

WELCOME TO APPLE SCHOOL MANAGER

This Apple School Manager Agreement (“Agreement”) between Your Institution and Apple governs Your Institution’s use of Software, Services and Websites that make up Apple School Manager (collectively referred to as the “Service”). You agree that You have the full legal authority to bind Your Institution to these terms. By clicking “Agree” You are agreeing that You have read and understand these terms, and agree that these terms apply if You choose to access or use the Service or make it available to others. If You do not have the legal authority to bind Your Institution or do not agree to these terms, do not click “Agree.”

1. GENERAL

- A. Service.** Apple is the provider of the Service, which permits You, under the terms and conditions of this Agreement, to: (i) enroll Authorized Devices for the purpose of Mobile Device Management (MDM) within Your Institution; (ii) access relevant software tools to facilitate the Service; (iii) administer Your creation and distribution of Managed Apple IDs and their use by Your End Users; (iv) manage the transmission, storage, purchase and maintenance of relevant data and Content related to the Service; (v) manage Your creation and administration of courses using the Service; and (vi) enable the measurement of student progress through Apple School Manager and applications that have adopted the ClassKit framework. You agree to use the Service only in compliance with this Agreement and all applicable laws and regulations.
- B. Device and User Enrollment.** You may use the device enrollment features of the Service to enroll only Authorized Devices in the Service. If You elect to use the Service and enroll Authorized Devices as set forth in this Agreement, then Apple will provide You with a Service web portal and an Administrator account with which You will be able to create and manage the Managed Apple IDs for End Users and make the features of the Service available. Once You create the Managed Apple IDs for End Users, such accounts will be accessible via Institution-owned shared or individual devices, and any devices used by End Users to access their Managed Apple ID account. You are responsible for determining and selecting the Service features You wish to provide to Your End Users.

2. RIGHT TO USE

- A.** Unless stated otherwise in this Agreement, You have the non-exclusive, non-assignable, non-transferable, and limited right to access and use the Service during the Term solely for Your educational operations and subject to the terms of this Agreement. You may permit Your End Users to use the Service for the foregoing purpose, and You are responsible for Your End Users’ compliance with the terms of this Agreement.
- B.** You do not acquire any right or license to use the Service, or any of its features, beyond the scope and/or duration of the Service specified in this Agreement. Your right to access and use the Service will terminate upon the termination and/or expiration of this Agreement.
- C.** Except as otherwise expressly stated in this Agreement, You agree that Apple has no obligation to provide any Apple Software, programs, services or products as part of the Service.

3. DATA PRIVACY AND SECURITY

- A. Personal Data and Customer Instructions.** Under this Agreement, Apple, acting as a data processor on your behalf, may receive Personal Data if provided by You. By entering into this Agreement, You instruct Apple to process Your Personal Data, in accordance with applicable law: (i) to provide the Service; (ii) pursuant to Your instructions as given through your use of the Services (including the web portal and other functionality of the Service); (iii) as specified under this Agreement; and (iv) as further documented in any other written instructions given by You and acknowledged by Apple as constituting instructions under this Agreement.

Apple shall comply with the instructions described in this Section 3A unless prohibited by an applicable legal requirement from doing so, in which case Apple will inform You of that legal requirement before processing Personal Data (unless prohibited by that law from doing so on

important grounds of public interest).

- B. Compliance with law.** You agree that You are solely liable and responsible for ensuring Your compliance with all applicable laws, including privacy and data protection laws, regarding the use or collection of data and information through the Service. You are also responsible for all activity related to Personal Data, including but not limited to, monitoring such Personal Data and activity, and preventing and addressing inappropriate data and activity, including the removal of data and the termination of access of the individual making such data available. You are responsible for safeguarding and limiting access to End User data by Your personnel and for the actions of Your personnel who are permitted access to use the Service.
- C. Use of Personal Data.** In order to provide the Service, You instruct Apple to use Personal Data, provided by You and Your End Users to Apple through use of the Service, only as necessary to provide and improve the Service, and as set forth in Exhibit A, subject to the requirements set forth in this Section 3 and Exhibit A. Further, Apple shall:
- i. Use and handle such Personal Data consistent with the instructions and permissions from You set forth herein, as well as all applicable laws, regulations, accords or treaties.
 - ii. Notify Institution in the event Apple receives any requests to access Your or Your End Users' Personal Data in connection with the Service, and Apple will either reasonably (i) cooperate with Institution to handle such requests to the extent such requests involve Personal Data that Apple has access to or (ii) otherwise put in place a means for Institution to manage such requests directly. In the event Institution is subject to an investigation by a data protection regulator or similar authority regarding Personal Data, Apple shall provide Institution with assistance and support in responding to such investigation to the extent it involves Personal Data that Apple has access to in connection with the Service.
- D. Data Incidents.** Apple will (i) notify Institution, without undue delay and as required by law, if Apple becomes aware that Institution's Personal Data has been altered, deleted or lost as a result of any unauthorized access to the Service ("a Data Incident"); and (ii) take reasonable steps to minimize harm and secure the data. You are responsible for providing Apple with Institution's updated contact information for such notification purposes. Apple will also assist Institution to the extent it involves Personal Data that Apple has access to in connection with the Service, to ensure Institution complies with its obligations to provide notice of Data Incidents to supervisory authorities or data subjects as required under Articles 33 and 34 of the GDPR, if applicable, or any other equivalent obligations under applicable law.
- Apple will not access the contents of Your Personal Data in order to identify information subject to any specific legal requirements. Institution is responsible for complying with incident notification laws applicable to the Institution and fulfilling any third party obligations related to Data Incident(s).
- Apple's notification of, or response to, a Data Incident under this Section 3D will not be construed as an acknowledgment by Apple of any responsibility or liability with respect to a Data Incident.
- E. Your Audit/Inspection Rights.** To the extent that the GDPR applies to the processing of Your Personal Data, Apple will provide you with the information necessary to demonstrate compliance with Article 28 of that law. In the event that you have audit rights under other applicable laws, Apple will provide you with the information necessary to demonstrate compliance with your obligations under those laws. If you choose exercise Your audit rights under this Section 3E, Apple shall demonstrate compliance by providing you with a copy of Apple's ISO 27001 Certification and ISO 27018 Certification.
- F. Security Procedures.** Apple shall use industry-standard measures to safeguard Personal Data during the transfer, processing and storage of Personal Data. Encrypted Personal Data may be stored at Apple's geographic discretion. As part of these measures, Apple will also use commercially reasonable efforts to: (a) encrypt personal data at rest and in transit; (b) ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; (c)

restore the availability of Personal Data in a timely manner in the event of a physical or technical issue; and (d) regularly test, assess, and evaluate the effectiveness of technical and organizational measures for ensuring the security of the processing. Apple may update the security features from time to time as long as the updates do not result in the degradation of the overall security of the Service.

- G. Security controls.** Apple will assist You to ensure Your compliance with Your obligations with regards to the security of Personal Data, including, if applicable, Your Institution's obligations, under Article 32 of the GDPR, by implementing the Security Procedures set forth in section 3F of this Agreement and by maintaining the ISO 27001 Certification and ISO 27018 Certification. Apple will make available for review by Institution the certificates issued in relation to the ISO 27001 Certification and ISO 27018 Certification following a request by You or Your Institution under this Section 3G.
- H. Security Compliance.** 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 Personal Data comply with applicable laws regarding the confidentiality and security of Personal Data with regards to the Service.
- I. Data Impact Assessment and Prior Consultation.** Apple will assist Institution, at its sole discretion and to the extent it involves information Apple has access to in connection with the Service, to ensure Institution's compliance with any applicable obligations requiring Institution to conduct data protection impact assessments, or to consult with a supervisory authority prior to processing where such is required by law,
- J. Breach Notification and Cooperation.** You shall promptly notify Apple in the event that You learn or have reason to believe that any person, or entity, has breached Your security measures or has gained unauthorized access to: (1) Personal Data; (2) any restricted areas of the Service; or (3) Apple's confidential information (collectively, "Information Security Breach"). In the event of an Information Security Breach, You shall provide Apple with reasonable assistance and support to minimize the harm and secure the data.
- K. Data Transfer.** Apple will ensure that any Personal Data from the European Economic Area and Switzerland is transferred only to a third country that ensures an adequate level of protection or under appropriate safeguards or Binding Corporate Rules as provided for in Articles 46 and 47 of GDPR except when a derogation of Article 49 applies. Such a safeguard shall include the Model Contract Clauses/Swiss Transborder Data Flow Agreement incorporated as Exhibit B, if applicable. If You are required to enter into Model Contract Clauses in order to transfer data outside of the European Economic Area, You agree to do so.
- L. Access and Retrieval of Data.** Apple shall provide You with the ability to access, retrieve, or delete Your and Your End Users' Personal Data in accordance with Your privacy and/or data protection obligations, as applicable. Apple is not responsible for data You store or transfer outside of Apple's system (for example, student records located in your Student Information System).
Requests for deletion handled via Apple School Manager will be completed within 30 days.
- M. Destruction of Data.** Upon termination of this Agreement for any reason, Apple shall securely destroy Your and Your End Users' Personal Data that is stored by Apple in connection with the Service within a reasonable period of time, but in any case, no longer than 180 days.
- N. Third Party Requests.** In the event Apple receives a third party request for Your or Your End User's Content or Personal Data ("Third Party Request"), Apple will (i) notify You, to the extent permitted by law, of its receipt of the Third Party Request; and (ii) 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.
- O. School Official Status Under FERPA (20 U.S.C. § 1232g).** If You are an educational agency, or organization, or acting on behalf of an educational agency, or organization, to which regulations under the U.S. Family Education Rights and Privacy Act (FERPA) apply, Apple acknowledges that for the purposes of this Agreement, Your Institution's Personal Data may include personally identifiable information from education records that are subject to FERPA ("FERPA Records"). To

the extent that Apple receives FERPA Records while acting as a data processor in providing the Service, You agree that Apple will be functioning as a “school official” as defined in 34 C.F.R. § 99.31(a)(1)(i).

- Q. COPPA.** Apple will use and maintain Personal Data, provided by You and Your End Users to Apple in connection with the Service, in accordance with the Children’s Online Privacy Protection Act of 1998 (COPPA), insofar as it is applicable. This Section 3 and the attached Exhibit A constitute notice of how Apple will use and maintain such Personal Data when such data is provided by You and/or Your End Users to Apple in connection with the Service. You grant Apple permission to use and maintain such data Apple receives in connection with the Service, if provided by You and/or Your End Users, to Apple in connection with the Service for the purpose of providing and improving the Service and as set forth in Exhibit A.
- R. 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 to access Personal Data as required for the use of those additional services. You are not required to use such additional products in relation to the Service, and Your Administrator may restrict the use of such additional products in accordance with this Agreement. Prior to accessing or downloading third party products or services for use with a Managed Apple ID, You should review the terms, policies and practices of the third party products and services to understand what data they may collect from Your End Users, how the data may be used, shared and stored, and, if applicable, whether such practices are consistent with any consents You have obtained.

4. SERVICE

- A. Use Restrictions.** You will ensure Your and Your End Users’ use of the Service complies with this Agreement, and You will inform Your End Users of, and enforce, the restrictions below. You agree that neither You nor Your End Users will use the Service to upload, download, post, email, transmit, store or otherwise make available: (i) any Content or materials that are unlawful, harassing, threatening, harmful, defamatory, obscene, invasive of another’s privacy, hateful, racially or ethnically offensive or otherwise objectionable; (ii) any Content or materials that infringe any copyright or other intellectual property, or violate 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 or materials that contain 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. You further agree that You will not, and will ensure that End Users do not: (a) use the Service to stalk, harass, threaten or harm another; (b) pretend to be anyone or any entity that You are not (Apple reserves the right to reject or block any Apple ID or email address that could be deemed to be an impersonation or misrepresentation of Your identity, or a misappropriation of another person’s name or identity); (c) forge any Transmission Control Protocol/Internet Protocol (TCP-IP) packet header or any part of the header information in an email or a news group posting, or otherwise put information in a header designed to mislead recipients as to the origin of any content transmitted through the Service (“spoofing”); (d) interfere with or disrupt the Service, any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service; and/or (e) use the Service to otherwise violate applicable laws, ordinances or regulations. If Your or Your End User’s use of the Service or other behavior intentionally or unintentionally threatens Apple’s ability to provide You or others the Service, Apple shall be entitled to take necessary steps to protect the Service and Apple’s systems, which may include suspension of Your access to the Service.

If you are a covered entity, business associate or representative of a covered entity or business associate (as those terms are defined at 45 C.F.R § 160.103), You agree that you will not use any component, function or other facility of iCloud to create, receive, maintain or transmit any “protected health information” (as such term is defined at 45 C.F.R § 160.103) or use iCloud in any

manner that would make Apple (or any Apple Subsidiary) Your or any third party's business associate.

