDM Servers; (d) any claims, including but not limited to any end user claims, about the provision, management, and/or use of Authorized Devices, Administrator accounts, Managed Apple Accounts, Apple Business Essentials, or Content, and/or any other use of the Service; and/or (e) any claims regarding Your use or management of Personal Data. In no event may You enter into any settlement or like agreement with a third-party that affects Apple's rights or binds Apple or any Apple Indemnified Party in any way, without the prior written consent of Apple.

6. Term and Termination

The term of this Agreement shall commence on the date You first accept this Agreement in the Service and extend for an initial period of one (1) year following the initial activation date of Your Service account by Apple. Thereafter, subject to Your compliance with the terms of this Agreement, the term of this Agreement will automatically renew for successive one (1) year terms, unless sooner terminated in accordance with this Agreement. Apple may terminate this Agreement and/or Your account if you do not complete the Service enrollment verification process for Your Institution. Either party may terminate this Agreement for its convenience, for any reason or no reason, effective 30 days after providing the other party with written notice of its intent to terminate.

If You fail, or Apple suspects that You have failed, to comply with any of the provisions of this Agreement, Apple, at its sole discretion, without notice to You may: (a) terminate this Agreement and/or Your account; and/or (b) suspend or preclude access to the Service (or any part thereof). Apple reserves the right to modify, suspend, or discontinue the Service (or any part or content thereof) at any time without notice to You, and Apple will not be liable to You or to any third-party should it exercise such rights. Apple may also terminate this Agreement, or suspend Your rights to use the Services, if: (a) You fail to accept any new Agreement terms as described in Section 4; or (b) You or any entity or person that directly or indirectly controls You, or is under common control with You (where "control" has the meaning defined in Section 11.8), are or become subject to sanctions or other restrictions in the countries or regions where the Service is available. You acknowledge and agree that You may not be able to access the Service upon expiration or termination of this Agreement and that Apple reserves the right to suspend access to or delete data or information that You, Your Administrators, Authorized Users, Permitted Entities, or Permitted Users have stored through Your use of the Service. You should review the Documentation prior to using any part of the Service and make appropriate back-ups of Your data and information. Apple

will not be liable or responsible to You or to any third party should it exercise such rights or for any damages that may result or arise out of any such termination or suspension. The following provisions shall survive the termination of this Agreement: Section 1, the second sentence of Section 2.9, Section 2.10, the second sentence of Section 2.11, Section 3, Section 5, the second paragraph of Section 6, and Sections 7, 8, 9, the sixth through eleventh sentences of Section 10.2, the second sentence of Section 10.3, and Section 11.

7. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF, OR INABILITY TO USE, THE SERVICE, OR ANY TOOLS OR FEATURES OR FUNCTIONALITY ACCESSED BY OR THROUGH THE SERVICE, IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND APPLE, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AUTHORIZED REPRESENTATIVES, AGENTS, CONTRACTORS, RESELLERS, OR LICENSORS (COLLECTIVELY REFERRED TO AS "APPLE" FOR THE PURPOSES OF **SECTIONS 7 AND 8**) HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SERVICE, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, QUIET ENJOYMENT, TITLE, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

APPLE DOES NOT GUARANTEE, REPRESENT OR WARRANT AGAINST INTERFERENCE WITH YOUR USE OR ENJOYMENT OF THE SERVICE, THAT THE FEATURES OR FUNCTIONALITY CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE SERVICE WILL MEET YOUR REQUIREMENTS, WILL BE SECURE, THAT YOUR USE OF OR THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS OR ERRORS WILL BE CORRECTED, THAT THE SERVICE WILL CONTINUE TO BE MADE AVAILABLE, THAT THE SERVICE WILL BE COMPATIBLE OR WORK WITH ANY THIRD PARTY SOFTWARE, APPLICATIONS, CONTENT, OR THIRD PARTY SERVICES OR ANY OTHER APPLE PRODUCTS OR SERVICES, OR THAT ANY DATA OR INFORMATION STORED OR TRANSMITTED THROUGH THE SERVICE WILL NOT BE LOST, CORRUPTED, DAMAGED, ATTACKED, HACKED, INTERFERED WITH OR SUBJECT TO ANY OTHER SECURITY INTRUSION. YOU AGREE THAT FROM TIME TO TIME APPLE MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME OR MODIFY, SUSPEND, DISCONTINUE, OR CANCEL THE SERVICE AT ANY TIME, WITHOUT NOTICE TO YOU.