- B. Administration of Accounts.** You agree that You shall be solely responsible for management of Your Administrator account(s) and all Your Managed Apple IDs, including but not limited to: (i) the security and safeguarding of the user name and password associated with each account; (ii) the provision and/or removal of access by any of Your personnel or End Users to such account and any Content provided and/or stored in the Service; and (iii) the provision of appropriate documentation and guidelines to End Users about using the Managed Apple ID accounts.
- C. End User Consent.** Administrators will have the ability to monitor, access or disclose user data associated with Managed Apple ID accounts through the Service web portal and/or Administrator tools. You represent and warrant that, prior to deploying the Service to Institution and any End Users, You will provide sufficient notice and disclosure of the terms of this Agreement, and obtain and maintain all necessary rights and consents, either from each End User, or where necessary, each End User's parent or legal guardian, to allow Apple to: (1) provide and improve the Service in accordance with this Agreement; and (2) access and receive End User data that may arise as part of the provision of the Service.
- D. Managed Apple IDs; Features and Services.** A Managed Apple ID is the account user name and password You create and provide to each of Your End Users to access the Service. Apple will provide You with the tools to create Managed Apple IDs for Your End Users. When You create Managed Apple IDs for Your End Users, all features and functionality of the Service that You select to be available are enabled for all of Your Institution's Managed Apple IDs. YOU ASSUME FULL RESPONSIBILITY AND LIABILITY FOR ALL RISKS AND COSTS ASSOCIATED WITH YOUR SELECTION OF EACH FEATURE AND FUNCTIONALITY ENABLED IN THE SERVICE AS BEING APPROPRIATE FOR INSTITUTION AND/OR YOUR END USERS.
- i. **Requirements for Use of Managed Apple ID**
1. **Devices and Accounts.** Use of Managed Apple IDs as part of the Service may require compatible devices, Internet access, certain software, and periodic updates. The latest version of the required software may be necessary for certain transactions or features. Apple reserves the right to limit the number of Managed Apple IDs that may be created and the number of devices associated with a Service account.
 2. **Your rights to the Managed Apple IDs.** Unless otherwise required by law or this Agreement, You agree that each Managed Apple ID is non-transferable between individual End Users, and between Institutions.
- ii. **Find My iPhone.** Find my iPhone is automatically disabled for all Managed Apple IDs. However, if an Authorized Device is lost or stolen, Institution can use the MDM solution to put the device in Lost Mode so that the device will be locked, the user will be logged out, and a report will be automatically transmitted to the MDM Server. Institution can also erase the device remotely and enable Activation Lock to help ensure that the device cannot be reactivated without the proper Managed Apple ID and password. Apple shall bear no responsibility for Your failure to protect Authorized Devices with a passcode, Your failure to enable Lost Mode, and/or Your failure to receive or respond to notices and communications. Apple shall also bear no responsibility for returning lost or stolen devices to You or for any resulting loss of data. Apple is not responsible for any replacement of devices that have the Activation Lock feature enabled, or any warranty claims on such devices. You may remove the Activation Lock feature and disable Lost Mode through MDM.
- iii. **Account Authentication.** Two-factor authentication requiring two types of information for authentication purposes, such as a password and a generated security code, is automatically enabled for the Managed Apple IDs of Your Administrators, teachers and staff. Institution agrees to provide Apple with at least one mobile telephone number for Institution to receive autodialed or prerecorded calls and text messages from Apple for authentication and account related purposes, which may be subject to standard message and data rates. Apple may place such calls or texts to: (i) help keep Your Service account secure when signing in; (ii) help

You access Your Account if You forget Your password; or (iii) as otherwise necessary to maintain Your Service account or enforce this Agreement and relevant policies. Managed Apple IDs distributed to Your End Users will also require two-factor authentication, such as identification of an Authorized Device and an authentication code generated in the Service web portal or a telephone number. In all instances, You are responsible for: (a) distributing the Managed Apple IDs You create to identified End Users; (b) approving access to the Service by such users; (c) controlling against unauthorized access; and (d) maintaining the confidentiality and security of usernames, passwords and account information.

- iv. **Backup.** Authorized Devices that are not shared devices will periodically create automatic backups that are transmitted to the Service when the user is logged in with their Managed Apple ID and the device is screen-locked, connected to a power source, and connected to the Internet via a Wi-Fi network. You may disable backup in the MDM Enrollment Settings. Backup is limited to device settings, device characteristics, photos, videos, documents, messages (iMessage, SMS and MMS, if enabled), ringtones, app data (including Health app data), location settings (such as location-based reminders that You have set up), and Home screen and app organization. Content that You purchase, download or provide access to Your End Users from the iTunes Store, App Store or iBooks Store, and Content purchased from or provided by any third parties, will not be backed up. Such Content may be eligible for re-download from those services, subject to account requirements, availability, and any applicable terms and conditions. Content synced from Your End Users' computers will not be backed up. If You enable iCloud Photo Library, the photo libraries of Your End Users will be backed up separately from their automatic iCloud backup. The Content stored in an End User's contacts, calendars, bookmarks, and documents is accessible via iCloud on the web or on any of the End User's Authorized Devices. When iCloud Backup is enabled, devices managed or controlled by Your Institution will not back up to iTunes automatically during a sync, but You may enable End Users to manually initiate a backup to iTunes. It is solely Your responsibility to maintain appropriate alternative backup of Your and Your End Users' information and data.
- v. **iCloud Photo Library.** When You enable iCloud Photo Library in connection with any Managed Apple ID, the photos, videos and metadata in the Photos App on the Authorized Devices ("Device Photo Library") will be automatically sent to iCloud, stored as the End User's Photo Library in iCloud, and then pushed to all of the End User's other iCloud Photo Library-enabled devices and computers. If the End User later makes changes (including deletions) to the Device Photo Library on any of these devices or computers, such changes will automatically be sent to and reflected in the End User's iCloud Photo Library. These changes will also be pushed from iCloud to, and reflected in, the Device Photo Library on all of the End User's iCloud Photo Library-enabled devices and computers. The resolution of content in the Photo Library on Authorized Devices or computers may vary depending upon the amount of available storage and the storage management option selected for the End User's iCloud-Photo-Library-enabled device. If You do not wish to use iCloud Photo Library, You may disable it for Your Managed Apple ID and/or on Your Authorized Devices.
- vi. **Schoolwork.** If you make Schoolwork available to Your End Users, teachers and students at Your Institution can manage their school work and assignments using a Managed Apple ID.
 - 1. **iCloud File Sharing.** When you share a file using Schoolwork in connection with a Managed Apple ID, Apple automatically organizes any files shared into class folders for students and teachers in the iCloud Drive. Your End Users' can access their shared files using their Managed Apple ID. Annotations or changes made to these files will be visible by any End User in a class with whom You have shared a file. You can stop sharing files at any time. Files created by Your End Users using Managed Apple IDs are stored until you delete them. However, any file previously copied to another device or computer will not be deleted.
 - 2. **Student Progress.** When You opt-in to the student progress feature in the Apple School Manager web portal, student progress will be recorded and reported to the

ClassKit framework. Only activities assigned by Your teachers using Schoolwork will initiate the recording and reporting of student progress information. Your student End Users will be able to view their own student progress information in Schoolwork and in Settings on their device. Your teacher End Users will be able to view the student progress information of all students in their class for activities they assign. Student data created through Your use of Schoolwork or ClassKit will be treated in accordance with Section 3 and Exhibit A of this Agreement. If You opt-out a Managed Apple ID from the student progress feature, all Personal Data associated with that Managed Apple ID will be deleted in accordance with Section 3.

- vii. **Third Party Apps.** If You make available any third party Apps for Your End Users to sign into with their Managed Apple IDs, You agree to allow such Apps to store data in the accounts associated with Your End Users' Managed Apple IDs, and for Apple to collect, store, and process such data on behalf of the relevant third-party App developer in association with Your and/or Your End Users' use of the Service and such Apps. Third party Apps may have the capability to share such data with another App downloaded from the same App developer. You are responsible for ensuring that You and Your End Users are in compliance with any storage limits for each Managed Apple ID based on the third party Apps You make available to Your End Users to download.
- E. **Server Token Usage.** You agree to use the Server Token provided by Apple only for the purpose of registering Your MDM Server within the Service, uploading MDM Enrollment Settings, and receiving Managed Apple ID roster data. You shall ensure that Your End Users use the information sent or received using Your Server Token only with Authorized Devices. You agree not to provide or transfer Your Server Token to any other entity or share it with any other entity, excluding Your Third Party Service Providers. You agree to take appropriate measures to safeguard the security and privacy of such Server Token and to revoke it if it has been compromised or You have 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, You understand and agree that regenerating the Server Token will affect Your ability to use the Service until a new Server Token has been added to the MDM Server.
- F. **Storage Capacity; Limitations on Usage.** Exceeding any applicable or reasonable usage limitations, such as limitations on bandwidth or storage capacity (e.g., backup), is prohibited and may prevent You from using some of the features and functionality of the Service, accessing Content or using some, or all, of the Managed Apple IDs. In the event that Apple limits bandwidth or storage capacity available to You, it shall use commercially reasonable efforts to notify You via the Service or otherwise within ten (10) business days of doing so.
- G. **Submission of Content.** You are solely responsible for any Content You or Your End Users upload, download, post, email, transmit, store or otherwise make available through the use of the Service. You shall ensure that Your End Users have obtained all necessary third party permissions or licenses related to any such Content. You understand that by using the Service You may encounter Content that You or Your End Users find offensive, indecent, or objectionable, and that You may expose others to content that they may find objectionable. You understand and agree that Your use of the Service and any Content is solely at Your own risk.
- H. **Removal of Content.** You acknowledge that Apple is not responsible or liable for any Content provided by You or Your End Users. Apple has the right, but not an obligation, to determine whether Content is appropriate and in compliance with this Agreement, and may move and/or remove Content that violates the law or this Agreement at any time, without prior notice and in its sole discretion. In the event that Apple removes any Content, it shall use commercially reasonable efforts to notify You.
- I. **Bundled Service.** All features and functionalities of the Service are provided as part of a bundle and may not be separated from the bundle and used as standalone applications. Apple Software provided with a particular Apple-branded hardware product may not run on other models of Apple-branded hardware.
- J. **Links and Other Third Party Materials.** Certain Content, components or features of the Service

may include materials from third parties and/or hyperlinks to other web sites, resources or content. You acknowledge and agree that Apple is not responsible for the availability of such third party sites or resources, and shall not be liable or responsible for any content, advertising, products or materials on or available from such sites or resources used by You or Your End Users.

K. iTunes; Purchasing Apps and Books.

- i. **Acquisition of Content.** Acquisition of Content from the iTunes Store, App Store or iBooks Store using Managed Apple IDs is automatically disabled. You may choose to enable Your Administrators or teachers and staff to access such Content by granting them purchasing authority and allowing them to access the Volume Purchase Program to purchase Apps and Books for use on the Service. Your use of the iTunes Store, App Store, and/or iBooks Store is subject to sections G and H of the iTunes terms and conditions (<http://www.apple.com/legal/internet-services/itunes/chde/terms.html>; <http://www.apple.com/legal/internet-services/itunes/chfr/terms.html>), as applicable. You agree that You have the authority to and will accept such applicable terms on behalf of Your Authorized End Users.
- ii. **iTunes U Course Manager.** You are responsible for the use of the Course Manager feature by Your Institution's teachers and staff to create and administer courses as a part of the Service. You agree to obtain all necessary permissions on behalf of Your End Users for Content created or submitted through the Course Manager onto the Service.
- iii. **Volume Purchase Program.** Purchases You choose to transact through Apple's Volume Purchase Program (VPP) are subject to the VPP terms, and delivered to End Users or assigned to a device through the App Stores and/or the iBooks Store.

L. Updates and Maintenance; Changes to Service.

- i. **Updates and Maintenance.** Apple may, from time to time, update the software used by the Service. These updates could include bug fixes, feature enhancements or improvements, or entirely new versions of the Software. In some cases, such updates may be required to continue Your use of the Service or to access all features of the Service. Apple is not responsible for performance or security issues resulting from Your failure to support such updates. Apple shall, from time to time, be required to perform maintenance on the Service. While Apple is not obligated to notify You of any maintenance, Apple will use commercially reasonable efforts to notify You in advance of any scheduled maintenance.
- ii. **Changes to Service.** Apple shall have the right to revise or update the functionality and look of the Service from time to time in its sole discretion. You agree that Apple shall not be liable to You or any third party for any modification, suspension or termination of the Service. The Service, or any feature or part thereof, may not be available in all languages or in all countries, and Apple makes no representations that the Service, or any feature or part thereof, is appropriate or available for any use in any particular location.

M. Other Agreements. You acknowledge and agree that the terms and conditions of any sales, service or other agreement You may have with Apple are separate and apart from the terms and conditions of this Agreement. The terms and conditions of this Agreement govern the use of the Service and such terms are not diminished or otherwise affected by any other agreement You may have with Apple.

N. Professional Services. Any professional services relevant to the Service, such as consulting or development services that require any deliverables from Apple are subject to fees and a separate agreement between Apple and Institution.

O. Electronic Delivery. The Service and any Apple Software provided hereunder (unless such software is preinstalled on any Authorized Devices) will be delivered electronically.

P. Fees and Taxes. Your Institution will pay all taxes and duties payable, if any, based on its use of the Service, unless exempt by applicable law. You will provide Apple with proof of Your Institution's tax-exempt status, if any, upon Apple's request.

5. OWNERSHIP AND RESTRICTIONS; COPYRIGHT NOTICE

A. You retain all of Your ownership and intellectual property rights in Your Content and any pre-existing software applications owned by You as used or accessed in the Service. Apple and/or its

licensors retain all ownership and intellectual property rights in: (1) the Service and derivative works thereof, including, but not limited to, the graphics, the user interface, the scripts and the software used to implement the Service (the "Software"); (2) any Apple Software provided to You as part of and/or in connection with the Service, including any and all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist; and (3) anything developed or provided by or on behalf of Apple under this Agreement. No ownership of any technology or any intellectual property rights therein shall be transferred by this Agreement. If while using the Service You encounter Content You find inappropriate, or otherwise believe to be a violation of this Agreement, You may report it through: <http://www.apple.com/support/business-education/contact/>. You further agree that:

- i. The Service (including the Apple Software, or any other part thereof) contains proprietary and confidential information that is protected by applicable intellectual property and other laws, including but not limited to copyright.
- ii. You will not, and will not cause or allow others to, use or make available to any third party such proprietary information or materials in any way whatsoever except for use of the Service in compliance with this Agreement.
- iii. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted in these terms.
- iv. You may not, and may not cause or allow others to, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Service.
- v. Apple, the Apple logo, iCloud, the iCloud logo, iTunes, the iTunes logo, and other Apple trademarks, service marks, graphics, and logos used in connection with the Service are trademarks or registered trademarks of Apple Inc. in the United States and/or other countries. A list of Apple's trademarks can be found here: (<http://www.apple.com/legal/trademark/appletmlist.html>). Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license in any of the aforesaid trademarks, and further agree that You shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Service.
- vi. During the Term of this Agreement, You grant Apple the right to use Your marks, solely in connection with Apple's exercise of its rights and performance of its obligations under this Agreement.
- vii. As part of the Service, You may gain access to Third Party Content. The third party owner or provider of such Third Party Content retains all ownership and intellectual property rights in and to that content, and Your rights to use such Third Party Content are governed by and subject to the terms specified by such third party owner or provider.
- viii. You may not license, sell, rent, lease, assign, distribute, host or permit timesharing or service bureau use, or otherwise commercially exploit or make available the Service and/or any components thereof, to any third party, except as permitted under the terms of this Agreement.

You agree and acknowledge that if You violate the terms of the foregoing sentence, Apple shall bear no responsibility or liability for any damages or claims resulting from or in connection with Your actions, including but not limited to data privacy breaches.

- B.** By submitting or posting materials or Content using the Service: (i) You are representing that You are the owner of such material and/or have all necessary rights, licenses, and permission to distribute it; and (ii) You grant Apple a worldwide, royalty-free, non-exclusive, transferable license to use, distribute, reproduce, modify, publish, translate, perform and publicly display such Content on the Service solely for the purpose of Apple's performance of the Service, without any compensation or obligation to You. You understand that in order to provide the Service and make Your Content available thereon, Apple may transmit Your Content across various public networks, in various media, and alter Your Content to comply with technical requirements of connecting

networks, devices or equipment. You agree that Apple has the right, but not the obligation, to take any such actions under the license granted herein.

- C. You will be responsible for following Apple's guidelines and templates related to the design of any area of the Service, if such customization or design is permitted by Apple, including but not limited to, the area dedicated to iTunes U. In the event You or any of Your End Users do not comply with such guidelines and templates, Apple may instruct You to make necessary changes within a reasonable period of time.
- D. **Copyright Notice – DMCA.** If You believe that any Content in which You claim copyright has been infringed by anyone using the Service, please contact Apple's Copyright Agent as described in Apple's Copyright Policy at (<https://www.apple.com/legal/contact/>). Apple may, in its sole discretion, suspend and/or terminate accounts of End Users that are found to be infringers.

6. EULAS; DIAGNOSTICS AND USAGE DATA

- A. **EULA Terms and Conditions.** In order to use the Service, You and/or Your End Users will need to accept the End User License Agreement terms and conditions (EULA) for any Apple Software needed to use the Service and for any other Apple Software that You choose to use with the Service. In order to use the Service, Your authorized representative must accept the EULAs for the Apple Software on the relevant web portal prior to deploying Authorized Devices running such Apple Software to End Users. If the EULAs for the Apple Software have changed, Your authorized representative will need to return to the relevant web portal and accept such EULAs in order to continue using the Service. You acknowledge that You will not be able to use the Service, or any parts or features thereof, including associating additional Authorized Devices with Your MDM Server, until such EULAs have been accepted. You are responsible for ensuring that such EULAs are provided to Your End Users, and that each End User is aware of and complies with the terms and conditions of the EULAs for the Apple Software, and You agree to be responsible for obtaining any required consents for Your End Users' use of the Apple Software. You agree to monitor and be fully responsible for all Your End Users' use of the Apple Software provided under this Agreement. You acknowledge that the requirements and restrictions in this Agreement apply to Your use of Apple Software for the purposes of the Service regardless of whether such terms are included in the relevant EULA(s).
- B. **Analytics Data.** If any Analytics collection is enabled, You agree, and shall ensure that the applicable End Users agree, that Apple and its subsidiaries and agents may collect, maintain, process and use diagnostic, technical, usage and related information, including but not limited to, unique system or hardware identifiers, and information about Your devices, system and application software, and peripherals. This information is gathered periodically to provide and improve the Service, to facilitate the provision of software updates, product support and other features related to the Service, and to verify compliance with the terms of this Agreement (collectively, "Analytics"). You may change Your preferences for Analytics collection at any time by updating Your MDM settings, or on a device-by-device basis, in Settings. Apple may use such Analytics information for the purposes described above, as long as it is collected in a form that does not personally identify Your End Users.

7. TERM; TERMINATION; SUSPENSION; EFFECTS OF TERMINATION

- A. **Term.** This Agreement shall commence on the date You first accept this Agreement, and shall continue until terminated in accordance with this Agreement (the "Term").
- B. **Termination by Apple.** Apple may terminate this Agreement at any time and for any reason or no reason, provided Apple gives You thirty (30) days written notice. Further, Apple may at any time and without prior notice, immediately terminate or suspend all or a portion of Managed Apple IDs and/or access to the Service upon the occurrence of any of the following: (a) violations of this Agreement, including but not limited to, Section 4A. ("Use Restrictions"), or any other policies or guidelines that are referenced herein and/or posted on the Service;; (b) a request and/or order from law enforcement, a judicial body, or other government agency; (c) where provision of the Service to You is or may become unlawful; (d) unexpected technical or security issues or

problems; (e) Your participation in fraudulent or illegal activities; or (f) failure to pay fees, if any, owed by You in relation to the Service if you fail to cure such failure within thirty (30) days of being notified in writing of the requirement to do so. Apple may terminate or suspend the Service in its sole discretion, and Apple will not be responsible to You or any third party for any damages that may result or arise out of such termination or suspension.

- C. Termination by You.** You may stop using the Service at any time. If You delete any Managed Apple IDs, You and the applicable End User(s) will not have access to the Service. This action may not be reversible.
- D. Effects of Termination.** If this Agreement terminates or expires, then the rights granted to one party by the other will cease immediately, subject to Section 11L (Survival of Terms) of this Agreement.

8. INDEMNIFICATION

To the extent permitted by applicable law, You agree to indemnify, hold harmless, and upon Apple's request, defend Apple, its directors, officers, employees, shareholders, contractors and agents (each an "Apple Indemnified Party") from any and all claims, liabilities, actions, damages, demands, settlements, expenses, fees, costs, and losses of any type, including without limitation attorneys' fees and court costs (collectively, "Losses"), incurred by an Apple Indemnified Party and arising from or related to: (a) any Content You and/or Your End Users submit, post, transmit, or otherwise make available through the Service; (b) Your and/or Your End Users' actual or alleged breach of, or failure to adhere to, any certification, covenant, obligation, representation or warranty in this Agreement; or (c) Your and/or Your End Users' violation of any rights of another, or any laws, rules and regulations. You acknowledge that the Service is not intended for use in situations in which errors or inaccuracies in the content, functionality, services, data or information provided by the Service or Apple Software, or the failure of the Service or Apple Software, could lead to death, personal injury, or severe physical or environmental damage, and to the extent permitted by law, You hereby agree to indemnify, defend and hold harmless each Apple Indemnified Party from any Losses incurred by such Apple Indemnified Party by reason of any such use by You or Your End Users. This obligation shall survive the termination or expiration of this Agreement and/or Your use of the Service.

In no event may You enter into any agreement with a third party that affects Apple's rights or binds Apple in any way, without the prior written consent of Apple, and You may not publicize any such agreement without Apple's prior written consent.

9. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE, APPLE SOFTWARE, AND ANY ASSOCIATED CONTENT, FEATURE, FUNCTIONALITY, OR MATERIALS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. APPLE AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS (COLLECTIVELY, "APPLE" FOR THE PURPOSES OF SECTIONS 9 AND 10 HEREIN) EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, APPLE MAKES NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED, SECURE, OR FREE FROM ERRORS, LOSS, CORRUPTION, ATTACK, VIRUSES, OR HACKING; (III) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE SERVICE WILL BE ACCURATE OR RELIABLE; AND (IV) ANY DEFECTS OR ERRORS IN THE SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICE WILL BE CORRECTED.

YOU AGREE THAT FROM TIME TO TIME APPLE MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME, OR CANCEL THE SERVICE IN ACCORDANCE WITH THE TERMS OF THIS

AGREEMENT. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE, COMPUTER, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. 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 THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

10. LIMITATION OF LIABILITY

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL APPLE BE LIABLE FOR ANY DIRECT, PERSONAL INJURY, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, WHATSOEVER, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA, LOSS OF GOODWILL, FAILURE TO TRANSMIT OR RECEIVE ANY DATA (INCLUDING WITHOUT LIMITATION, COURSE INSTRUCTIONS, ASSIGNMENTS AND MATERIALS), COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, BUSINESS INTERRUPTION, ANY OTHER TANGIBLE OR INTANGIBLE DAMAGES OR LOSSES (EVEN IF APPLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RELATED TO OR RESULTING FROM: (I) THE USE OR INABILITY TO USE THE SERVICE, APPLE SOFTWARE, ANY FEATURES, FUNCTIONALITY, CONTENT, MATERIALS, OR THIRD PARTY SOFTWARE OR APPLICATIONS IN CONJUNCTION WITH THE SERVICE; (II) ANY CHANGES MADE TO THE SERVICE OR ANY TEMPORARY OR PERMANENT CESSATION OF THE SERVICE OR ANY PART THEREOF; (III) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF THE SERVICE, YOUR TRANSMISSIONS OR DATA; (IV) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE AND/OR SEND OR RECEIVE YOUR TRANSMISSIONS OR DATA ON OR THROUGH THE SERVICE; (V) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (VI) ANY OTHER MATTER RELATING TO THE SERVICE.

11. MISCELLANEOUS

- A. Relationship of the Parties.** 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. Except as otherwise expressly provided in this Agreement, this Agreement is not for the benefit of any third parties.
- B. Waiver; Assignment.** No delay or failure to take action under this Agreement will constitute a waiver unless expressly waived in writing and signed by a duly authorized representative of Apple, and no single waiver will constitute a continuing or subsequent waiver. This Agreement may not be assigned by You in whole or in part. Any assignment shall be null and void.
- C. Verification.** To the extent permitted by applicable law, Apple may verify Your use of the Service (via remote software tools or otherwise) to assess compliance with the terms of this Agreement. You agree to cooperate with Apple in this verification process and provide reasonable assistance and access to relevant information. Any such verification shall not unreasonably interfere with Your normal business operations, and You agree that Apple shall not be responsible for any cost or expense You incur in cooperating with the verification process.
- D. Export Control.** Use of the Service and Software, including transferring, posting, or uploading data, software or other Content via the Service, may be subject to the export and import laws of the United States and other countries. You agree to comply with all applicable export and import laws and regulations. In particular, but without limitation, the 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 Denied Person's List or Entity List. By using the Software or Service, 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 Software or Service for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You further agree not to upload to your Account any data or software that is: (a) subject to International Traffic in Arms Regulations; or (b) that cannot be exported without prior written government authorization, including, but not limited to, certain types of encryption software and source code, without first obtaining that authorization. This assurance and commitment shall survive termination of this Agreement.

- E. Compliance with Laws.** Institution shall, and shall ensure that all Institution employees, contractors and agents shall, comply with all laws, rules and regulations applicable to the use of the Service, including but not limited to, those enacted to combat bribery and corruption, including the United States Foreign Corrupt Practices Act, the UK Bribery Act, the principles of the OECD Convention on Combating Bribery of Foreign Public Officials, and any corresponding laws of all countries where business will be conducted or services performed pursuant to this Agreement.
- F. Federal Government End Users.** The Service, Apple Software, and related documentation are “Commercial Items”, 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 Items, 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.
- G. Attorneys’ Fees.** To the extent not prohibited by applicable law, if any action or proceeding, whether regulatory, administrative, at law or in equity is commenced or instituted to enforce or interpret any of the terms or provisions of this Agreement (excluding any mediation required under this Agreement), the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys’ fees, expert witness fees, costs of suit and expenses, in addition to any other relief to which such prevailing party may be entitled. As used herein, “prevailing party” includes without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.
- H. Governing Law.** If Your Institution is a U.S. public and accredited educational institution, then this Agreement will be governed and construed in accordance with the laws of the state in which Your Institution is domiciled, except that body of law concerning conflicts of law. You and Apple hereby consent to the personal jurisdiction and exclusive venue of the federal courts within the Northern District of California for any litigation or other dispute resolution between You and Apple, unless such consent is expressly prohibited by the laws of the state in which Your educational institution is domiciled.

For all other institutions domiciled in the United States or subject to United States law under this Agreement, this Agreement will be governed by and construed in accordance with the laws of the State of California, as applied to agreements entered into and to be performed entirely within California between California residents. The parties further submit to and waive any objections to the personal jurisdiction of and venue in any of the following forums: U.S. District Court for the Northern District of California, California Superior Court for Santa Clara County, or any other forum in Santa Clara County, for any litigation arising out of this Agreement.

If Your Institution is located outside of the United States, the governing law and forum shall be the law and courts of the country of domicile of the Apple entity providing the Service to You as defined in Section 11N below.

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.

- I. Publicity.** Unless otherwise agreed in a written agreement between You and Apple, You may not issue any press releases or make any other public statements regarding this Agreement, its terms and conditions, or the relationship with Apple without Apple's express prior written approval, which may be withheld at Apple's discretion.
- J. Notice.** Except as otherwise provided in this Agreement, any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be: (a) delivered in person, (b) sent by U.S. Postal Service, or (c) sent by overnight air courier, in each case properly posted and fully prepaid to: Legal Department, Apple School Manager, Apple Inc., One Apple Park Way, MS 169-5MAL, Cupertino, California 95014 U.S.A., with a courtesy copy sent via e-mail through: (<http://www.apple.com/support/business-education/contact/>). Either party may change its address for notice by notifying the other party in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service. You consent to receive notices by email and agree that any such notices that Apple sends You electronically will satisfy any legal communication requirements.
- K. Force Majeure.** Neither party shall be responsible for failure or delay of performance that is caused by an act of war, hostility, terrorism, civil disobedience, fire, earthquake, act of God, natural disaster, accident, pandemic, labor unrest, government limitations (including the denial or cancelation of any export/import or other license), or other event outside the reasonable control of the obligated party; provided that within five (5) business days of discovery of the force majeure event, such party provides the other with a written notice. Both parties will use reasonable efforts to mitigate the effects of a force majeure event. In the event of such force majeure event, the time for performance or cure will be extended for a period equal to the duration of the force majeure event, but in no event more than thirty (30) days. This Section does not excuse either party's obligation to institute and comply with reasonable disaster recovery procedures.
- L. Survival of Terms.** All terms and provisions of this Agreement, including any and all addenda and amendments hereto, which by their nature are intended to survive any termination or expiration of this Agreement, shall so survive.
- M. Complete Understanding; Severability; Changes to the Agreement.** This Agreement constitutes the entire agreement between You and Apple regarding Your use of the Service, governs Your use of the Service and completely replaces any prior agreements between You and Apple in relation to the Service. You may also be subject to additional terms and conditions that may apply when You use affiliate services, third-party content, or third-party software. Unless specified otherwise in this Agreement as related to the Service, nothing in this Agreement supersedes the EULAs for the Apple Software. This Agreement may be modified only to the extent expressly permitted by this Agreement (for example, by Apple upon notice to You). In the event that You refuse to accept such changes, Apple will have the right to terminate this Agreement and Your account. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. The failure of Apple to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. Any translation of this Agreement is done for local requirements and in the event of a conflict between the English and any non-English version, the English version of this Agreement shall govern.
- N. Definitions.** In this Agreement, unless expressly stated otherwise:

"Administrator" means an employee or contractor (or service provider) of Institution who is an authorized representative acting on behalf of Institution for the purposes of account management, including but not limited to, administering servers, uploading MDM provisioning settings and adding devices to Institution accounts, creating and managing Managed Apple IDs, and other tasks relevant to administering the Service, in compliance with the terms of this Agreement.