YOU FURTHER ACKNOWLEDGE THAT THE SERVICE IS NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIME DELAYS OF, OR ERRORS OR INACCURACIES IN THE CONTENT, DATA OR INFORMATION PROVIDED BY OR THROUGH THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT, OR WEAPONS SYSTEMS.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY APPLE OR AN APPLE AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. SHOULD THE SERVICE PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION.

8. LIMITATION OF LIABILITY

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL APPLE BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA OR INFORMATION, FAILURE TO TRANSMIT OR RECEIVE ANY DATA OR INFORMATION, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF THIS AGREEMENT AND/OR YOUR USE OR INABILITY TO USE THE SERVICE, EVEN IF APPLE HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE), AND EVEN IF APPLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL APPLE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

9. Data Privacy and Security

9.1 Personal Data Usage and Disclosure

Under this Agreement, Apple, acting as a data processor on Your behalf, may receive or have access to Personal Data, if provided by You or on Your behalf. By entering into this Agreement, You instruct Apple to process and use this Personal Data to provide and maintain the Service in accordance with applicable law, Your instructions given through the use of the Service (e.g., instructions given through the Service), and any other written instructions given by You that are accepted and acknowledged in writing by Apple, and Apple shall only process the Personal Data on such documented instructions, unless required to do so by law, in such case, Apple shall inform You of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. Apple may provide Personal Data to Sub-processors who provide services to Apple in connection with the Service. You authorize Apple to use all the Apple entities set forth in the definition of "Apple" as Sub-processors and to use any other Sub-processors; provided such Sub-processors are contractually bound by data protection obligations at least as protective as those in this Agreement. The list of Sub-processors is available at https://www.apple.com/legal/enterprise/data-transfer-agreements/subprocessors_us.pdf. If a Sub-processor fails to fulfil its data protection obligations, Apple shall remain liable to You for the performance of that Sub-processor's obligations to the extent required by applicable law.

9.2 Data Incidents

If Apple becomes aware that Personal Data has been altered, deleted, or lost as a result of any unauthorized access to the Service (a "Data Incident"), Apple will notify Institution without undue delay if required by law, and Apple will take reasonable steps to minimize harm and secure the data. Notification of, or response to, a Data Incident by Apple will not be construed as an acknowledgment by Apple of any responsibility or liability with respect to a Data Incident. Institution is responsible for complying with applicable incident notification laws and fulfilling any third-party obligations related to Data Incident(s). Apple will not access the contents of Personal Data in order to identify information subject to any specific legal requirements.

9.3 Security Procedures; Compliance

Apple shall use industry-standard measures to safeguard Personal Data during the transfer, processing, and storage of Personal Data as part of the Service. As part of these measures, Apple will use commercially reasonable efforts to encrypt Personal Data at rest and in transit; ensure the ongoing confidentiality, integrity, availability and resilience of the Service; in the event of an issue, restore the availability of Personal Data in a timely manner; and regularly test, assess, and evaluate the effectiveness of such measures. Apple will take appropriate steps to ensure compliance with security procedures by its employees, contractors and Sub-processors, and Apple shall ensure that

any persons authorized to process such Personal Data comply with applicable laws regarding the confidentiality and security of Personal Data with regards to the Service. Encrypted Personal Data may be stored at Apple's geographic discretion. To the extent Apple is acting as a data processor, Apple will assist You with ensuring Your compliance, if applicable, with the following: (a) Article 28 of the GDPR or other equivalent obligations under law (by making available all necessary information; by allowing for and contributing to audits (provided, that Apple Inc.'s ISO 27001 and ISO 27018 certifications shall be considered sufficient for such required audit purposes) and by informing You, as required by applicable law, if, in Apple's opinion, any of Your instructions infringes the GDPR or other European Union or European Union Member State data protection provisions); (b) Article 32 of the GDPR or other equivalent obligations under law (including implementing the security procedures set forth in this Section 9.3 and by maintaining the ISO 27001 and ISO 27018 Certifications); (c) Articles 33 and 34 of the GDPR or other equivalent obligations under law (by assisting You with providing required notice of a Data Incident to a supervisory authority or data subjects); (d) Articles 35 and 36 of the GDPR or other equivalent obligations under law requiring Institution to conduct data protection impact assessments or to consult with a supervisory authority prior to processing; (e) an investigation by a data protection regulator or similar authority regarding Personal Data; and (f) Your obligation to respond to request for exercising data subject's rights under the GDPR or other equivalent obligations under law, taking into account the nature of the processing by appropriate technical and organizational measures, insofar as this is possible. Apple shall inform You if, in its opinion, it can no longer meet its obligation under the California Consumer Privacy Act (CCPA) or other applicable data protection laws and regulations.