“Apple” as used herein means*:

- Apple Canada Inc., located at 120 Bremner Blvd., Suite 1600, Toronto ON M5J 0A8, Canada for users in Canada or its territories and possessions;
- iTunes K.K., located at Roppongi Hills, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6140, Tokyo for users in Japan;
- Apple Pty Limited, located at Level 2, 20 Martin Place, Sydney NSW 2000, Australia, for users in Australia, New Zealand, including island possessions, territories, and affiliated jurisdictions;
- Apple Distribution International, located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland, for users in the European Economic Area and Switzerland; and
- Apple Inc., located at One Apple Park Way, Cupertino, California, 95014, United States, for all other users.

“Apple Personnel” means Apple’s employees, agents and/or contractors.

“Apple Software” means iOS, macOS, iTunes, iTunes U, Schoolwork, and tvOS , and any successor versions thereof.

“Authorized Devices” means Apple-branded hardware that are owned or controlled by You (or which Your End Users personally own (e.g. “BYOD devices)), that have been designated for use only by End Users and that meet the applicable technical specifications and requirements for use in the Service. Notwithstanding the foregoing, BYOD devices are not permitted to be enrolled in supervised device management by You as part of the Service and may not be added to Your Account.

"Content" means any information that may be generated or encountered through use of the Service, such as data files, device characteristics, written text, software, music, graphics, photographs, images, sounds, videos, messages and any other like materials including Personal Data.

“End User(s)” means those Institution employees, contractors (or Third Party Service Providers), Administrators, and/or students, as applicable, authorized by or on behalf of Institution to use the Service in accordance with this Agreement.

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

“European Data Protection Legislation” means, as applicable: (a) the GDPR; and/or (b) the Federal Data Protection Act of 19 June 1992 (Switzerland), as amended or replaced.

“GDPR” means 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.

“ISO 27001 Certification” means an ISO/IEC 27001:2013 certification or a comparable certification that covers the Services.

“ISO 27018 Certification” means an ISO/IEC 27018:2014 certification or a comparable certification that covers the Services.

“MDM Enrollment Settings” means settings for an Apple-branded product 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.

“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.

“Personal Data” means data that can be reasonably used to identify an individual that is under the control of the Institution under this Agreement. Personal Data may relate to students, teachers and employees of Your Institution, and includes account details, name and surname. Personal Data may also include student progress data if the collection of student progress data created during the course of educational activities is enabled by an Institution in Apple School Manager, and any other information created directly by a student’s use of the Services or as expressly set forth under applicable law.

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

“Service” means the Apple School Manager service (and any components, functionality and features thereof) for an Institution’s management of Authorized Devices, Content, and Authorized End Users’ access and use through Apple’s web portal and other Apple websites and services, such as iCloud, as made available by Apple to Institution pursuant to this Agreement.

“Third Party Content” means all data files, device characteristics, written text, software, music, graphics, photographs, images, sounds, videos, messages and any other like materials, in any format, that are obtained or derived from third party sources other than Apple and made available to You through, within, or in conjunction with Your use of the Service.

“Third Party Service Provider” means a third party who provides a service to You in accordance with the terms of this Agreement.

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

“Your Content” means all data files, device characteristics, written text, software, music, graphics, photographs, images, sounds, videos, messages and any other like materials, (including Personal Data as defined above), in any format, provided by You or on behalf of Your End Users, which Content resides in, or runs on or through, the Service.

Rev. 05/18/2018

EXHIBIT A

Managed Apple IDs for Students

Disclosure on Collection and Use of Information

Managed Apple ID

With the Managed Apple ID an Institution creates, students will be able to take advantage of the Apple services that are available with a Managed Apple ID for educational purposes including ClassKit enabled apps, iCloud, iTunes U and Schoolwork. In addition, students can use a limited number of Apple services that You choose to make available for educational purposes. For example, such optional services can include:

- Making and receiving FaceTime video and voice calls
- Creating and sharing photos, documents, videos, audio messages, and messages using Camera, Photos, iPhoto, iCloud Photo Sharing, Messages, Mail, iWork and other Apple apps
- Enrolling and participating in iTunes U courses

- Interacting with the Classroom App, an app offered by Apple which allows teachers and Administrators to guide students through lessons and view their device screens
- Saving contacts, calendar events, notes, reminders, photos, documents and backups to iCloud
- Accessing and searching the internet and internet resources through Safari and Spotlight
- Recording and viewing student progress data if the student progress feature is enabled in Apple School Manager
- Using Schoolwork to receive web links, documents, or activities within an application

Creating Your Students' Managed Apple ID

You acknowledge that You are responsible for obtaining all necessary rights and consents from each student, and/or, where necessary, each student's parent or legal guardian, to create Managed Apple IDs, to allow Apple to provide the Service using the Managed Apple IDs, and to use and maintain student data provided by You or Your End Users to Apple through the Service.

Apple may take additional steps to verify that the person granting permission for the creation of Managed Apple IDs for Your students is an official from Your school with authority to provide consent for the relevant students.

Apple will not knowingly collect, use, or disclose any Personal Data from Your students without appropriate consent. Where local law places requirements on You for verifiable consent and/or requires You to inform students and/or parents of such collection, use or disclosure, it will be Your responsibility to comply with those requirements. Your students will be able to use their Managed Apple IDs to access those Apple features and services You choose to make available to Your End Users for educational purposes.

Collection of Information

In addition to the information outlines above that Apple may collect if You enable one or more of the optional services set forth above, the following information is needed to create a Managed Apple ID for use by a student: student's name, grade level, class, and student ID. At Your option, You may also provide Your student's email address. In order to protect the security of Your students' accounts and preserve Your ability to easily reset students' passwords online, You should keep this information confidential.

In Schoolwork, Apple collects information about a Managed Apple ID's usage of the app, such as the number of times an assignment is sent or work is submitted together with device related information. We may also use non-personally identifiable information to report to you on the usage of Schoolwork in your school. The information collected will only be used by Apple to improve the quality and performance of Schoolwork.

In order to provide and improve the Service for educational purposes, Apple may collect other information that in some cases has been defined under COPPA, GDPR or other applicable laws as Personal Data, such as device identifiers, cookies, IP addresses, granular geographic locations, and time zones, together with other identifying information where Apple devices are being used.

Use of Information

Apple's Privacy Policy is available at <http://www.apple.com/privacy/>, and, to the extent consistent with this Disclosure and Section 3 of this Agreement, is incorporated herein by reference. **If there is a conflict between Apple's Privacy Policy and this Disclosure and Section 3 of this Agreement, the terms of this Disclosure and Section 3 of this Agreement shall take precedence** as relevant to the Service available via a Managed Apple ID.

Apple may use students' Personal Data provided to Apple by You or Your End Users in connection with the Service in order to provide and improve the Service for educational purposes. Apple may use device identifiers, cookies, or IP addresses to conduct analytics in a non-personally identifiable form to improve

our relevant products, content, and services, and for security and account management purposes. Apple will not use students' Personal Data to help create, develop, operate, deliver or improve advertising.

In addition, Apple may use, transfer, and disclose non-personal data (data that does not, on its own, permit direct association with Your students' identities) for any purpose. Aggregated data is considered non-personal data. Where You have enabled Analytics data collection on a device, Apple will receive non-personally-identifiable information such as crash data and statistics about how the device uses apps.

Limit Ad Tracking will be enabled by default for all devices associated with Your Managed Apple IDs created through the Service to ensure they do not receive targeted advertising. However, non-targeted advertising may still be received on those devices, as determined by any third party apps that You may download.

Disclosure to Third Parties

Managed Apple IDs

Subject to the restrictions You set, Your students may also share information with Your other students and instructors through use of the following: Apple School Manager, ClassKit enabled apps, iWork, iCloud Photo Sharing, the Classroom App, the Schoolwork App, and shared calendars and reminders.

Additionally, if Your student uses his or her Managed Apple ID to sign in on a device that is owned by a third party (such as a friend's iPod or a parent's iPad), information associated with that student's Managed Apple ID account may be visible or accessible to others using the device unless and until the student signs out.

Service Providers

Apple may provide Personal Data to service providers who provide services to Apple in connection with Apple's operation of the Service, such as information processing, fulfilling customer orders, delivering products to You or Your students, managing and enhancing customer data, and providing customer service ("Sub-processors"). You authorize the use of Apple Inc. as Sub-processor and any other Sub-processors that Apple may use, provided such Sub-processors are bound by contract to treat such data in no less a protective way than Apple has undertaken to treat such data under this Agreement, and will not use such data for any purpose beyond that specified herein. A list of such Sub-processors will be available upon request. Where a Sub-processor fails to fulfill its data protection obligations under this Agreement, Apple shall remain fully liable to You for the performance of that Sub-processor's obligations.

Others

Apple may also disclose Personal Data about You or Your students 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.

Access, Correction, and Deletion

Apple provides You with the ability to access, correct, or delete data associated with Your students' Managed Apple IDs. You can delete data associated with Your Managed Apple IDs through the administrator web portal in Apple School Manager. Please contact us here: www.apple.com/privacy/contact/.

Parent/Guardian Review and Deletion of Information

The parents or guardians of Managed Apple ID End Users in Primary/Secondary (K-12) schools can contact the school administrator to access their child's personal information or request deletion. If a

parent or guardian wishes to stop any further collection of their child's information, the parent or guardian can request that the administrator use the Service controls available to limit their child's access to certain features, or delete the child's account entirely.

PLEASE NOTE: THIS DISCLOSURE DOES NOT APPLY TO THE DATA COLLECTION PRACTICES OF ANY THIRD PARTY APPS. PRIOR TO PURCHASE OR DOWNLOAD OF THIRD PARTY APPS AVAILABLE TO A STUDENT WITH A MANAGED APPLE ID, YOU SHOULD REVIEW THE TERMS, POLICIES, AND PRACTICES OF SUCH THIRD PARTY APPS.

Schweizerische Vereinbarung über die grenzüberschreitende Datenübermittlung (für das Outsourcing von Datenbearbeitungen)

zwischen

Institution

(nachfolgend Datenexporteur)

und

Apple Inc.

1 Infinite Loop, Cupertino, CA 95014, Vereinigte Staaten von Amerika

(nachfolgend Datenimporteur)

1. Zweck

Diese Schweizerische Vereinbarung über die grenzüberschreitende Datenübermittlung (die Vereinbarung) wird zwischen dem Datenexporteur und dem Datenimporteur eingegangen, um einen adäquaten Schutz für personenbezogene Daten in Situationen zu bieten, in welchen solche Daten vom Datenimporteur mit Niederlassung in der Schweiz an den Datenimporteur mit Niederlassung im Ausland zum Zwecke der Datenbearbeitungen im Auftrag des Datenexporteurs übermittelt werden.

Die Zwecke der Datenübermittlung und- bearbeitung durch den Datenimporteur sind im Anhang I dieser Vereinbarung beschrieben. Anhang I ist ein integraler Bestandteil dieser Vereinbarung und kann von Zeit zur Zeit vom Datenexporteur angepasst werden.

2. Geltungsbereich

Diese Vereinbarung gilt für alle personenbezogenen Daten Dritter,

- (i) welche vom Datenexporteur an den Datenimporteur übermittelt (wobei dies auch das Zugänglichmachen beinhaltet); oder
- (ii) durch den Datenimporteur im Auftrag des Datenexporteurs bearbeitet werden.

Der Katalog der personenbezogenen Daten, welche übermittelt und/oder bearbeitet werden, findet sich in der Sektion 1

Swiss Transborder Data Flow Agreement (for outsourcing of data processing)

by and between

Institution

(hereinafter **Data Exporter**)

and

Apple Inc.

of 1 Infinite Loop, Cupertino, CA 95014, United States of America

(hereinafter **Data Importer**)

1. Purpose

This Swiss Transborder Data Flow Agreement (the **Agreement**) is entered into by and between the Data Exporter and the Data Importer to provide adequate protection for Personal Data in situations in which such data is transferred from the Data Exporter established in Switzerland to the Data Importer established in another country for the purposes of processing such data on behalf of the Data Exporter.

The purposes of the transfer to, and processing by, the Data Importer are described in Annex 1 to this Agreement. Annex 1 forms an integral part of this Agreement and may be amended by the Data Exporter from time to time.

2. Scope

This Agreement applies to all Personal Data relating to third parties that is

- (i) transferred (which shall include making it available for access) from the Data Exporter to the Data Importer; or
- (ii) processed by the Data Importer on behalf of the Data Exporter.

The catalogue of the Personal Data to be transferred and/or processed is found in Section 1 of Annex 1 to this Agreement.

3. Definitions

Unless defined otherwise herein, all terms shall have the

des Anhang I dieser Vereinbarung.

3. Definitionen

Sofern hierin nicht anders definiert, entsprechen die Begriffsbestimmungen dem Bundesgesetz über den Datenschutz (DSG). Verweise auf das DSG beinhalten immer auch einen Verweis auf Verordnungen zum DSG (VDSG) und alle anderen Bestimmungen des materiellen Datenschutzrechtes der Schweiz.

Im Sinne dieser Vereinbarung:

- (i) 'Datenexporteur' bezeichnet eine natürliche oder juristische Person, öffentlich-rechtliche Behörden, Dienststellen oder andere Körperschaften mit Niederlassung in der Schweiz, welche alleine oder gemeinsam mit anderen den Zweck verfolgen, personenbezogene Daten zu bearbeiten und jene, die solche Daten ins Ausland übermitteln, um diese für eigene Zwecke bearbeiten zu lassen.
- (ii) 'Dataimporteur' bezeichnet eine natürliche oder juristische Person, öffentlich-rechtliche Behörden, Dienststellen oder andere Körperschaften mit Niederlassung im Ausland, welche sich einverstanden erklären, personenbezogene Daten vom Datenexporteur zu empfangen und diese nach seinen Anweisungen für ihn zu bearbeiten.
- (iii) 'Unterauftragsverarbeiter' bezeichnet den Auftragsverarbeiter, welcher im Auftrag des Datenimporteurs (oder eines anderen Unterauftragsverarbeiters des Datenimporteurs) tätig ist und sich bereit erklärt vom Datenimporteur (oder von einem Unterauftragsverarbeiter des Datenimporteurs) personenbezogene Daten ausschliesslich zu dem Zwecke entgegenzunehmen, diese nach der Übermittlung im Auftrag des Datenexporteurs nach dessen Anweisungen, den Klauseln und den Bestimmungen des schriftlichen Unterauftrags zu verarbeiten.

4. Pflichten des Datenexporteurs

Der Datenexporteur garantiert, dass die zu übermittelnden personenbezogenen Daten gemäss den Voraussetzungen des DSG gesammelt und bearbeitet wurden. Des Weiteren garantiert der Datenexporteur, dass die Übermittlung der personenbezogenen Daten und die Bearbeitung dieser Daten durch den Datenimporteur wie in dieser Vereinbarung dargelegt, unter dem DSG zulässig ist und verpflichtet sich, dass diese Übermittlung in Übereinstimmung mit dem DSG erfolgt. Der Datenexporteur garantiert insbesondere, dass

- (i) vor der Übermittlung der personenbezogenen Daten, die betroffenen Personen informiert und alle vom DSG festgelegten Benachrichtigungs-

same meaning as defined in the Swiss Federal Act of 19 June 1992 on Data Protection (**FADP**). Any reference to the FADP shall always also include a reference to the Ordinance to the FADP (the **OFADP**) and any other provision of the substantive Swiss data protection law.

For the purposes of this Agreement:

- (i) 'Data Exporter' means the natural or legal person, public authority, agency or any other body established in Switzerland which alone or jointly with others determines the purposes and means of the processing of Personal Data and which transfers such data to another country for the purposes of its processing on his behalf.
- (ii) 'Data Importer' means a natural or legal person, public authority, agency or any other body established in another country which agrees to receive Personal Data from the Data Exporter for the purposes of processing such data on behalf of the latter after the transfer in accordance with his instructions.
- (iii) 'Subprocessor' means any processor engaged by the Data Importer (or by any other Subprocessor of the Data Importer) who agrees to receive from the Data Importer (or from any other Subprocessor of the Data Importer) Personal Data exclusively intended for processing on behalf of the Data Exporter after the transfer in accordance with his instructions and the terms of the written subcontract.

4. Obligations of the Data Exporter

The Data Exporter warrants that the Personal Data to be transferred has been collected and processed in accordance with the requirements of the FADP. The Data Exporter further warrants that the transfer of the Personal Data and the processing of such data by the Data Importer as set forth in this Agreement is admissible under the FADP and the Data Exporter undertakes that the transfer is made in accordance with the FADP. Particularly the Data Exporter warrants that

- (i) prior to any transfer of Personal Data, it has informed the Persons Affected and has complied with any notification and/or registration obligations set forth by the FADP;
- (ii) the intended purposes of the transfer and processing have been communicated to the Persons Affected upon the collection of the Personal Data, were apparent based on the circumstances, are provided for by statutory law, or reflect a preponderant

und/oder Registrierungspflichten eingehalten wurden;

- (ii) den betroffenen Personen der vorgesehene Zweck der Datenübermittlung und -bearbeitung vor Erhebung der personenbezogenen Daten mitgeteilt wurde, dieser gesetzlich vorgesehen oder mit Blick auf die Umstände offensichtlich war, oder aber einem überwiegenden öffentlichen Interesse gemäss Art. 13 Abs. 2 DSG dient;
- (iii) die Datenübermittlung und- bearbeitung durch den Datenimporteur entsprechend dieser Vereinbarung nicht infolge gesetzlicher oder vertraglicher Geheimhaltungspflichten ausgeschlossen ist;
- (iv) vom Datenimporteur keine Datenbearbeitung verlangt wird, zu welcher der Datenexporteur selbst nicht befugt wäre.

Der Datenexporteur überprüft, ob die technischen und organisatorischen Massnahmen gemäss Art. 7 Abs. 1 DSG und Art. 8 ff. VDSG, denen der Datenimporteur wie im Anhang 2 dieser Vereinbarung dargelegt, verpflichtet ist, für den Schutz der übermittelten personenbezogenen Daten vor unbefugten Datenbearbeitungen genügen. Anhang 2 bildet einen integralen Bestandteil dieser Vereinbarung und kann durch den Datenexporteur von Zeit zur Zeit angepasst werden.

5. Pflichten des Datenimporteurs

Der Datenimporteur erklärt sich bereit und garantiert, vom Datenexporteur empfangene oder zur Verfügung gestellte personenbezogenen Daten oder daraus abgeleitete Daten nur wie folgt zu bearbeiten:

- (i) ausschliesslich im Auftrag und ausschliesslich für den Zweck des Datenexporteurs, wie in Sektion 2 des Anhangs 1 dargelegt, oder in anderer Weise ausdrücklich vom Datenexporteur vorgesehen oder mit ihm vereinbart;
- (ii) in Übereinstimmung mit den Instruktionen des Datenexporteurs; und
- (iii) in Übereinstimmung mit dieser Vereinbarung.

Vor jeder Bearbeitung trifft der Datenimporteur angemessene technische und organisatorische Massnahmen, wie im DSG (insbesondere in Art. 7 Abs. 1 DSG und Art. 8 ff. VDSG) definiert und im Anhang 2 dieser Vereinbarung dargelegt, um übermittelte Daten vor unbefugter Datenbearbeitung zu schützen, einschliesslich vor Bearbeitungen, welche durch diese Vereinbarung nicht ausdrücklich zugelassen sind und einschliesslich vor zufälligem Untergang, Vernichtung oder Zerstörung solcher personenbezogenen Daten. Der Datenimporteur informiert den Datenexporteur umgehend und arbeitet mit ihm

interest pursuant to Art. 13 para. 2 FADP;

- (iii) the transfer to, and processing by, the Data Importer pursuant to this Agreement is not prohibited by a statutory or contractual duty of confidentiality; and
- (iv) it will not require the Data Importer to undertake a processing of Personal Data that the Data Exporter would not be permitted to carry out itself.

The Data Exporter shall verify that the technical and organizational measures, as required by Art. 7 para. 1 FADP and Art. 8 et seq. OFADP, undertaken by the Data Importer as set forth in Annex 2 to this Agreement, are sufficient to protect the transferred Personal Data from any unauthorized processing. Annex 2 forms an integral part of this Agreement and may be amended by the Data Exporter from time to time.

5. Obligations of the Data Importer

The Data Importer undertakes and warrants that it will process any and all Personal Data received from or made available by the Data Exporter or derived from such data

- (i) solely on behalf and solely for the purposes of the Data Exporter as set forth in Section 2 of Annex 1 or as otherwise expressly provided for by the Data Exporter or agreed with the Data Exporter;
- (ii) in accordance with the instructions of the Data Exporter; and
- (iii) in compliance with this Agreement.

The Data Importer undertakes, prior to any processing, appropriate technical and organizational measures as defined by the FADP (particularly Art. 7 para. 1 FADP and Art. 8 et seq. OFADP) and as set forth in Annex 2 to this Agreement to protect the transferred Personal Data from unauthorized processing, including any processing not expressly authorized by this Agreement and including accidental loss or destruction of, or damage to, such Personal Data.

The Data Importer will promptly inform, and cooperate with, the Data Exporter

- (i) if it believes that it may no longer be able, or no longer is able, to comply with this Agreement,

zusammen,

- (i) wenn er glaubt, dass er nicht mehr in der Lage sein wird, oder nicht mehr in der Lage ist, diese Vereinbarung einzuhalten, insbesondere im Falle, dass er von einer kompetenten Behörde aufgefordert wird oder damit rechnen muss aufgefordert zu werden, personenbezogene Daten, auf die diese Vereinbarung anwendbar ist, offenzulegen oder nicht länger zu bearbeiten,
- (ii) wenn ein zufälliger oder nicht berechtigter Zugang erfolgt ist.

Der Datenimporteur darf Datenbearbeitungen, die im Auftrag des Datenexporteurs erfolgen, ohne vorgängige schriftliche Einwilligung des Datenexporteurs nicht in Unterauftrag geben.

Für den Fall einer Unterauftragsverarbeitung verpflichtet sich der Datenimporteur, dass

- (i) er vorgängig den Datenexporteur informiert und seine schriftliche Zustimmung erhalten hat;
- (ii) der Unterauftrag der Datenbearbeitungen nur in den in dieser Vereinbarung vorgesehenen Formen erfolgt;
- (iii) er und der Unterauftragsverarbeiter eine Vereinbarung unterzeichnen, nach welcher der Unterauftragsverarbeiter dieselben Pflichten eingeht wie der Datenimporteur nach dieser Vereinbarung;
- (iv) er dem Datenexporteur unverzüglich eine Kopie des Unterauftrags schickt, den er nach dieser Vereinbarung geschlossen hat.

Sollte der Unterauftragsverarbeiter seinen Datenschutzpflichten nach der schriftlichen Vereinbarung nicht nachkommen, bleibt der Datenimporteur gegenüber dem Datenexporteur für die Erfüllung der Pflichten des Unterauftragsverarbeiters nach der Vereinbarung uneingeschränkt verantwortlich.

Der Datenexporteur hat das jederzeitige Recht in zumutbarer Weise und in uneingeschränkter Zusammenarbeit mit dem Datenimporteur die Einhaltung dieser Vereinbarung durch den Datenimporteur (oder den Unterauftragsverarbeiter) zu überprüfen oder durch qualifizierte Dritte unter Geheimhaltungspflicht überprüfen zu lassen. Die Kosten werden vom Datenexporteur getragen; falls sich Zuwiderhandlungen offenbaren, welche für die betroffenen Personen wesentlich sein könnten, trägt der

particularly in case it receives or must reasonably expect to receive a request or order of a competent authority requiring it to disclose, or refrain from further processing, some or all Personal Data to which this Agreement applies; or

- (ii) if any accidental or unauthorized access has occurred.

The Data Importer shall not subcontract any of its processing operations performed on behalf of the Data Exporter under this Agreement without the prior written consent of the Data Exporter.

In the event of subprocessing, the Data Importer undertakes that

- (i) it has previously informed the Data Exporter and obtained its prior written consent;
- (ii) the subcontracting of the processing of Personal Data may only consist of the processing operations agreed in this Agreement;
- (iii) Data Importer and Subprocessor shall sign an agreement which will impose the same obligations on the Subprocessor as those imposed on the Data Importer under this Agreement¹;
- (iv) it will promptly send a copy of any Subprocessor agreement it concludes under this Agreement to the Data Exporter.

Where the Subprocessor fails to fulfil its data protection obligations under such written agreement, the Data Importer shall remain fully liable to the Data Exporter for the performance of the Subprocessor's obligations under such agreement.

The Data Exporter has the right to, at any time, in any reasonable manner and with the Data Importer's full cooperation, audit the Data Importer's (and any Subprocessor's) compliance with the Agreement or to have such audit performed by a qualified third party bound by a duty of confidentiality. The costs will be borne by the Data Exporter; if any non-compliance is revealed which may be of significance for Persons Affected, the Data Importer shall bear the costs.

¹ This requirement may be satisfied by the Subprocessor co-signing this Agreement.

Datenimporteur die Kosten.

6. Rechte der betroffenen Personen

Der Datenexporteur ist verantwortlich dafür, den betroffenen Personen die Informationsrechte (Zugangsrechte), das Recht auf Berichtigung, Sperrung, Unterdrückung oder Löschung gemäss dem DSG zu verschaffen. Der Datenimporteur (oder ein Unterauftragsverarbeiter) wirkt vollumfänglich und ohne Verzögerung mit dem Datenexporteur zusammen, und stellt dem Datenexporteur die notwendigen Dienste, welche zur Erfüllung solcher Anfragen oder Nachfragen benötigt werden, zur Verfügung. Der Datenimporteur wird Anfragen oder Nachfragen, die er direkt empfangen hat, unverzüglich dem Datenexporteur weiterleiten, ohne in der Sache selbst zu antworten.

7. Anfängliche Laufzeit und Kündigung

Diese Vereinbarung ist für die Parteien ab der Unterzeichnung bindend und gilt für eine unbestimmte Zeit. [Sie wird bei Beendigung der Dienste des Datenimporteurs beendet.] Jede Partei kann diese Vereinbarung [ausserdem] zu jeder Zeit mit unmittelbarer Wirkung mit einer schriftlichen Kündigung beenden. Der Datenexporteur kann auch zu jeder Zeit die Datenübermittlung und/oder Datenbearbeitung von personenbezogenen Daten einstellen.

Nach der Kündigung dieser Vereinbarung aus jedwedem Grund muss der Datenimporteur (oder ein Unterauftragsverarbeiter)

- (i) unverzüglich alle personenbezogenen Daten und Kopien davon, auf welche diese Vereinbarung Geltung findet, zurückschicken, einschliesslich der durch den Datenexporteur übermittelten personenbezogene Daten ; und soweit dies nicht möglich ist,
- (ii) diese personenbezogene Daten und diesbezügliche Kopien zerstören, und dies dem Datenexporteur schriftlich bestätigen;

sofern die Gesetzgebung, der der Datenimporteur unterliegt, diesem die Rückübermittlung oder Zerstörung sämtlicher oder Teile der übermittelten personenbezogenen Daten nicht untersagt. In diesem Fall garantiert der Datenimporteur, dass er die Vertraulichkeit der übermittelten personenbezogenen Daten gewährleistet und diese Daten nicht mehr aktiv weiterverarbeitet.