9.4 Data Access and Transfer; Termination; Institution as Processor

If required by law, Apple will ensure that any international data transfer is done only to a country that ensures an adequate level of protection, has provided appropriate safeguards as set forth in applicable law, such as those in Articles 46 and 47 of the GDPR (e.g., standard data protection clauses), or is subject to a derogation in Article 49 of the GDPR. Such safeguards may include the Model Contract Clauses as executed by Apple, or other data transfer agreements, which You agree to enter into if required by Your jurisdiction, as executed by Apple at <https://www.apple.com/legal/enterprise/datatransfer/>. Apple's international transfer of Personal Data collected in participating Asia-Pacific Economic Cooperation (APEC) countries abides by the APEC Cross-Border Privacy Rules (CBPR) System (<http://cbprs.org/>) and Privacy Recognition for Processors (PRP) System (<http://cbprs.org/>) for the transfer of Personal Data. In case of questions or unresolved concerns about our APEC CBPR or PRP certifications, our third-party dispute resolution provider (<https://feedback-form.truste.com/watchdog/request>) can be contacted. Apple is not responsible for data You store or transfer outside of Apple's system. Upon termination of this Agreement for any reason, Apple shall securely destroy Personal Data stored by Apple in connection with Your use of the Service within a reasonable period of time, except to prevent fraud or as otherwise required by law. To the extent that Institution enters into this Agreement as a data processor for a Permitted Entity, Institution represents and warrants that Institution is entering into this Agreement on behalf of itself, and, to the limited extent set forth herein, such Permitted Entity. Institution represents that it has the applicable consents from such Permitted Entity to enter into this Agreement and to engage Apple as a sub-processor on such entity's behalf, and is responsible to Apple for any claims from such Permitted Entities with respect thereto. Apple shall not disclose any Personal Data in such a manner as to constitute a "sale" or "sharing" (as those terms are defined in the CCPA or any similar concept in other data protection laws) of Personal Data nor shall Apple engage in any processing activity in connection with this Agreement that would constitute a "sale" or "sharing" of Personal Data.

9.5 Access to Third Party Products and Services

If You choose to access, use, download, install, or enable third party products or services that operate with the Service but are not a part of the Service, then the Service may allow such products or services to access Personal Data as required for the use of those additional services. Certain of

those third party products or services may also provide access to Personal Data to Apple, such as if You allow Your Authorized Users to sign into the Service through federated identity providers. You are not required to use such additional products or services in relation to the Service, and Your Administrator may restrict the use of such additional products or services in accordance with this Agreement. Prior to accessing, using, downloading, installing, or enabling third party products or services for use with a Managed Apple Account, You should review the terms, policies and practices of the third party products and services to understand what data they may collect from Your Authorized Users, how the data may be used, shared and stored, and, if applicable, whether such practices are consistent with any consents You have obtained.

9.6 Other

Apple may disclose Personal Data about You if Apple determines that disclosure is reasonably necessary to enforce Apple's terms and conditions or protect Apple's operations or users. Additionally, in the event of a reorganization, merger, or sale, Apple may transfer any and all Personal Data You provide to the relevant party. **THIS DISCLOSURE DOES NOT APPLY TO THE DATA COLLECTION PRACTICES OF ANY CONTENT (INCLUDING THIRD-PARTY APPS). PRIOR TO PURCHASE OR DOWNLOAD OF CONTENT AS PART OF THE SERVICE, YOU SHOULD REVIEW THE TERMS, POLICIES, AND PRACTICES OF SUCH CONTENT.** In the event Apple receives a third-party request for Personal Data ("Third-Party Request"), Apple will notify You, to the extent permitted by law, of its receipt of the Third-Party Request, and notify the requester to address such Third-Party Request to You. Unless otherwise required by law or the Third-Party Request, You will be responsible for responding to the Request.