Nach der Kündigung dieser Vereinbarung werden alle anderen Verträge, welche vom Datenimporteur oder Unterauftragsverarbeiter zum Zwecke der Datenbearbeitung- und übermittlung gemäss dieser Vereinbarung unterzeichnet wurden, automatisch beendet. Dies betrifft Verträge zwischen dem Datenexporteur und Datenimporteur, die für andere Zwecke

6. Rights of Persons Affected

The Data Exporter is responsible that the Persons Affected are provided with their right of information (right of access), correction, blocking, suppression or deletion, as available under the FADP. The Data Importer (and any Subprocessor) will fully and without delay cooperate with the Data Exporter in, and provide to the Data Exporter the necessary services for, fulfilling such requests or inquiries of Persons Affected. The Data Importer (and any Subprocessor) will immediately forward to the Data Exporter any requests or inquiries it directly receives without responding to them on the merits.

7. Term and Termination

This Agreement shall be binding between the parties upon execution by both parties and shall remain in place for an indefinite period of time. [It shall terminate automatically upon the termination of the services provided by the Data Importer and for which this Agreement was entered into.] Each party may [also] terminate this Agreement at any time with immediate effect by providing a written notice. The Data Exporter may also suspend the transfer of Personal Data and/or its processing at any time.

Upon termination of this Agreement for whatever reason, the Data Importer (and any Subprocessor) shall,

- (i) immediately return any Personal Data and copies thereof to which this Agreement applies, including the Personal Data transferred by the Data Exporter; and, to the extent this is not possible,
- (ii) destroy such Personal Data and copies thereof, and certify to the Data Exporter in writing that it has done so;

unless legislation imposed upon the Data Importer prevents it from returning or destroying all or parts of the Personal Data to which this Agreement applies, in which case the Data Importer informs the Data Exporter and undertakes to keep such Personal Data confidential and not actively process it anymore.

Upon termination of this Agreement, any other contract signed by the Data Importer and the Subprocessor for the purposes of processing and transferring Personal Data under this Agreement shall be terminated automatically. This, however, does not concern any other contract signed by the Data Exporter and Data Importer for other purposes.

eingegangen wurden, nicht.

8. Allgemeine Bestimmungen

Jede Partei stellt den zuständigen Gerichten oder Aufsichtsbehörden, der Datenexporteur stellt den betroffenen Person, eine Kopie oder den Inhalt dieser Vereinbarung auf deren Wunsch hin oder von Gesetzes wegen, zur Verfügung. Anhang 2 ist soweit zusammenzufassen als gesetzlich vorgeschrieben und aus Sicherheitsgründen notwendig ist. Verlang eine betroffene Person die Herausgabe, kann der Datenexporteur, soweit es aus Gründen der Vertraulichkeit und des Datenschutzes erforderlich ist, jeden Teil dieser Vereinbarung (einschliesslich deren Anhänge) zusammenfassen.

Die Rechte und Pflichten jeder Partei aus dieser Vereinbarung gelten unbeschadet und trotz anderer Rechte und Pflichten, welchen die Parteien möglicherweise aus anderen Vereinbarungen unterstehen. Diese Vereinbarung regelt nicht die Konsequenzen, welche die Ausübung eines Rechts unter dieser Vereinbarung auf eine andere Beziehung zwischen den Parteien haben kann.

Jede Partei entschädigt die andere Partei im Falle von Beschwerden seitens Dritten oder anderen Schäden, welche aus fahrlässigem oder vorsätzlichem Verstoß der erstgenannten Partei gegen diese Vereinbarung entstehen.

Betroffene Personen, deren personenbezogene Daten im Zusammenhang mit dieser Vereinbarung übermittelt und/oder bearbeitet wurden, können gegenüber einer der Parteien Schadenersatz oder andere Ansprüche gemäss dem DSG geltend machen.

Diese Vereinbarung kann nur schriftlich abgeändert werden. Die Parteien dürfen ohne vorherige schriftliche Genehmigung der anderen Partei keine Rechte oder Pflichten an Dritte abtreten.

Diese Vereinbarung (und andere Vereinbarungen zwischen dem Datenimporteur und dem Unterauftragsverarbeiter, welche zum Zwecke der Bearbeitung und Übermittlung von personenbezogenen Daten gemäss dieser Vereinbarung eingegangen wurden) sind gemäss dem materiellen Recht der Schweiz auszulegen und zu interpretieren. Streitigkeiten, die sich aus oder im Zusammenhang mit dieser Vereinbarung (oder einer Vereinbarung zwischen dem Datenimporteur und dem Unterauftragsverarbeiter, welche zum Zwecke der Bearbeitung und Übermittlung von personenbezogenen Daten gemäss dieser Vereinbarung unterzeichnet wurde) oder deren Verletzung ergeben, werden ausschliesslich durch die ordentlichen Gerichte am Sitz des Datenexporteurs in der Schweiz entschieden.

8. Miscellaneous

Each party will provide any court or supervisory agency, and the Data Exporter will provide any Person Affected, a copy of the content of this Agreement upon its request or if required by law. Annex 2 to this Agreement shall be summarized to the extent admissible by law and necessary for security reasons. In case of a production request by a Person Affected, the Data Exporter may summarize any part of this Agreement (including its Annexes) to the extent necessary for confidentiality and data protection reasons.

The rights and obligations of each party to this Agreement are without prejudice and notwithstanding to any other rights and obligations the parties may or may not have under other agreements. This Agreement does not regulate the consequences that the execution of a right and performance of an obligation under this Agreement may have under another relationship among the parties.

Each party will indemnify the other party in case of claims of third-parties or other damages which result from first-mentioned party's negligent or intentional failure to comply with this Agreement.

Persons Affected may raise damages and other claims pursuant to the FADP relating to the transfer and/or processing of their Personal Data under this Agreement against either party.

This Agreement may only be modified in writing. The parties shall not assign this Agreement or any rights or obligations hereunder to any third party without the prior written consent of the other party.

This Agreement (and any agreement signed by the Data Importer and any Subprocessor for the purposes of processing and transferring Personal Data under this Agreement) shall be governed by and construed in accordance with the substantive laws of Switzerland. Any dispute arising out of or in connection with this Agreement (or any subprocessor agreement signed by the Data Importer and any Subprocessor for the purposes of processing and transferring Personal Data under this Agreement) or breach thereof, shall be exclusively settled by the ordinary courts at the seat of the Data Exporter in Switzerland.

Für den Datenexporteur:

Name:

Position:

Datum:

Unterschrift:

Für den Datenimporteur:

Name: Gene D. Levoff

Funktion: Assistant Secretary

Datum: 22.03.2016

Unterschrift:



On behalf of the data exporter:

Name:

Position:

Date:

Signature:

On behalf of the data importer:

Name: Gene D. Levoff

Position: Assistant Secretary

Date: 22.03.2016

Signature:



Anhang 1

Beschreibung der Übermittlung und Bearbeitung

1. Katalog und Klassifizierung hinsichtlich der Sensitivität der zu übermittelnden und bearbeitenden personenbezogenen Daten

Die übermittelten personenbezogenen Daten gehören zu folgenden Datenkategorien:

- Persönliche Informationen: Wie z.B. Account Details, Vor- und Nachname und Informationen zur Ausbildung, einschliesslich Hausaufgaben, Note und Diskussionsdaten, die während des Kurses aus Bildungsaktivitäten generiert wurden.

2. Zweck(e) der Datenübermittlung- und -bearbeitung

Der Datenimporteur stellt Informationssysteme und technische Dienste, einschliesslich seiner Einrichtungen in den Vereinigten Staaten von Amerika, bereit.

3. Kategorien der betroffenen Personen

Die übermittelten personenbezogenen Daten betreffen folgende Kategorien betroffener Personen:

- Studenten
- Dozenten
- Mitarbeiter von Bildungseinrichtungen

4. Personen, welche möglicherweise Zugang zu personenbezogenen Daten haben oder solche empfangen

Berechtigte Mitarbeiter und Vertreter von Apple Inc.

5. Information zur Datenschutzregistration des Datenexporteurs:

Nicht anwendbar

6. Weitere nützliche Informationen:

Keine

7. Kontaktinformation für Datenschutzanfragen

Für den Datenimporteur, Apple's Privacy Counsel at 1 Infinite Loop, MS 3-TM, Cupertino, California 95014. Email: privacy-alert@group.apple.com

Annex 1

Description of the Transfer and Processing

1. Catalogue and classification of sensitivity of Personal Data to be transferred and processed:

The personal data transferred concern the following categories of data:

- Personal information: such as account details name and surname and educational attainment including homework, grade and discussion data generated during the course of educational activities.

2. Purpose(s) of the transfer and processing:

The data importer provides information system and technology services including from its facilities in the United States.

3. Categories of the Persons Affected:

The personal data transferred concern the following category of data subjects:

- students
- teachers
- employees of educational institutions

4. Persons who may access or receive the Personal Data:

Authorised employees and agents of Apple Inc.

5. Data protection registration information of the Data Exporter:

Not applicable

6. Additional useful information:

None

7. Contact Information for Data Protection Inquiries:

For data importer, Apple's Privacy Counsel at 1 Infinite Loop, MS 3-TM, Cupertino, California 95014. Email: privacy-alert@group.apple.com

DATENEXPORTEUR

Name:

Datum:

Unterschrift:

DATENIMPORTEUR

Name: Apple Inc

Von: Gene D. Levoff, Assistant Secretary

Datum: 22.03.2016

Unterschrift:

Anhang 2

Technische und organisatorische Massnahmen umgesetzt durch den Datenimporteur

Der Datenimporteur hat ein umfassendes und aktuelles Programm zum Schutz und zur Sicherheit von personenbezogenen Daten umzusetzen, um einen angemessenen Schutz der personenbezogenen Daten gegen zufällige oder unrechtmäßige Zerstörung oder zufälligen Verlust, Änderung, unberechtigter Weitergabe oder Zugriff, insbesondere, wenn die Verarbeitung die Übermittlung von personenbezogenen Daten über ein Netzwerk beinhaltet, sowie gegen alle anderen unrechtmäßigen Arten der Verarbeitung, sicherzustellen.

Der Datenimporteur verpflichtet sich hierdurch, wirtschaftlich angemessene Anstrengungen vorzunehmen, um:

- unbefugte Personen vom Zugang zu den Einrichtungen, die für die Datenverarbeitung genutzt werden, abzuhalten (Überwachung des Zugangs zu den Einrichtungen);
- das Lesen, Kopieren, Ändern oder Bewegen von Datenmedien durch unbefugte Personen zu verhindern (Überwachung der Medien);

DATA EXPORTER

Name:

Date:

Signature:

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date: 22.03.2016

Signature:

Annex 2

Technical and Organizational Measures implemented by the Data Importer

Data importer shall implement a comprehensive and current Personal Data protection and security program to ensure appropriate protection of the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, particularly where the processing involves the transmission of the Personal Data over a network, and against all other unlawful forms of processing.

Data importer hereby undertakes to use commercially reasonable efforts to:

- prevent any unauthorised person from accessing the facilities used for data processing (monitoring of entry to facilities);
- prevent data media from being read, copied, amended or moved by any unauthorised persons (monitoring of media);
- prevent the unauthorised introduction of any data into the information system, as well as any unauthorized knowledge, amendment or deletion of the recorded data (monitoring of memory);

- die unbefugte Eingabe von Daten in das Informationssystem, sowie die unbefugte Kenntniserlangung, Änderung oder Löschung von gespeicherten Daten zu verhindern (Überwachung des Speichers);
- die Nutzung von Datenverarbeitungssystemen durch unbefugte Personen, die die Übermittlungseinrichtungen nutzen, zu verhindern (Überwachung der Nutzung);
- sicherzustellen, dass befugte Personen, wenn sie ein automatisiertes Datenverarbeitungssystem nutzen, nur auf solche Daten zugreifen können, die in ihre Zugriffsberechtigung fallen, (Zugriffskontrolle);
- die Überprüfung und Speicherung der Identität von Dritten, an die die Daten durch Übermittlungseinrichtungen übermittelt werden können, sicherzustellen (Überwachung der Übermittlung);
- sicherzustellen, dass die Identität aller Personen, die Zugriff auf das Informationssystem haben oder gehabt haben, sowie die Daten, die in das System eingeführt wurden, nachträglich, zu jeder Zeit und von den zuständigen Personen überprüft und aufgezeichnet werden können (Überwachung der Eingabe).
- das Lesen, Kopieren, Ändern oder Löschen von Daten in einer unbefugten Art und Weise zu verhindern, wenn die Daten offengelegt und Datenmedien transportiert werden, (Überwachung des Transports); und
- die Daten durch das Erstellen von Backup-Kopien zu sichern (Überwachung der Verfügbarkeit).

Es wird anerkannt, dass die vorstehenden technischen und organisatorischen Maßnahmen dem technischen Fortschritt, organisatorischen Änderungen und anderen Entwicklungen unterliegen und der Datenimporteur gleichwertige alternative Maßnahmen einführen darf, wenn diese Maßnahmen nicht das Datenschutzniveau, das vertraglich vereinbart wurde, vermindern.

- prevent data processing systems from being used by unauthorised persons using data transmission facilities (monitoring of usage);
- ensure that authorised persons, when using an automated data processing system, may access only those data that are within their competence (monitoring of access);
- ensure the checking and recording of the identity of third parties to whom the data can be transmitted by transmission facilities (monitoring of transmission);
- ensure that the identity of all persons who have or have had access to the information system and the data introduced into the system can be checked and recorded ex post facto, at any time and by relevant persons (monitoring of introduction);
- prevent data from being read, copied, amended or deleted in an unauthorised manner when data are disclosed and data media transported (monitoring of transport); and
- safeguard data by creating backup copies (monitoring of availability).

It is acknowledged that the foregoing technical and organisational measures are subject to technical progress, organisational changes, and other developments, and the Data Importer may implement adequate alternative measures if these measures do not derogate from the level of protection contractually agreed upon.

DATENEXPORTEUR

Name:

Datum:

Unterschrift:

DATENIMPORTEUR

Name: Apple Inc

Von: Gene D. Levoff, Assistant Secretary

Datum:

Unterschrift:

22.03.2016



DATA EXPORTER

Name:

Date:

Signature:

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date:

Signature:

22.03.2016



Accord Suisse sur la Transmission de Données à l'Étranger (pour l'impartition du traitement des données)

entre

Institution

(ci-après **Exportateur de Données**)

et

Apple Inc.

de 1 Infinite Loop, Cupertino, CA 95014, United States of America

(ci-après **Importateur de Données**)

1. Objectif

Le présent Accord Suisse sur la Transmission de Données à l'Étranger (l'**Accord**) est conclu par et entre l'Exportateur de Données d'une part et l'Importateur de Données d'autre part afin d'assurer la protection adéquate des Données Personnelles dans le cas où de telles données sont transférées de l'Exportateur de Données établi en Suisse à l'Importateur de Données établi à l'étranger en vue de leur traitement pour le compte de l'Exportateur de Données.

Les fins du transfert à, et du traitement par, l'Importateur de Données sont exposées dans l'**Appendice 1** du présent Accord. **Appendice 1** fait partie intégrante du présent Accord et est susceptible de modifications périodiques par l'Exportateur de Données.

2. Champ d'application

Le présent Accord s'applique à toute Donnée Personnelle relative à des tiers qui est

- (i) transférée (ce qui comprend aussi la mise à disposition de l'accès) de l'Exportateur de Données à l'Importateur de Données; ou
- (ii) traitée par l'Importateur de Données pour le compte de l'Exportateur de Données.

Le catalogue de Données Personnelles à transférer et/ou à traiter est exposé sous l'**Article 1** en **Appendice 1** du présent Accord.

3. Définitions

Sauf disposition contraire du présent Accord, tout terme utilisé a la même signification comme défini dans la Loi Fédérale

Swiss Transborder Data Flow Agreement (for outsourcing of data processing)

by and between

Institution

(hereinafter **Data Exporter**)

and

Apple Inc.

of 1 Infinite Loop, Cupertino, CA 95014, United States of America

(hereinafter **Data Importer**)

1. Purpose

This Swiss Transborder Data Flow Agreement (the **Agreement**) is entered into by and between the Data Exporter and the Data Importer to provide adequate protection for Personal Data in situations in which such data is transferred from the Data Exporter established in Switzerland to the Data Importer established in another country for the purposes of processing such data on behalf of the Data Exporter.

The purposes of the transfer to, and processing by, the Data Importer are described in **Annex 1** to this Agreement. **Annex 1** forms an integral part of this Agreement and may be amended by the Data Exporter from time to time.

2. Scope

This Agreement applies to all Personal Data relating to third parties that is

- (i) transferred (which shall include making it available for access) from the Data Exporter to the Data Importer; or
- (ii) processed by the Data Importer on behalf of the Data Exporter.

The catalogue of the Personal Data to be transferred and/or processed is found in **Section 1 of Annex 1** to this Agreement.

3. Definitions

Unless defined otherwise herein, all terms shall have the same meaning as defined in the Swiss Federal Act of 19 June 1992

Suisse du 19 juin 1992 sur la Protection des Données (**LPD**). Toute référence à la LPD englobe toujours aussi une référence à l'Ordonnance relative à la LPD (**l'OLPD**) et à toute autre provision de la loi matérielle suisse sur la protection des données.

Au sens du présent Accord:

(i) L'Exportateur de Données' est la personne physique ou morale, l'autorité publique, l'organisme ou tout autre organe établi en Suisse qui, seul ou conjointement avec d'autres, définit les finalités et les moyens du traitement des Données Personnelles et qui, aux fins du traitement pour son compte, transfère de telles données à l'étranger.

(ii) L'Importateur de Données' est la personne physique ou morale, l'autorité publique, l'organisme ou tout autre organe établi à l'étranger qui accepte de recevoir des Données Personnelles de l'Exportateur de Données aux fins du traitement de telles données pour le compte de ce dernier conformément à ses instructions.

le «sous-traitant ultérieur» est tout sous-traitant engagé par l'Importateur de Données (ou par tout autre sous-traitant ultérieur de celui-ci), qui accepte de recevoir de l'Importateur de Données (ou de tout autre sous-traitant ultérieur de celui-ci) des Données Personnelles exclusivement destinées à des activités de traitement à effectuer pour le compte de l'Exportateur de Données après le transfert conformément aux instructions de ce dernier et selon les termes du contrat de sous-traitance écrit;

4. Obligations de l'Exportateur de Données

L'Exportateur de Données garantit que les Données Personnelles à transférer ont été recueillies et traitées conformément aux exigences de la LPD. L'Exportateur de Données garantit en plus que le transfert de Données Personnelles ainsi que le traitement de telles données par l'Importateur de Données tel que stipulé dans le présent Accord sont admissibles en vertu de la LPD. En particulier, l'Exportateur de Données garantit que

- (i) avant tout transfert de Données Personnelles, il a averti les individus concernés et s'est conformé à toute obligation de notification et/ou de déclaration prévu par la LPD;
- (ii) les finalités poursuivies par le transfert et le traitement ont été communiquées aux individus concernés lors de la collection des Données Personnelles, ont été évidentes selon les

on Data Protection (**FADP**). Any reference to the FADP shall always also include a reference to the Ordinance to the FADP (the **OFADP**) and any other provision of the substantive Swiss data protection law.

For the purposes of this Agreement:

- (i) 'Data Exporter' means the natural or legal person, public authority, agency or any other body established in Switzerland which alone or jointly with others determines the purposes and means of the processing of Personal Data and which transfers such data to another country for the purposes of its processing on his behalf.
- (ii) 'Data Importer' means a natural or legal person, public authority, agency or any other body established in another country which agrees to receive Personal Data from the Data Exporter for the purposes of processing such data on behalf of the latter after the transfer in accordance with his instructions.
- (iii) 'Subprocessor' means any processor engaged by the Data Importer (or by any other Subprocessor of the Data Importer) who agrees to receive from the Data Importer (or from any other Subprocessor of the Data Importer) Personal Data exclusively intended for processing on behalf of the Data Exporter after the transfer in accordance with his instructions and the terms of the written subcontract.

4. Obligations of the Data Exporter

The Data Exporter warrants that the Personal Data to be transferred has been collected and processed in accordance with the requirements of the FADP. The Data Exporter further warrants that the transfer of the Personal Data and the processing of such data by the Data Importer as set forth in this Agreement is admissible under the FADP and the Data Exporter undertakes that the transfer is made in accordance with the FADP. Particularly the Data Exporter warrants that

- (i) prior to any transfer of Personal Data, it has informed the Persons Affected and has complied with any notification and/or registration obligations set forth by the FADP;
- (ii) the intended purposes of the transfer and processing have been communicated to the Persons Affected upon the collection of the Personal Data, were apparent based on the circumstances, are provided for by statutory law, or reflect a preponderant

circonstances, sont prévues par la loi ou constituent des intérêts prépondérants selon l'article 13 para. 2 LPD;

- (iii) aucune obligation de confidentialité légale ou contractuelle n'interdit le transfert à, et le traitement par, l'Importateur de Données en application du présent Accord; et
- (iv) il ne demandera pas à l'Importateur de Données de traiter des Données Personnelles qu'il n'est pas autorisé d'effectuer lui-même.

L'Exportateur de Données est tenu de vérifier que les mesures organisationnelles et techniques, tel que requis par l'article 7 para. 1 LPD et article 8 ss. OLPD, prises par l'Importateur de Données tel qu'énoncé en Appendice 2 du présent Accord sont suffisantes pour protéger les Données Personnelles transférées contre tout traitement non-autorisé. Appendice 2 fait partie intégrante du présent Accord et est susceptible de modifications périodiques par l'Exportateur de Données.

5. Obligations de l'Importateur de Données

L'Importateur de Données s'engage à, et garantit de, traiter toutes les Données Personnelles obtenues ou mises à disposition par l'Exportateur de Données ou dérivées de telles données

- (i) exclusivement pour le compte et exclusivement pour les finalités de l'Exportateur de Données tel qu'énoncé à l'Article 2 de l'Appendice 1 ou tel qu'expressément prévu par - ou convenu avec - l'Exportateur de Données;
- (ii) conformément aux instructions de l'Exportateur de Données; et
- (iii) conformément au présent Accord.

L'Importateur de Données s'engage, avant tout traitement, à prendre les mesures organisationnelles et techniques appropriées tel que défini par la LPD (en particulier art. 7 para. 1 LPD et art. 8 ss. OLPD) et tel qu'énoncé à l'Appendice 2 du présent Accord afin de protéger les Données Personnelles transférées contre tout traitement non-autorisé, y compris contre tout traitement dans l'absence d'une autorisation expresse par cet Accord et contre une perte ou destruction fortuite de, ou un dommage à, telles Données Personnelles.

L'Importateur de Données informe l'Exportateur de Données dans les meilleures délais et coopère avec celui-ci

- (i) s'il estime - soit au présent, soit dans le futur - n'avoir plus la possibilité de se conformer au présent Accord, en particulier dans le cas où il reçoit, ou doit raisonnablement s'attendre à recevoir, une requête ou ordonnance d'une autorité compétente exigeant qu'il divulgue, ou s'abstienne de la poursuite du traitement de,

interest pursuant to Art. 13 para. 2 FADP;

- (iii) the transfer to, and processing by, the Data Importer pursuant to this Agreement is not prohibited by a statutory or contractual duty of confidentiality; and
- (iv) it will not require the Data Importer to undertake a processing of Personal Data that the Data Exporter would not be permitted to carry out itself.

The Data Exporter shall verify that the technical and organizational measures, as required by Art. 7 para. 1 FADP and Art. 8 et seq. OFADP, undertaken by the Data Importer as set forth in Annex 2 to this Agreement, are sufficient to protect the transferred Personal Data from any unauthorized processing. Annex 2 forms an integral part of this Agreement and may be amended by the Data Exporter from time to time.

5. Obligations of the Data Importer

The Data Importer undertakes and warrants that it will process any and all Personal Data received from or made available by the Data Exporter or derived from such data

- (i) solely on behalf and solely for the purposes of the Data Exporter as set forth in Section 2 of Annex 1 or as otherwise expressly provided for by the Data Exporter or agreed with the Data Exporter;
- (ii) in accordance with the instructions of the Data Exporter; and
- (iii) in compliance with this Agreement.

The Data Importer undertakes, prior to any processing, appropriate technical and organizational measures as defined by the FADP (particularly Art. 7 para. 1 FADP and Art. 8 et seq. OFADP) and as set forth in Annex 2 to this Agreement to protect the transferred Personal Data from unauthorized processing, including any processing not expressly authorized by this Agreement and including accidental loss or destruction of, or damage to, such Personal Data.

The Data Importer will promptly inform, and cooperate with, the Data Exporter

- (i) if it believes that it may no longer be able, or no longer is able, to comply with this Agreement, particularly in case it receives or must reasonably expect to receive a request or order of a competent authority requiring it to disclose, or refrain from further processing, some or all Personal Data to which this Agreement applies; or
- (ii) if any accidental or unauthorized access has

certaines ou toutes Données Personnelles assujetties au présent Accord; ou

- (ii) dans le cas de tout accès non-autorisé ou fortuit.

L'Importateur de Données ne sous-traite aucune de ses activités de traitement effectuées pour le compte de l'Exportateur de Données conformément au présent Accord sans l'accord écrit préalable de l'Exportateur de Données.

En cas de sous-traitance ultérieure, l'Importateur de Données s'engage à

- (i) préalablement informer l'Exportateur de Données et obtenir son accord écrit;
- (ii) limiter la sous-traitance du traitement de Données Personnelles aux activités de traitement accordées dans le présent Accord;
- (iii) faire signer par l'Importateur de Données ainsi que par le sous-traitant ultérieur un contrat imposant à ce dernier les mêmes obligations que celles qui incombent à l'Importateur de Données conformément au présent Accord¹;
- (iv) envoyer dans les meilleurs délais une copie de tout accord de sous-traitance ultérieure conclu par lui en vertu du présent Accord à l'Exportateur de Données.

En cas de manquement par le sous-traitant ultérieur aux obligations en matière de protection des données qui lui incombent conformément audit accord écrit, l'Importateur de Données reste pleinement responsable du respect de ces obligations envers l'Exportateur de Données.

L'Exportateur de Données a, à tout moment, de toute manière raisonnable et avec la pleine coopération de l'Importateur de Données, le droit de vérifier la conformité de l'Importateur de Données (et de tout sous-traitant ultérieur) à l'Accord ou de faire effectuer telle vérification par des tiers soumis à une obligation de confidentialité. L'Exportateur de Données supportera les frais; dans le cas où une non-conformité potentiellement importante pour les individus concernés est révélée, l'Importateur de Données doit assumer les frais.

6. Droits des Individus Concernés

L'Exportateur de Données est responsable d'assurer que les individus concernés puissent bénéficier de leur droit d'information (droit d'accès), de rectification, d'interdiction, de suppression ou d'effacement prévu par la LPD. L'Importateur de Données (et tout sous-traitant ultérieur) collaborera pleinement et sans tarder avec l'Exportateur de Données et fournira à ce dernier les services

occurred.

The Data Importer shall not subcontract any of its processing operations performed on behalf of the Data Exporter under this Agreement without the prior written consent of the Data Exporter.

In the event of subprocessing, the Data Importer undertakes that

- (i) it has previously informed the Data Exporter and obtained its prior written consent;
- (ii) the subcontracting of the processing of Personal Data may only consist of the processing operations agreed in this Agreement;
- (iii) Data Importer and Subprocessor shall sign an agreement which will impose the same obligations on the Subprocessor as those imposed on the Data Importer under this Agreement²;
- (iv) it will promptly send a copy of any Subprocessor agreement it concludes under this Agreement to the Data Exporter.

Where the Subprocessor fails to fulfil its data protection obligations under such written agreement, the Data Importer shall remain fully liable to the Data Exporter for the performance of the Subprocessor's obligations under such agreement.

The Data Exporter has the right to, at any time, in any reasonable manner and with the Data Importer's full cooperation, audit the Data Importer's (and any Subprocessor's) compliance with the Agreement or to have such audit performed by a qualified third party bound by a duty of confidentiality. The costs will be borne by the Data Exporter; if any non-compliance is revealed which may be of significance for Persons Affected, the Data Importer shall bear the costs.

6. Rights of Persons Affected

The Data Exporter is responsible that the Persons Affected are provided with their right of information (right of access), correction, blocking, suppression or deletion, as available under the FADP. The Data Importer (and any Subprocessor) will fully and without delay cooperate with the Data Exporter in, and provide to the Data Exporter the necessary services for, fulfilling such requests or inquiries of Persons Affected. The Data Importer

¹ Cette condition peut être réputée remplie si le sous-traitant ultérieur est co-signataire de cet Accord.