10. Apple Business Essentials

10.1 Apple Business Essentials Plans

You may enable Your Administrators to acquire Apple Business Essentials Plans through the Service by granting them purchasing authority and allowing them to access the Apple Business Essentials Plans. Subject to the iCloud Terms and Conditions and the restrictions of this Agreement, Apple Business Essentials enables you to purchase employee plans that include additional iCloud storage. Subject to the AppleCare+ for Business Essentials Terms and the restrictions of this Agreement, Apple Business Essentials enables You to purchase AppleCare+ for Business Essentials user subscriptions for org-owned devices and BYOD Devices and device subscriptions for org-owned devices. Such subscriptions provide hardware services and technical support services for Apple TV, iPad, iPhone, iPod, Mac or other devices authorized in writing by Apple and the bundled accessories contained in the original packaging with such devices, separate terms, conditions, and restrictions apply.

10.2 Apple Business Essentials Plan Subscription

Apple Business Essentials Plans will continue, and be billed on a monthly basis, until cancelled. You can change or cancel Your subscription at any time in the Service web portal. Your monthly bill will be based on the prior month's usage and will include any applicable taxes. To learn more about changing or canceling Your subscription, visit <https://support.apple.com/guide/apple-business-essentials/axma756c6228>. To learn more about how usage charges are calculated, visit <https://support.apple.com/guide/apple-business-essentials/axmb4509c4c3>. If Your organization is tax-exempt, You can adjust your tax status in Enrollment Information. You are responsible for the timely payment of all charges and for providing Apple with a valid payment method for payment of all charges. You agree that Apple may store and charge the payment method you provide for all charges, including applicable taxes. In accordance with local law, Apple may automatically update Your payment information regarding Your payment method if provided such information by the payment networks or Your financial institutions. If Apple cannot charge You, You remain responsible for any uncollected amounts, and we may attempt to charge You again or request that You provide another payment method. If Your payments are past due, Apple reserves the right to

limit Your ability to add Apple Business Essentials Plans, or to terminate Your existing Apple Business Essentials Plans. Neither termination of this Agreement, nor changing or canceling Your subscription, oblige Apple to refund You any charges paid. If You are purchasing directly from Apple, You may add Apple Business Essentials Plans as long as you do not exceed the limit described in <https://support.apple.com/guide/apple-business-essentials/axme884379fa>. This Section applies when You purchase Apple Business Essentials directly from Apple; billing and other subscription terms related to purchase of Apple Business Essentials from an Apple authorized reseller will be in Your agreement with such reseller.

10.3 Packages

Apple Business Essentials may provide Your Administrator the ability to provide links to Institution-provided packages, including apps, icons, fonts, and system updates (each, a "Package") for Authorized Users and Permitted Users to download. As a condition to doing so, Institution represents and warrants that: (a) Institution is solely responsible for any Package that Institution provides a link to through Apple Business Essentials, including the payment of any fees associated with the use of any such Package; (b) Institution has all necessary rights, licenses, consents, and permissions for Institution to provide links to Packages for Authorized Users and Permitted Users, and to use Apple Business Essentials to facilitate such provision (including the presentment of the link, name, and icon, for such Packages to Authorized Users and Permitted Users and following Institution's instructions for installing Packages once downloaded); (c) no Package, including any part thereof, or its use by Authorized Users or Permitted Users violates or infringes any Apple or third-party rights, including intellectual property rights, any laws, or any applicable Apple or third-party agreements or privacy policies; (d) a Package may be subject to separate terms between You and a third party. Institution is responsible for ensuring Institution's compliance with such terms and for ensuring that each Authorized User and Permitted User is aware of and complies with all applicable Apple and third party agreements; (e) Institution will not use the Service to breach or violate any terms between Institution and any third party; and (f) Institution may not use Apple Business Essentials to transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of any third-party rights. If Apple reasonably believes that a Package may violate applicable law or third-party rights or this Agreement, Apple may remove the link to such Package from Institution's account.

11. General Legal Terms

11.1 Third-Party Notices

Portions of the Apple Software or the Service may utilize or include third-party software and other copyrighted material. Acknowledgements, licensing terms and disclaimers for such material are contained in the electronic documentation for the Service or applicable part thereof, and Your use of such material is governed by their respective terms.

11.2 Other Collection and Use of Data

Apple and its affiliates and agents may collect, maintain, process and use diagnostic, technical, usage and related information, including but not limited to unique system or hardware identifiers, cookies or IP addresses, information about Your and Your Authorized Users' use of the Service, Your MDM Server, Device Enrollment Settings, computers, devices, system and application software, and other software and peripherals, that is gathered periodically to facilitate the provision of services to You related to the Service, to provide, test and improve Apple's devices and services, for internal purposes such as auditing, data analysis, and research to improve Apple's devices, services, and customer communications, to facilitate the provision of software or software updates, device support and other services to You (if any) related to the Service or any such software, for security and account management purposes, and to verify compliance with the terms of this Agreement. Apple may share data collected pursuant to this Section 11.2 with an Apple authorized reseller to the extent necessary to provide and improve the Service. Data collected pursuant to this Section will be treated in accordance with Apple's Privacy Policy, which can be viewed at:

<http://www.apple.com/legal/privacy>.

11.3 Assignment

This Agreement may not be assigned, nor may any of Your obligations under this Agreement be delegated, in whole or in part, by You by operation of law, merger, or any other means without Apple's express prior written consent and any attempted assignment without such consent will be null and void.

11.4 Press Releases and Other Publicity; Relationship of Parties

You may not issue any press releases or make any other public statements regarding this Agreement, its terms and conditions, or the relationship of the parties without Apple's express prior written approval, which may be withheld at Apple's discretion. This Agreement will not be construed as creating any agency relationship, or a partnership, joint venture, fiduciary duty, or any other form of legal association between You and Apple, and You will not represent to the contrary, whether expressly, by implication, appearance or otherwise. This Agreement is not for the benefit of any third parties.

11.5 Notices

Any notices relating to this Agreement shall be in writing. Notices will be deemed given by Apple when sent to You at the email address or mailing address You provided during the sign-up process. All notices to Apple relating to this Agreement will be deemed given (a) when delivered personally, (b) three business days after having been sent by commercial overnight carrier with written proof of delivery, and (c) five business days after having been sent by first class or certified mail, postage prepaid, to this Apple address: Apple Inc., Apple Developer Legal (Apple Business Manager), One Apple Park, 37-21SM, Cupertino, California 95014 U.S.A. You consent to receive notices by email and agree that any such notices that Apple sends You electronically will satisfy any legal communication requirements. A party may change its email or mailing address by giving the other written notice as described above.

11.6 Severability

If a court of competent jurisdiction finds any clause of this Agreement to be unenforceable for any reason, that clause of this Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect. However, if applicable law prohibits or restricts You from fully and specifically complying with the Sections of this Agreement entitled "Service Requirements", or "Institution's Obligations" or prevents the enforceability of any of those Sections, this Agreement will immediately terminate and You must immediately discontinue any use of the Service.

11.7 Walver and Construction

Failure by Apple to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision. Any laws or regulations that provide that the language of a contract will be construed against the drafter will not apply to this Agreement. Section headings are for convenience only and are not to be considered in construing or interpreting this Agreement.

11.8 Export Control

You may not use, export, re-export, import, sell or transfer the Service or Apple Software, or any part thereof, except as authorized by United States law, the laws of the jurisdiction in which You obtained the Service or Apple Software, and/or any other applicable laws and regulations. In particular, but without limitation, the Service and the Apple Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List or Entity List or any other restricted party lists. By using the Service or Apple Software, You represent and warrant that You are not located in any such country or on any such list. You also

agree that You will not use the Service or Apple Software for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of nuclear, missile, chemical or biological weapons.

You represent and warrant that You and any entity or person that directly or indirectly controls You, or is under common control with You, are not: (a) on any sanctions lists in the countries or regions where the Service is available, (b) doing business in any of the US embargoed countries or regions, and (c) a military end user as defined and scoped in 15 C.F.R § 744. As used in this Section 11.8, "control" means that an entity or person possesses, directly or indirectly, the power to direct or cause the direction of the management policies of the other entity, whether through ownership of voting securities, an interest in registered capital, by contract, or otherwise.