² This requirement may be satisfied by the Subprocessor co-signing this Agreement.

nécessaires afin de répondre à de telles requêtes ou demandes des individus concernés. L'Importateur de Données (et tout sous-traitant ultérieur) transmettra immédiatement toute requête ou demande qu'il reçoit directement à l'Exportateur de Données sans y répondre sur le fond.

7. Durée et résiliation

Le présent Accord est contraignant pour les parties dès sa signature par les deux parties et restera en vigueur pour une période indéterminée. Il prendra fin automatiquement à la résiliation des services fournis par l'Importateur de Données et pour lesquels le présent Accord a été conclu. Chaque partie pourra résilier le présent Accord à tout moment avec effet immédiat par notification écrite. L'Exportateur de Données pourra en plus à tout moment suspendre le transfert et/ou le traitement de Données Personnelles.

En cas de résiliation du présent Accord, quelle qu'en soit la cause, l'Importateur de Données (et tout sous-traitant ultérieur) devra

- (i) immédiatement restituer toutes les Données Personnelles ainsi que les copies auxquelles le présent Accord s'applique, y compris les Données Personnelles transférées par l'Exportateur de Données;

et, dans la mesure où ceci est impossible,

- (ii) détruire de telles Données Personnelles et en apporter la preuve à l'Exportateur de Données;

à moins que la législation imposée à l'Importateur de Données ne l'empêche de restituer ou de détruire la totalité ou une partie des Données Personnelles transférées assujetties au présent Accord ; dans ce cas, l'Importateur de Données avertira l'Exportateur de Données et s'engagera à sauvegarder la confidentialité de telles Données Personnelles et ne traitera plus activement ces données.

En cas de résiliation du présent Accord, il en résulte automatiquement la résiliation de tout autre contrat signé par l'Importateur de Données et par le sous-traitant ultérieur aux fins du traitement et du transfert de Données Personnelles en vertu du présent Accord. Néanmoins, aucun autre contrat signé par l'Exportateur de Données et par l'Importateur de Données à d'autres fins n'en sera concerné.

8. Dispositions diverses

Chaque partie fournira, sur demande ou si exigé par la loi, à tout tribunal ou organe de contrôle, et l'Exportateur de Données fournira à tout individu concerné, une copie ou le contenu de cet Accord. L'Appendice 2 du présent Accord devra être résumé dans la mesure permise par la loi et nécessaire pour des raisons de sécurité. Au cas où un individu concerné exige la production de pièces, l'Exportateur de Données est libre de résumer n'importe quelle partie du présent Accord (y compris l'Appendice 2) dans la mesure nécessaire pour des raisons de confidentialité et de protection de données.

(and any Subprocessor) will immediately forward to the Data Exporter any requests or inquiries it directly receives without responding to them on the merits.

7. Term and Termination

This Agreement shall be binding between the parties upon execution by both parties and shall remain in place for an indefinite period of time. [It shall terminate automatically upon the termination of the services provided by the Data Importer and for which this Agreement was entered into.] Each party may [also] terminate this Agreement at any time with immediate effect by providing a written notice. The Data Exporter may also suspend the transfer of Personal Data and/or its processing at any time.

Upon termination of this Agreement for whatever reason, the Data Importer (and any Subprocessor) shall,

- (i) immediately return any Personal Data and copies thereof to which this Agreement applies, including the Personal Data transferred by the Data Exporter; and, to the extent this is not possible,
- (ii) destroy such Personal Data and copies thereof, and certify to the Data Exporter in writing that it has done so;

unless legislation imposed upon the Data Importer prevents it from returning or destroying all or parts of the Personal Data to which this Agreement applies, in which case the Data Importer informs the Data Exporter and undertakes to keep such Personal Data confidential and not actively process it anymore.

Upon termination of this Agreement, any other contract signed by the Data Importer and the Subprocessor for the purposes of processing and transferring Personal Data under this Agreement shall be terminated automatically. This, however, does not concern any other contract signed by the Data Exporter and Data Importer for other purposes.

8. Miscellaneous

Each party will provide any court or supervisory agency, and the Data Exporter will provide any Person Affected, a copy or the content of this Agreement upon its request or if required by law. Annex 2 to this Agreement shall be summarized to the extent admissible by law and necessary for security reasons. In case of a production request by a Person Affected, the Data Exporter may summarize any part of this Agreement (including its Annexes) to the extent necessary for confidentiality and data protection reasons.

The rights and obligations of each party to this Agreement are without prejudice and notwithstanding to any other rights and obligations the parties may or may not have under other agreements. This Agreement does not regulate the consequences that the execution of a right and performance of an obligation under this Agreement may have under another relationship among the parties.

Les droits et les obligations de chaque partie à cet Accord sont sans préjudice, et nonobstant, d'autres droits et obligations résultants d'autres contrats possiblement en vigueur entre les parties. Le présent Accord ne comporte aucune réglementation portant sur les conséquences sur d'autres relations possibles entre les parties qui pourraient potentiellement résulter de l'exercice d'un droit ou de l'exécution d'une obligation en application du présent Accord.

Chacune des parties indemniserà l'autre en cas de réclamations de tiers ou d'autres dommages résultant de la violation négligente ou intentionnelle du présent Accord de la part de la partie mentionné en premier.

Les individus concernés peuvent réclamer à chacune des parties soit des dommages-intérêts, soit d'autres prétentions résultant de la LPD relatifs au transfert et/ou au traitement de leurs Données Personnelles en application du présent Accord.

Le présent Accord ne peut être modifié que par écrit. Les parties n'ont le droit de céder à des tiers ni cet Accord ni des droits ou obligations y découlant sans le consentement préalable écrit de l'autre partie.

Le présent Accord (ainsi que tout autre contrat signé par l'Importateur de Données et par un sous-traitant ultérieur en vue du traitement et du transfert de Données Personnelles en application du présent Accord) sera régi et interprété conformément à la loi matérielle suisse. Tout litige découlant de, ou en relation avec, le présent Accord (ou tout autre contrat de sous-traitance ultérieur signé par l'Importateur de Données et par un sous-traitant ultérieur en vue du traitement et du transfert de Données Personnelles en application du présent Accord), ainsi que toute violation de ce dernier, sera exclusivement tranché par les tribunaux ordinaires au siège de l'Exportateur de Données en Suisse.

Au nom de l'exportateur de données:

Nom:

Fonction:

Date:

Signature: _____

Au nom de l'importateur de données:

Nom: Gene D. Levoff

Fonction: Assistant Secretary

Date: 22.03.2016

Signature: _____

Each party will indemnify the other party in case of claims of third-parties or other damages which result from first-mentioned party's negligent or intentional failure to comply with this Agreement.

Persons Affected may raise damages and other claims pursuant to the FADP relating to the transfer and/or processing of their Personal Data under this Agreement against either party.

This Agreement may only be modified in writing. The parties shall not assign this Agreement or any rights or obligations hereunder to any third party without the prior written consent of the other party.

This Agreement (and any agreement signed by the Data Importer and any Subprocessor for the purposes of processing and transferring Personal Data under this Agreement) shall be governed by and construed in accordance with the substantive laws of Switzerland. Any dispute arising out of or in connection with this Agreement (or any subprocessor agreement signed by the Data Importer and any Subprocessor for the purposes of processing and transferring Personal Data under this Agreement) or breach thereof, shall be exclusively settled by the ordinary courts at the seat of the Data Exporter in Switzerland.

On behalf of the data exporter:

Name:

Position:

Date:

Signature: _____

On behalf of the data importer:

Name: Gene D. Levoff

Position: Assistant Secretary

Date: 22.03.2016

Signature: _____

Appendice 1

Description du Transfert et du Traitement

1. Catalogue et classification de sensibilité relatifs aux Données Personnelles à transférer et à traiter:

Les Données Personnelles transférées concernent les catégories de données suivantes:

- Informations personnelles: telles que détails de compte, nom, prénom et niveau de scolarité, y compris les devoirs, les notes et les données de discussion générées au cours d'activités éducatives.

2. Finalité(s) du transfert et du traitement

L'Importateur de Données fournit des services de technologie et de système d'information y compris de ses sites aux États-Unis.

3. Catégories d'individus concernés

Les Données Personnelles transférées concernent les catégories suivantes d'individus concernés:

- étudiants,
- enseignants
- salariés des établissements d'éducation

4. Personnes qui peuvent accéder ou bien obtenir les Données Personnelles:

Salariés et agents d'Apple Inc. autorisés.

5. Renseignement sur la déclaration de la protection de données de l'Exportateur de Données:

Sans objet

6. Renseignements utiles supplémentaires

Aucun

7. Coordonnées pour des enquêtes relatives à la protection de données :

Pour des importateurs de données, Privacy Counsel d'Apple joignable à 1 Infinite Loop, MS 3-TM, Cupertino, California 95014. E-mail: privacy-alert@group.apple.com

Annex 1

Description of the Transfer and Processing

1. Catalogue and classification of sensitivity of Personal Data to be transferred and processed:

The personal data transferred concern the following categories of data:

- Personal information: such as account details name and surname and educational attainment including homework, grade and discussion data generated during the course of educational activities.

2. Purpose(s) of the transfer and processing:

The data importer provides information system and technology services including from its facilities in the United States.

3. Categories of the Persons Affected:

The personal data transferred concern the following category of data subjects:

- students
- teachers
- employees of educational institutions

4. Persons who may access or receive the Personal Data:

Authorised employees and agents of Apple Inc.

5. Data protection registration information of the Data Exporter:

Not applicable

6. Additional useful information:

None

7. Contact Information for Data Protection Inquiries:

For data importer, Apple's Privacy Counsel at 1 Infinite Loop, MS 3-TM, Cupertino, California 95014. Email: privacy-alert@group.apple.com

EXPORTATEUR DE DONNÉES

Nom:

Date:

Signature: _____

IMPORTATEUR DE DONNÉES

Nom: Apple Inc.

Par : Gene D. Levoff, Assistant Secretary

Date:

22.03.2016

Signature: _____

Appendice 2

Mesures techniques et organisationnelles mises en œuvre par l'Importateur de Données

L'Importateur de Données met en œuvre un programme de protection et de sécurité des données personnelles complet et à jour aux fins d'assurer une protection adéquate des Données Personnelles contre la destruction accidentelle ou illicite, la perte accidentelle, l'altération, la divulgation ou l'accès non autorisé, en particulier lorsque le traitement implique la transmission des données personnelles sur un réseau, et contre toutes les autres formes de traitement illicite.

L'importateur de données s'engage à entreprendre des efforts commercialement raisonnables pour:

- empêcher toute personne non autorisée d'accéder aux installations utilisées pour le traitement des données (contrôle des entrées dans les installations);
- empêcher que des supports de données puissent être lus, copiés, modifiés ou déplacés par des personnes non autorisées (contrôle des supports);
- empêcher l'introduction non autorisée de toute donnée dans le système d'information, ainsi que toute connaissance, modification ou suppression non autorisée des données enregistrées (contrôle de la mémoire);
- empêcher que les systèmes de traitement de données puissent être utilisés par des personnes non autorisées à

DATA EXPORTER

Name:

Date:

Signature: _____

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date:

22.03.2016

Signature: _____

Annex 2

Technical and Organizational Measures implemented by the Data Importer

Data importer shall implement a comprehensive and current Personal Data protection and security program to ensure appropriate protection of the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, particularly where the processing involves the transmission of the Personal Data over a network, and against all other unlawful forms of processing.

Data importer hereby undertakes to use commercially reasonable efforts to:

- prevent any unauthorised person from accessing the facilities used for data processing (monitoring of entry to facilities);
- prevent data media from being read, copied, amended or moved by any unauthorised persons (monitoring of media);
- prevent the unauthorised introduction of any data into the information system, as well as any unauthorized knowledge, amendment or deletion of the recorded data (monitoring of memory);
- prevent data processing systems from being used by unauthorised persons using data transmission facilities

l'aide d'outils de transmission de données (contrôle de l'utilisation);

- veiller à ce que les personnes autorisées, lorsqu'elles utilisent un système de traitement automatisé de données, ne puissent accéder qu'aux données relevant de leurs compétences (contrôle d'accès);
- assurer la vérification et l'enregistrement de l'identité des tiers auxquels les données peuvent être transmises par des outils de transmission (contrôle de la transmission);
- veiller à ce que l'identité de toutes les personnes qui ont ou ont eu accès au système d'information et aux données introduites dans le système puisse être vérifiée et enregistrée après coup, à tout moment et par toute personne compétente (contrôle de l'introduction);
- éviter que les données soient lues, copiées, modifiées ou supprimées de façon non autorisée lorsque les données sont communiquées et que les supports de données sont transportés (contrôle du transport); et
- protéger les données en créant des copies de sauvegarde (contrôle de disponibilité).

Il est entendu que les mesures techniques et organisationnelles qui précèdent sont sous réserve des progrès techniques, des changements organisationnels, et d'autres développements, et l'Importateur de Données peut mettre en œuvre des mesures alternatives adéquates si ces mesures ne sont pas en deçà du niveau de protection convenu contractuellement.

EXPORTATEUR DE DONNÉES

Nom:

Date:

Signature: _____

IMPORTATEUR DE DONNÉES

Nom: Apple Inc.

Par : Gene D. Levoff, Assistant Secretary

Date:

22.02.2016

Signature: _____

(monitoring of usage);

- ensure that authorised persons, when using an automated data processing system, may access only those data that are within their competence (monitoring of access);
- ensure the checking and recording of the identity of third parties to whom the data can be transmitted by transmission facilities (monitoring of transmission);
- ensure that the identity of all persons who have or have had access to the information system and the data introduced into the system can be checked and recorded ex post facto, at any time and by relevant persons (monitoring of introduction);
- prevent data from being read, copied, amended or deleted in an unauthorised manner when data are disclosed and data media transported (monitoring of transport); and
- safeguard data by creating backup copies (monitoring of availability).

It is acknowledged that the foregoing technical and organisational measures are subject to technical progress, organisational changes, and other developments, and the Data Importer may implement adequate alternative measures if these measures do not derogate from the level of protection contractually agreed upon.

DATA EXPORTER

Name:

Date:

Signature: _____

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Signature: _____