11.9 Government End-users

The Service, Apple Software, and Documentation are "Commercial Products", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (a) only as Commercial Products and (b) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

11.10 Dispute Resolution; Governing Law

Any litigation or other dispute resolution between You and Apple arising out of or relating to this Agreement, the Apple Software, or Your relationship with Apple will take place in the Northern District of California, and You and Apple hereby consent to the personal jurisdiction of and exclusive venue in the state and federal courts within that District with respect any such litigation or dispute resolution. This Agreement will be governed by and construed in accordance with the laws of the United States and the State of California, except that body of California law concerning conflicts of law. Notwithstanding the foregoing:

- (a) If You are an agency, instrumentality or department of the federal government of the United States, then this Agreement shall be governed in accordance with the laws of the United States of America, and in the absence of applicable federal law, the laws of the State of California will apply. Further, and notwithstanding anything to the contrary in this Agreement (including but not limited to Section 5 (Indemnification)), all claims, demands, complaints and disputes will be subject to the Contract Disputes Act (41 U.S.C. §§601-613), the Tucker Act (28 U.S.C. § 1346(a) and § 1491), or the Federal Tort Claims Act (28 U.S.C. §§ 1346(b), 2401-2402, 2671-2672, 2674-2680), as applicable, or other applicable governing authority. For the avoidance of doubt, if You are an agency, instrumentality, or department of the federal, state or local government of the U.S. or a U.S. public and accredited educational institution, then Your indemnification obligations are only applicable to the extent they would not cause You to violate any applicable law (e.g., the Anti-Deficiency Act), and You have any legally required authorization or authorizing statute;
- (b) If You are a U.S. public and accredited educational institution or an agency, instrumentality, or department of a state or local government within the United States, then (i) this Agreement will be governed and construed in accordance with the laws of the state (within the U.S.) in which You are domiciled, except that body of state law concerning conflicts of law; and (ii) any litigation or other dispute resolution between You and Apple arising out of or relating to this Agreement, the Apple Software, or Your relationship with Apple will take place in federal court within the Northern District of California, and You and Apple hereby consent to the personal jurisdiction of and exclusive venue of such District unless such consent is expressly prohibited by the laws of the state in which You are domiciled;
- (c) If You are an international, intergovernmental organization that has been conferred immunity

from the jurisdiction of national courts through Your intergovernmental charter or agreement, then any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be determined by arbitration under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") in effect at the time of applying for arbitration by three arbitrators appointed in accordance with such rules, and will be conducted according to the International Bar Association (IBA) Rules on the Taking of Evidence in International Arbitration. The place of arbitration shall be London, England. The arbitration shall be conducted in English. Upon Apple's request, You agree to provide evidence of Your status as an intergovernmental organization with such privileges and immunities; and

(d) If You are domiciled in a European Union country, or in Iceland, Norway, Switzerland, or the United Kingdom, the governing law and forum shall be the laws and courts of the country of domicile of the Apple entity providing the Service, as applicable, as set forth in the definition of "Apple".

This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

11.11 Entire Agreement; Governing Language

This Agreement constitutes the entire agreement between the parties with respect to the Service contemplated hereunder and supersedes all prior understandings and agreements regarding its subject matter. For the avoidance of doubt, nothing in this Agreement supersedes the EULAs for the Apple Software. This Agreement may be modified only: (a) by a written amendment signed by both parties, or (b) to the extent expressly permitted by this Agreement (for example, by Apple by notice to You). Any translation of this Agreement is provided as a courtesy to You, and in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern, to the extent not prohibited by local law in Your jurisdiction. If You are a government organization within France, the following clause applies: The parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English. *Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais.*

11.12 Acceptance

Institution acknowledges and agrees that by clicking on the "Agree" or similar button or by checking a box, Institution, through its authorized representative, is accepting and agreeing to the terms and conditions of this Agreement.

LYL186
September 9, 2024



San Bernardino County

DELEGATED AUTHORITY – DOCUMENT REVIEW FORM
Department Signature

This form is for use by any department or other entity that has been authorized by Board of Supervisors/Directors' action to execute agreements, amendments to agreements or grant applications/awards, on their behalf. All documents to be executed under such delegated authority must be routed for County Counsel review (and Clerk of the Board as needed) prior to signature by designee. **For detailed instructions on delegated authority, reference Section 7.2 of the Board Agenda Item Guidelines.**

Department/Agency/Entity: Innovation and Technology Due Back to Department By (Date): _____

Contact Name: Jeremiah Thomas Telephone: (909) 388-0641

Agreement No.: 22-403 Amendment No.: 1 Date of Board Item: 6/14/22 Board Item No.: 35

Name of Contract Entity/Project Name: Apple Business Manager Agreement 22-403

Include information from the Board Agenda Item that delegates authority, a justification for approval by the specified authority and how it connects to the original recommendation. Also include a brief background on the request, including details as to what program is being served, documents that require signature, and any other pertinent information, such as dollar amounts, date changes and details that summarize the action requested. If additional space is needed, please attach a separate page.

Item 35 on the June 14, 2022 Consent Calendar, as approved by the Board of Supervisors authorized the Chief Information Officer (CIO), Assistant CIO, or IT Division Chief to electronically accept updates to the Business Manager Agreement (Contract No. 22-403) with Apple, Inc. and electronically accept updates to the agreement and any applicable licenses, subject to review by County Counsel, provided that such updated terms do not substantively modify the terms of the original agreement. Apple has now updated Contract No. 22-403 with non-substantive changes. This request is for approval from the CIO to electronically accept the updated Business Manager Agreement as Amendment No. 1 to Contract No. 22-403, and transmit a copy to the Clerk of the Board within 30 days of acceptance.

Select the document proposed for signature, which must be submitted with this request:

- ☐ Standard County Contract ☒ Signed Coversheet and Non-Standard County Contract
☐ Grant Application ☐ Other:

Attach the Board Agenda Item that delegated the authority, copies of the initial document (agreement, grant award, etc.) and all subsequent amendments. **Note:** If there are numerous amendments, please contact the assigned County Counsel to determine if all amendments need to be attached.

Department Routed to County Counsel	County Counsel Name:	Date Sent:
Reviewing County Counsel Use Only	Review Date _____	Determination: ☐ Within Scope of Delegated Authority ☐ Outside Scope of Delegated Authority; return to Department for preparation of agenda item
	Signature _____	
If the Board Agenda Item requires the document be returned to the Clerk of the Board, County Counsel will route the approved form and submission documents to <u>COB-Delegated Authority</u> with a cc to the department contact. Clerk of the Board will verify it meets the submission requirements and notify the department to transmit the executed hard copies within 30 days of execution. If the Board Agenda item does not require the document be returned to the Clerk of the Board, County Counsel will route the signed form back to the department.		

Note: This process should NOT be used to execute documents under a master agreement or template, construction contract change orders, or approval of documents under County Policies 11-15 and 11-16. Contact your assigned County Counsel for instructions related to review of these documents.



County of San Bernardino DELEGATED AUTHORITY – DOCUMENT REVIEW FORM

This form is for use by any department or other entity that has been authorized by Board of Supervisors/Directors action to execute grant applications, awards, amendments or other agreements on their behalf. All documents to be executed under such delegated authority must be routed for County Counsel and County Administrative Office review prior to signature by designee.

Note: This process should NOT be used to execute documents under a master agreement or template, or for construction contract change orders. Contact your County Counsel for instructions related to review of these documents.

Complete and submit this form, along with required documents proposed for signature, via email to the department's County Counsel representative and Finance Analyst. If the documents proposed for signature are within the delegated authority, the department will submit the requisite hard copies for signature to the County Counsel representative. Once County Counsel has signed, the department will submit the signed documents in hard copy, as well as by email, to CAO Special Projects Team for review. If approved, the department will be provided routing instructions as well as direction to submit one set of the executed documents to the Clerk of the Board within 30 days.

For detailed instructions on submission requirements, reference Section 7.3 of the Board Agenda Item Guidelines as the Delegation of Authority does not eliminate the document submission requirements.

Department/Agency/Entity: Innovation and Technology Department

Contact Name: Jeremiah Thomas

Telephone: (909) 388-0641

Agreement No.: Multi Amendment No.: 1 Date of Board Item 12/6/24 Board Item No.: 35

Name of Contract Entity/Project Name: Apple Business Manager Software License Agreements

Explanation of request/Special Instructions:

See attached

Insert check mark that the following required documents are attached to this request:

- ☒ Documents proposed for signature (Note: For contracts, include a signed non-standard contract coversheet for contracts not submitted on a standard contract form).
- ☒ Board Agenda item that delegated the authority

Department Routed to County Counsel	County Counsel Name: Bonnie Uphold, Supervising Deputy County Counsel	Date Sent: 9/17/2024
Reviewing County Counsel Use Only	Review Date <u>9/17/2024</u> <u>9/26/2024</u> <u>Bonnie Uphold</u> <u>Agnes Cheng</u> Signature	Determination: ☒ Within Scope of Delegated Authority ☐ Outside Scope of Delegated Authority
CAO-Special Projects Use Only	Review Date <u>9/30/24</u> <u>MB</u> <u>Maria Meza</u> Signature	Disposition: ☒ Route for signature to: ____ Chair ☒ CEO ____ Department ____ Return to Department for preparation of agenda item